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Chair

The Honourable Wayne Easter

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• (1105)

[English]

The Chair (Hon. Wayne Easter (Malpeque, Lib.)): I call the meeting to order.

We are debating a motion by Mr. Sorbara and are currently on an amendment. The motion was moved and now there is an amendment on the floor. We'll start where we left off at the last meeting. Mr. Kmiec had the floor.

The floor is still yours, Mr. Kmiec.

Mr. Tom Kmiec (Calgary Shepard, CPC): Thank you, Mr. Chair.

I went through the motion one more time and then read some of the transcript from the back and forth that we had on this motion. I know that we're now on the amendment proposed by Mr. Fergus, which is taking in some of the ideas that we on the opposition side had talked about and some of our concerns about how many meetings this would take and how long this committee study would be.

Members have heard me talk about the need to make sure that our time at committee is judiciously used, because we now have only some 60-odd sitting days of the House, I think, which include Fridays and Mondays, when a lot of members are travelling. We have only two committee meetings a week, so there are not that many committee meetings that we could use, and then there are still a lot of other things we could undertake a study on as well. I want to make sure that whatever motion is approved by this committee—hopefully unanimously—would be amended. For that purpose, I have a subamendment to move—

The Chair: Okay.

Mr. Tom Kmiec: —and I also have it here in French, with the required copies, so that the clerk doesn't tell me that I didn't do it properly.

I'll read it into the record in a second.

Do you want me to wait until it's distributed or can I read it now?

The Chair: Yes, wait until it's distributed. That would be good, Tom.

Mr. Greg Fergus (Hull—Aylmer, Lib.): Give your floor time to me and then we can...

Mr. Tom Kmiec: Get on the speakers list.

Some hon. members: Oh, oh!

The Chair: All right, Tom. I think you had better read the motion.

Mr. Tom Kmiec: Sure. You'll notice that I have the original motion at the top of the sheet. I have this in French and English. Obviously I have Mr. Fergus' amendment there, and this is my subamendment: That the motion be amended by adding, after the words "report back to the House on:", the following:

- a) current data security risks and threats posed by domestic and foreign actors to the private data information of Canadians;
- b) how best the government can ameliorate such risks and threats posed to the private data of Canadians;
- c) the appropriateness of government bodies collecting the personal banking information of Canadians;
- d) the current landscape of the financial services sector in Canada, the major actors, levels of competition, and the sufficiency/stringency of regulations governing financial institutions;
- e) how the market share of Canada's banking and financial services industry compares to other jurisdictions around the world and how an expansion or concentration of such market share might impact Canadian consumers;
- f) how the development of new Canadian fintech innovation has been advanced or curtailed by broader government policies, including but not limited to; the levels of taxation imposed on small and medium sized enterprises, corporate welfare, payroll taxes, openness to foreign direct investment and the retention of skilled labour;
- g) how open banking could impact the process of applying for a loan or mortgage, and why such processes ought to be improved in Canada;
- h) how open banking should be prioritized for the current government, considering the Minister of Finance's mandate letter that was given to him by the Prime Minister in 2015 and the various priorities that were outlined for the Minister in this letter;
- i) what the appropriate level of government regulation over Canadian financial services providers ought to be, considering the history of the Canadian context as well as that of other jurisdictions around the world;
- j) how the principle of financial transparency latent in the idea of open banking ought to be applied more broadly to the public accounts of the Canadian government;

And finally,

That the Committee dedicate up to three meetings to the hearing of witnesses in Ottawa; that the Committee not travel outside of Ottawa for the purposes of this study, but welcome experts and stakeholders from outside of Ottawa to appear before the Committee through teleconference; and that the Committee report its findings to the House no later than Monday, April 1, 2019.

I know that it's a long amendment.

The Chair: I'm wondering, Tom, about the last part, "that the Committee not travel outside Ottawa". That changes the intent of the first amendment.

• (1110)

Mr. Tom Kmiec: That's why it's a subamendment.

The Chair: Yes, I guess it doesn't. It would have to be restructured, because you couldn't allow it if it changed the intent. The other problem with the amendment would be that it should fit in after (c) on the original motion.

Mr. Tom Kmiec: Yes.

The Chair: I don't know how we get there.

Mr. Tom Kmiec: It won't be great English or the translation into French, I agree, but it gets to the genesis of what this is about.

The Chair: I know what you're trying to do, but there's the original motion before the amendment, and then all these other points should come in right down to (j), so it would be (a), (b), (c), and then all your (a), (b), (c), (d)s restructured, and all those points....

Mr. Blake Richards (Banff—Airdrie, CPC): On a point of order, Mr. Chair, as it stands currently, we don't all have a copy of these. I feel that we're in a little bit of a spot where it's difficult to proceed. It might be best if we just waited until we all have a copy.

The Chair: Okay, I thought we all did. We'll wait.

Mr. Blake Richards: Could we just suspend while we do that? Thank you.

The Chair: We'll suspend for a moment.

•(1110) _____ (Pause) _____

•(1115)

The Chair: We're in a little bit of a complication. Here's where we are, and you can argue with me, I guess.

We're dealing with the amendment now. It's on the floor.

If we look at the bottom part of your motion, Tom, it says "That the Committee dedicate up to three meetings to the hearing of witnesses in Ottawa" as a subamendment to the amendment. We will deal with your subamendment, if you agree to this, that the committee dedicate up to three meetings. We'll debate that and vote on it. Then we will have to deal with the amendment as amended, perhaps, which is in black on the original order, and then after that, after we make that decision, we will have to deal with another subamendment—

The Clerk of the Committee (Mr. David Gagnon): Amendment.

The Chair: —another amendment, so it would be (a), (b), (c), and then your (a) and so on would become (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m).

Mr. Tom Kmiec: Okay.

The Chair: Could we go that way?

Mr. Tom Kmiec: So you see a subamendment to—

The Chair: That would get us to where you're trying to get to, I think, and do it properly—

Mr. Tom Kmiec: So you mean basically separate—

The Chair: —and get it in order. The first step would be just to withdraw the whole thing as a subamendment and move the bottom paragraphs as a subamendment to the amendment. We'll deal with that, and then we'll deal with the amendment as is or as amended.

Mr. Tom Kmiec: Yes.

The Chair: And then we will come back and make your (a), (d), (e) and down the line as an amendment to that centre section of the motion that's already in place.

Mr. Tom Kmiec: Just so I understand correctly, you're saying the bottom part, where it starts, "that the committee dedicate", would be a subamendment to Mr. Ferguson's amendment.

The Chair: Yes.

Mr. Tom Kmiec: Okay, and then I could propose the content (a) to (j) as a separate amendment instead, after we've debated—

The Chair: After we've debated the—

Mr. Tom Kmiec: —the subamendment and the amendment, then back to the main motion, a new amendment for the content between a), just adding after c), I guess, to add further content to the motion.

The Chair: Adding after (c), so your (a) would become (d), (e), (f), (g), (h), (i), (j), (k), (l), (m).

Are we agreeable to that?

Mr. Tom Kmiec: Okay.

The Chair: Can you withdraw your subamendment and propose a new subamendment, "that the committee dedicate up to three meetings...?" Then we can debate that and the amendment.

Mr. Tom Kmiec: Sure.

The Chair: All right, are we all agreed to that?

Mr. Greg Ferguson: Yes.

Mr. Tom Kmiec: That sounds wonderful.

The Chair: What is on the floor is a subamendment to the amendment, which is in black on your original paper you have before you:

That the Committee dedicate up to three meetings to the hearing of witnesses in Ottawa; that the Committee not travel outside of Ottawa for the purposes of this study, but welcome experts and stakeholders from outside of Ottawa to appear before the Committee through teleconference; and that the Committee report its findings to the House no later than Monday, April 1, 2019.

That's a subamendment to the reading:

That the Committee dedicate up to four meetings to the hearings of witnesses in Ottawa; that the Committee examine opportunities to travel to jurisdictions that have implemented a framework for open banking, including the United Kingdom; and that the Committee report its findings to the House no later than Friday, June 7, 2019.

The subamendment is proposed to that amendment.

It's open for discussion. Do you want to start, Tom?

Mr. Tom Kmiec: Okay. I'll start.

Probably a few people will be concerned about the fact that we're trying to move up the date from June 7 to April 1, but we all know that in June we'll be doing the BIA. Typically, the process for this committee has been that we do the BIA for nearly that entire month. Typically, although maybe it won't happen this year, the government caucus has moved a programming motion that kind of constrains how many days we spend debating it.

With that in mind, I know that the month of May will be consumed by that. I'm not complaining about it. It's fine. We should spend time on the BIA. But that's why moving it up to Monday, April 1, seems reasonable. It would leave a few days in April, perhaps, for a study to look at some other things I've mentioned before, such as the mortgage stress test study, B-20. Many members have heard me talk about that, either here in the House or in quiet hallway conversations that I've had with some of you.

I think it's important that we manage the committee's time as best as we can. I know we don't have that many meetings in March, but just because we have one sitting week doesn't mean we cannot schedule meetings during constituency breaks or schedule more meetings, as this committee has done with other opportunities. For the BIA, for example, we had meetings every single day, Monday to Thursday, to consider and hear from officials and hear from experts as well as witnesses from outside of the precinct, such as stakeholder groups, which I think is important to do.

That's why, if there are any concerns about the timeline of April 1, I think it's a better timeline than leaving it out to June 7. In any case, we wouldn't be able to go back and look at the open banking issue until then. We wouldn't be able to report back, because we have the BIA to consider in May. April 1 leaves aside a few committee dates. Just so that the committee knows, April 2, April 4, April 9 and April 11 are empty days right now. Nothing has been scheduled in terms of a study, estimates or anything else. We have an estimates meeting coming up. We do have April 30 already booked for a report of the Bank of Canada on monetary policy, which I see is tentative right now. That leaves us four open dates. As I've said in the past, I think we could fill it with other, shorter-term studies where we at least hear from stakeholders and expert witnesses. That is why April 1, to me, is an important date for us to report back our findings.

You'll note that in here I don't have a request for recommendations. It's staying true to what we had discussed at the last meeting and what appears in Mr. Fergus' motion, which is that we just report back findings on open banking and nothing more. That could be much simpler than writing a fulsome report with recommendations in it. I know that takes more time to consider as committee members, with amendments being proposed by all sides.

The other part of this subamendment is about no travel. I know that in the original, there's mention of us looking at other jurisdictions, which is fine, but there's also examining "opportunities to travel to jurisdictions that have implemented a framework for open banking, including the United Kingdom". With regard to that specific mention of the United Kingdom in there, it worries me that we would spend quite a bit time travelling in the next two months to another jurisdiction, with all the costs associated with the committee travelling. There's also the time consumption involved in flying back and forth, especially "over the pond", as it's called, which would consume additional days of travel.

I think it's far more reasonable, more cost-effective and better stewardship of taxpayer dollars for us to welcome experts and stakeholders from outside the Ottawa region to appear before the committee by teleconference. I think it works really well when technology is on our side and we have no technological disruptions. At every committee I've been at, including this one, teleconference has worked just fine.

It works pretty well for those witnesses who speak in a language that requires our interpreters to make the interpretation. I think most times it's been pretty good. They can keep up with witnesses who are appearing. I also think it's more effective for the witnesses, who don't then have to travel here. They don't have to make travel arrangements. I know those are covered by the House of Commons and by the committee, but in this way, we could ensure that more people could appear as witnesses before the committee. There would be fewer scheduling conflicts, I would assume. It would allow them an opportunity to provide their expert testimony to the committee without our having to incur the additional costs of travel. The logistical costs associated with moving us around are also of concern to me.

• (1120)

You'll notice also that I have limited it to three meetings. That's because in looking at the calendar, I think three meetings on open banking would be sufficient. I'll remind the committee that the open banking provisions are in the budget document. I did mention that one paragraph in the budget document and the page in it. As I understand it, it is not in the minister's mandate letter, but other things in there reference open banking.

I'm concerned that we may spend quite a bit of time looking at open banking without giving ourselves an opportunity to take up other issues that may come up. With everything that's going on on the floor of the House of Commons right now, we could take a look at DPAs one more time. I know this came before the committee, but that could require a few more committee meetings for us to consider if what happened in the last BIA document was reasonable, how have they been used and their financial impact, because they were in the omnibus budget bill, and why not. We could call the officials before the committee one more time to see if it's been used in any way or if there have been conversations about its usage.

Looking at the calendar in April, we have four meetings where we could schedule a study of different issues. I'm hoping we can agree what those issues would be without open banking taking them up entirely. The original motion says there would be up to four meetings to hear witnesses in Ottawa, but because of the way it was worded, it does not allow us the opportunity for additional meetings on a travel schedule outside Ottawa. That's the way I read the original amendment, which is why I'm offering this amendment here to make sure that we don't travel outside Ottawa to another jurisdiction because that's what we had said at the time that we would do.

I really think it would be better stewardship of taxpayers' dollars but also allow a maximum number of witnesses to come in on open banking through teleconferencing to provide their testimony. Often I've found that we also want to go back and forth between what a witness says and what officials have to say. Officials are in Ottawa. I know we have a few regulators based out of Toronto. Again they could do this via teleconference. It would be a far simpler, more efficient way for us to schedule them. In my experience I found there's no interruption. We have pretty free-flowing conversations with our witnesses.

I think it's a better use of our time. We could structure our meetings in such a way as to ensure that we provide for enough time. If it requires a two-hour meeting versus a three- or four-hour meeting. We could have these witnesses in blocks from regulator to stakeholders and maybe back to officials so we can compare the answers among them. Again, as I said, often I've found that after speaking to an official, we have a witness contradict or provide more detail. It brings up new questions that we would prefer asking the officials. We have officials who return.

I think that's an opportunity for us to ensure that we can do so. Then again, I think it all goes back to the calendar and 60-some-odd sitting days or just about 60 sitting days. It's the great opportunity now—before session ends in June—to ensure that we don't just look at open banking and the BIA and estimates and this monetary report. I'm worried about what else might drop onto us from others.

I would like to see us seriously consider again a study of B-20. If there are other things that other members believe would be worthy of the committee's time, now is the time to share them because we have a calendar and those dates will fill up, which is again why I want us to report our findings no later than April 1 so we can use those four meetings as a constituency-week break.

We return in April, and I assume that's when the government will send the BIA here for us to consider and debate. Maybe the government caucus members won't do it this year but perhaps they will. There will be a programming motion to make sure we can report the budget in time for the government to be able to pass it and appropriations on time before June arrives.

Again, the amendment talked about Friday, June 7, which would be the earliest opportunity without using additional weeks. The government House leader may wish to exercise her right to have us sit a bit longer to pass government legislation.

Even then, it's questionable whether we would be able to leave a report of any findings that late if the decision of the committee was to extend a study on a different subject to that point, which is why moving the timeline forward makes sense because we'll have those additional meetings. We'll be able to consider other motions to study. It will make sense because we'll be judiciously using our time to allow for witnesses in other fields to appear before the committee.

• (1125)

I'd be fine for those two to be done exclusively in Ottawa via teleconference. I really don't believe we need to travel all that much at this point with teleconferencing facilities broadly available to most communities, not all. I agree that this is probably a point we have to consider, whether smaller communities would be able to present if there were expert witnesses, or just witnesses in a community who would wish to come before the committee, and the briefs that they could provide, as well.

It's a mindful use of the time that we have before the committee. I want to be sure that we are judicious with it.

• (1130)

The Chair: I have Mr. Fergus, Mr. Richards, and then Mr. Sorbara.

[*Translation*]

Mr. Greg Fergus: Thank you very much, Mr. Chair.

I'd like to thank the member from Calgary for his comments and subamendment to my amendment to the original motion put forward by my fellow member Mr. Sorbara.

I'm not in favour of his subamendment, and here's why.

Last year, when we were studying money laundering, we saw how significant it was to hear from witnesses in other jurisdictions in person. We learned a lot from them, information we wouldn't have known had they appeared via teleconference. There was an undefinable advantage to actually being there, and we experienced it a few times, especially in London and New York, even in Washington. It was very insightful.

It's unfortunate you weren't there, Mr. Kmiec. Initially, your fellow member Dan Albas wasn't very keen on the idea of going. He said so more than once on the record. Afterwards, though, he said how useful it had been and how important it was for us to have gone. As I see it, this is a similar situation, so I don't want to rule out the travel, as you suggest.

Also, it's clear to me that this is a pretty important issue, especially considering your subamendment, which, I must say, has some merit. You're proposing that we limit the study to three meetings. I think that's a bit tight to do a study that's worth the effort.

For those reasons, I hope you will withdraw the subamendment on the table.

Thank you.

[*English*]

The Chair: Mr. Richards.

Mr. Blake Richards: I'd like to speak in favour of the subamendment.

I, too, have a concern about this idea of the need to travel outside of Ottawa for the purpose of this study. We're talking about.... What are we at now here with the amendments being made? There were four meetings being scheduled, according to the amendment.

The Chair: Yes, four or three.

Mr. Blake Richards: So we would then have three. Either way, whether there are three or four meetings, my thinking is that it could certainly all be done here. We do have to be mindful that it's taxpayers' money that makes these things happen. I can see no reason that we can't get good information from other jurisdictions, whether it be teleconferencing, video conferencing or other means like that.

I think my colleague Mr. Kmiec made some good points earlier as well. When you're talking about something like this, there is a lot of technical information. The people who would be appearing may draw some questions that would be best directed back to officials. The idea of having them both in the same place at the same time carries a lot of merit as well, I thought, but for me, it really is primarily the idea of the expense, although there probably can be times when it can be justified.

I don't know that this is one of those occasions. I think we should always err on the side of being as responsible as possible with taxpayers' dollars, so my default position would always be that that's the best way to approach it. As I say, there are times when it's necessary, but I don't know that I've heard anything that has convinced me that this is one of those times, by any means. Although this is an important subject and one that I know needs to be considered, I don't believe that video conferencing would cause any kind of an issue with getting the correct information or opinions.

• (1135)

The Chair: Mr. Sorbara, and then Mr. Kmiec.

Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.): Thank you, Mr. Chair.

Welcome back, everyone.

Thank you, Mr. Kmiec, for this very diligent outline of a number of items that you would like to look at.

Looking at the list, a number of these items would be considered within the scope of the original motion plus the amendment Mr. Fergus put forward. I think there's a lot of meat, if I can use that term, that you've put down here that would be considered within the scope of the open banking study.

Second, I think the time frame that you look at is too stringent. The June 7 one provides us some needed flexibility.

This morning in the National Post they have some commentary on open banking—it's almost inevitable—and it goes through, quite nicely, why it's so important to look at open banking and examine how it's going to impact consumers with greater choice and competition, but with the caveat that we need to protect consumers' data and to ensure a robust system.

We spoke about the timeline, which I don't agree with, and a lot of the information you've listed would be within the scope of the open banking study. I believe the Senate is also taking a look at open banking. It is very important and very important to Canadians, especially middle-class Canadians who go to the bank every day for their banking needs. We need to ensure that we do some due diligence.

With regard to the travelling, Mr. Kmiec and Mr. Richards, as you all know, committees travel. We did that with regard to money laundering and terrorist financing. We travelled to London, England. We travelled to New York and Washington. Having those face-to-face meetings is quite important, especially when we're dealing with agencies equivalent to FINTRAC, such as the Department of Justice and so forth. We just won't get that on a video conference. You know that, and we know that. It's about using our resources and our time wisely.

With regard to the schedule, Mr. Kmiec, in terms of the number of meetings, we're here in February. We could start the open banking study soon. We could put a lot of extra time within the days that we are sitting with regard to this study as well. That would allow us to look at some of the issues you've identified; look at them judiciously and do the job that Canadians elected us in our ridings to do.

• (1140)

The Chair: Mr. Kmiec.

Mr. Tom Kmiec: Thank you, Mr. Chair.

I've been listening to some of the concerns about my subamendments, so I'll try to deal with them sequentially.

Mr. Fergus, you compared this potential open banking study to what was done with the money laundering act. I was wondering when the original motion was passed versus when that committee reported back. That was a really big study and it did take a longer period of time. I think we started with an idea at the beginning of what we were looking at, and then as you started to discover more and more.... Disagree with me if I'm getting it wrong, but I think I joined the committee partway through the beginning of that study and I definitely got the feeling that we were changing our minds on the scope of what we were looking at with the different mechanics involved. What we originally thought of was a study on the money laundering act and what we ended up with, and the knowledge we gained from it, took a long time to build. I would hope that would not be the experience with the open banking study, only because that one took so long. I think it took a year—and correct me, Clerk, if I'm wrong—before we reported back, which would mean that this committee would perhaps be consumed with the report writing.

It brings me to a few other concerns. These are about the travel and how many meetings that would take, and whether it would be on the record or not. On the point about the comparisons to the money laundering act and the quality of the study that was done then, it is a quality study. You'll notice that the Conservatives did not dissent. We very much agreed with the recommendations provided. You mentioned Mr. Albas and the point he made at the time that it was worth meeting with these individuals and hearing from them on something as large as the money laundering act. That's his opinion and he's obviously welcome to it. I think there was still an opportunity there to hear from a lot of witnesses on the record.

This brings me to another point I had written down. My subamendment removes the potential confusion, some of it at least, in the way the amendment you have is structured right now. I have a concern about public committee meetings where there's an official transcript versus the private meetings that this committee can have with officials in other countries and how that makes it into the final report. Maybe someone can clarify this for me. Was the intention potentially that if travel were approved to the United Kingdom, for example, there would be public meetings of this committee for expert testimony to be received in a public manner, and part of the public record would be made available in both official languages on the committee's website, and be part of the report brief? Or was the intention that we'd have private meetings mostly and perhaps no public meetings

That information would be held just by us and then we would be adding it into the report somehow. Maybe these organizations or witnesses whom we would meet with overseas would provide a brief of some sort that would then form the public document that we would file with the House of Commons as part of our committee report.

I'm a little concerned that there's a difference in the openness and transparency of our meeting with individuals, and making sure we report back, and then having a transcript of what was said. I'm surprised by how many emails I get from Canadians who do listen to our proceedings and actually go back through old transcripts and bring up things I've said in the past or asked for meetings based on things I've said at committee. I'm sure you have had the same experience as I do. Quite a bit more Canadians are interested in the proceedings of the finance committee. I hope that if we travel overseas we have individuals and there would be public testimony. Perhaps someone can clarify that point to me.

On another point, with my subpoints (a) to (j) that would be changed, I'm providing more of the context without leaving it—I think it's fairly open right now—into sections. We could have a conversation on whether all of these points need to be in there or only some of them, but it directs the committee to look at specific components of open banking to ensure that they're reported into findings. My experience with motions is that this is where you figure out the witnesses associated with each point whom you can bring in. This is why I have them laid out here. They are pretty thorough and complete. I want to make sure that if we do a study on open banking, it is complete and it's as open as possible to the types of witnesses the committee could consider. As for the time allocated to the study, there is a government committee right now that has had its findings reported to it and it's supposed to be reporting it to the government. I hope we would not duplicate the work of that committee, the advisory group on open banking set up by the Government of Canada.

• (1145)

The difference between my subamendment and the amendment proposed by Mr. Fergus is one meeting, as I read it right now. The amendment Mr. Fergus has proposed leaves the potential for travel to the United Kingdom, where we might or might not have public meetings for which there would be on-the-record information available and a transcript.

Eventually there would be expert testimony given to us in private in relation to which there may or may not be a public brief filed with the committee that will then be available as part of a report. That is unclear to me.

This is why I have a concern about our then having used up several meetings in April to consider the draft findings, the report we would file and committee drafting instructions. You would see the first draft, and that could take up several meetings. My concern is that we would then no longer have any time to consider any other subjects.

You know what subject is near and dear to my heart, because I don't hide it: the B-20 stress test rule, which I have mentioned probably several times. Some of you are getting emails from organizations, I'm sure, asking for this committee to consider the B-20 stress test review in an open study, and I have a motion before the committee, as you know, additionally.

Again, the difference between my subamendment and the amendment is just one meeting. My subamendment, however, makes clear that a finite number of meetings would be allocated, and it would not allow for travel. This means that there would only be

three meetings on open banking. We have an advisory group on the Government of Canada side already doing this work.

If the Senate—that “other place”—is taking up a study as well, then you have one government organization and two legislative bodies taking a look at open banking. I don't know how many witnesses each of them will be able to find who will be able to talk about it in varying aspects. I also don't know what the content of the Senate's motion may or may not be for consideration of a study.

Mr. Sorbara, you mentioned that there's a lot of interest in open banking. We've all heard the advertising going on right now about Meridian Credit Union forming a new financial institution, Motusbank, based on this concept of open banking. I know it's timely.

As I said at a previous meeting, 90% of what open banking is about is already being practised by banks and other financial institutions; they're already rolling it out. I would hope that our study would not be just confirmation of what is already going on in the marketplace, what is already happening within the mix of financial institutions—the chartered banks, the credit unions and government-owned banks such as Alberta Treasury Branches and what they are already doing. I hope we would add something to the mix.

If you remember, the original conversations we had about a general open banking study were about specific legislative changes to be proposed to the Bank Act. I know this is neither in my subamendment nor in the amendment proposed by Mr. Fergus; however, I hope we would not just be looking at the policy matters, because the policy matters have already, I think, been determined by the Government of Canada. It's already moving ahead with allowing for open banking, and financial institutions are already doing it

How many meetings, then, could we possibly have, if three groups could potentially be meeting with witnesses on open banking? How much duplication in the reports would there be? I'm a big believer in limited government, with everybody doing the role they've been assigned to do.

If we're going to do a study on open banking, I think it should be limited, should be focused and should be on the points I have mentioned here. It would focus us on very specific issues. We should focus our witness list to the points I'm making.

This is why I think we need only those three meetings and then not have the potential for other travel to be assigned. That's the way I read the amendment proposed by Mr. Fergus, according to which there could be four meetings in Ottawa.

Then potentially we could be travelling to the United Kingdom, which could take a week or two, depending on how long we take to meet with witnesses there. Then there's the potential for public meetings, perhaps—it's not clear in the motion—in the U.K., and then private meetings as well.

Are we talking about both of these at the same time, or are we talking about having private meetings and then asking them to file a report of some sort? I looked through the money laundering act and I could not figure out whether every single one of the organizations received more than just a mention of having met with the committee so that the public could know the list of organizations considered expert witnesses before the committee on that subject.

● (1150)

I understand it in some situations. We had a meeting with FINTRAC, in camera, where they divulged how they operate. Those I understand. They can't be a part of the official record, the transcripts of the committee. In those types of situations we should make an allocation for it. I would hope that any meetings that we have potentially overseas—and I'm trying to limit them here so we don't do that—are on the record.

There are many organizations that are asking for meetings. I tell them that whatever they have to tell me in private, they should be comfortable enough coming to committee and telling it to me in public, and having the interpreters do their job of providing interpretation in both official languages of what they are providing to us, including their briefs.

I try to limit the amount of organizations that I meet with. If they're not willing to come before the committee to say the same things, then I try to limit that as much as possible, which is again, why I think three meetings are sufficient. It leaves, then, the opportunity for us to consider other subject matter. I'd like to get at least some indication of whether there's an interest on the government caucus side to consider other subject matter after the study, and then we can move on to other things, of course.

I know on this particular subject, the longer we wait to pass it, the less time we'll have for other things. I'm very conscious of that. I just want to make sure that the committee's time between now and June is used both by subject matter that interests the government caucus members, as well as opposition members who are also members of this committee. We also have a role to play to represent our constituents; and that's basically what we're trying to achieve here, to get a good motion passed that is tight, has specific language with specific timelines. And then we can seriously consider other subject matter that the opposition deems necessary to look at, which allows for enough time for there to be a review of those things as well.

Again, I think I've been reasonable in saying that I don't expect recommendations. Neither the motion here nor the amendment or the subamendment is looking for recommendations on open banking. I think it's just going to be findings, just very general. I believe that's what the government's advisory group is going to be doing as well with the advice they are going to be providing to Minister Morneau. I also think it's likely that the Senate, in whatever it considers, may not be considering just the findings. Perhaps they'll give recommendations. I think most reports that are at the Senate provide some type of recommendation. It takes less time to produce a report. I would hope that we use that time judiciously to ensure that we have considerations of other subject matter. Perhaps the members can give us an idea of how long they believe we'll be spending on the BIA, which would give us then additional meetings to have open. Then we could look at the calendar now and decide on when to schedule

things, and at least have the subject matter figured out. We can leave it to the subcommittee on procedure here to determine exactly the witnesses and the specific dates that we are going to spend time on them.

I just think it makes much more sense to do it in such a fashion, than to leave it open-ended and perhaps wind up consuming a lot of the committee's time with travel to the United Kingdom without having certainty on our end that we'll be able to consider other things in between the BIA and this open banking study.

I'm also concerned that we might break up this particular study, go to the BIA and then return in the first week of June and only have about a week to report the findings back to the House of Commons, which would be a very tight period of time if we, by that time, consider new things to be looked at.

Another concern I have is actually around the upcoming budget. I'm wondering whether the minister will decide to perhaps table the findings of the report or provide more detail inside the budget document itself—budget 2019—on open banking, which may potentially make this entire study superfluous. It would be unnecessary if the government has already decided to proceed, because their advisory committee has produced some type of finding that's already been tabled with them. So, that's another concern I have. We know the budget is coming soon—likely in the third week of March. I'm prognosticating here; I'm guessing that could be the case. If that is what would happen, it could potentially derail this study if the government does proceed with either accepting open banking or choosing legislative changes in an omnibus bill or a separate piece of legislation. They could decide to proceed with regulatory changes or a public invitation to financial institutions to engage in it, smoothing the way for regulators to simplify it for the chartered banks and other financial institutions to engage in open banking.

● (1155)

I would then wonder why we would undertake a study that would come after the fact just to confirm what the government has already decided to do, unless, again, someone could propose an amendment to do a review of whatever is suggested in the budget document for consideration here. Again, there are now three different bodies that are looking at it. We have a budget coming forth that could go ahead and approve the concept of open banking and proceed with it.

I'm just concerned that we're not using the committee's time wisely and that it won't provide an opportunity for us to consider things like the B-20 mortgage stress test.

The Chair: Mr. Fragiskatos.

Mr. Peter Fragiskatos (London North Centre, Lib.): Thank you, Mr. Chair.

On one point I agree with my colleague opposite and that is... Well, just wait for a second.

Some hon. members: Oh, oh!

Mr. Peter Fragiskatos: I can't count the number of constituents in the past three years—the lineup is very long, Mr. Chair—who tell me that the most exciting part of their week is looking forward to the CPAC airings of our meetings. I get emails bombarding us to show more and do more.

On a more serious note here, I don't doubt the sincerity of my colleague opposite. I've known him for the past three years. We're on the foreign affairs committee together.

Here, I disagree with a number of things raised in the motion. My colleague mentioned the word “duplication” in another context, but I still think it's a very relevant word to focus on here.

For half of these proposals within the subamendment, I think they're the purview of other committees. For example, if you look at subamendments a) and b), I can make the case that those are issues to be taken up by the committee on public safety.

I don't think they've gone ahead with it, Mr. Chair, but I'm aware that the committee on public safety has been very interested in pursuing a study on cybersecurity. I think subamendments a) and b) would fit within that. It's certainly not really the purview of the finance committee to look at, for example, “current data” and “security risks”. Or, if you look at b), at the words “risks and threats” to private data, that is again a matter that the public safety committee can look at.

Also, if you look back to a), Mr. Chair, the ethics committee, if I'm not mistaken, has recently looked into such matters, particularly with reference to social media.

My colleague opposite seems to be nodding. I think he might be on the committee.

Mr. Dusseault, yes...?

Mr. Pierre-Luc Dusseault (Sherbrooke, NDP): I was.

Mr. Peter Fragiskatos: Okay. There you go.

For these matters, I don't think they've been dealt with in the sense that the debate is final, but they've been looked at and will continue to be looked at in other avenues that are more appropriate.

I won't read subamendment f), because it's lengthy, but that is the purview of the industry committee, I think. Finally, on subamendment j), that is an issue that could be looked at in the public accounts committee. In fact, the phrase “public accounts” is used directly in the wording of the proposal.

These are five points. Half of the points raised by Mr. Kmiec really ought to be the focus of other committees that are more appropriate and more well suited to looking at these matters.

Thank you very much.

The Chair: We are really on the bottom paragraph and not the (a) to (j). I allowed the discussion to continue because we have agreed that we will discuss the (a) to (j) later. Can we at this time stick to the subamendment that “the Committee dedicate up to three meetings”, etc.?

Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you, Mr. Chair.

I've been fairly quiet so far, but I tend to agree with the motion, the amendment and the subamendment. I see no problem with holding three meetings in Ottawa, as per the subamendment. Nowadays, technology makes it easy for us to stay here and hear from witnesses in other countries.

The discussion is starting to drag on, so let's not draw it out any further. All the time we've spent on the motion and the proposal to dedicate three meetings to the study referred to in the motion amounts to an entire meeting. I suggest we proceed with the motion now.

• (1200)

[*English*]

The Chair: I now have Mr. Kmiec.

Mr. Tom Kmiec: Thank you, Mr. Chair. I was going to respond to Mr. Fragiskatos' points, but you mentioned it's on the subamendment.

The Chair: We're going to deal with it later anyway. It would be best if we could stick to the subamendment.

All right. All those in favour of the subamendment that the committee dedicate up to three meetings etc., and report back no later than Monday, 1 April.

(Subamendment negated [See *Minutes of Proceedings*])

The Chair: We are back to the amendment. I'm going to take it that you're proposing another subamendment where your (a) becomes (d) and then down the list. After Mr. Fergus' amendment, we're agreed we come back to this and it could be put after (c).

On Mr. Fergus' amendment, all those in favour.

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: The amendment is carried, and now I understand there's a new subamendment or amendment.

Mr. Tom Kmiec: Amendment.

The Chair: This is complicated. Tom, you're complicating things. We have an amendment on the floor. The floor is yours, Tom. Mr. Fragiskatos already spoke on this a bit. Go ahead.

Mr. Tom Kmiec: I'm going to start not with a rejection, but maybe a reply, to some of the points that Mr. Fragiskatos raised. I'll maybe deal with one point first, something that Fergus had said before. I just quickly went to look at the money laundering act study and how that committee considered during its travels—it says here that, “with respect to the Committee's travels from 1 to 8 June 2018, various witnesses testified to the Committee under Chatham House rules to encourage openness and the frank sharing of information. The testimony of these witnesses is therefore presented in this report in a manner that does not identify the source of the testimony.” However, in that scenario, we also don't have the content of what was said.

I love Chatham House rules. I'm all for them. I know the United Kingdom uses them much more than we do here. There's a loss there for the public to be able to see what was said in a transcript format like this. There's a time for in camera and there's a time for Chatham House rules, but there is also a time for members of the public to be able to see what is said back and forth in the conversations and the dialogue being had with witnesses, and between members too. I am hoping that what they will see here today is that this is not a very partisan disagreement. We're not squabbling. We're behaving like adults who are just having a difference of opinion on policy issues, which I think is exactly what we were sent here by constituents to do. We're here to have those frank conversations.

To the points Mr. Fragiskatos raised that there are other committees—just in general without going into any specifics, but just in general—of the House of Commons that could take up specific parts of this study, I would note that it's just like there is another advisory group set up by the Government of Canada that has already reported to the Minister of Finance or concluded its open public consultation, rather, and has heard from expert witnesses. They are also duplicating it.

That work has been done by a government committee, and now, that other place, the Senate is considering taking up the issue as well to do the exact same study that is being proposed here. I am concerned that we're duplicating, unless we make it far more specific to the points I'm trying to raise here, because I don't think the Senate motion will be as specific. I also don't think that the advisory group of the government, looking at the mandate they were given, were as specific as perhaps we could be, if we adopt my amendment.

If other committees can do it too, why don't we ask members of those committees to take up portions of it? I actually think everything here is relevant to our committee, so to those first two points, that (a) and (b) could be done by—and Public Safety is perhaps considering a study on cybersecurity.

In the original motion, there's already a mention of cyber security, so if it chooses to pass the original motion with amendments or no amendments, it's already considering cybersecurity, which is something a member has now expressed might be duplication. We're already going to be engaging in duplication with what perhaps the Public Safety committee will do.

I think the difference will be that, if you adopt a) and b), our specificity would be around finance and financial and consumer data and how it's being treated by financial institutions, which is the purview of this committee. It should be perfectly reasonable for us to look at the regulators that answer to the ministry of finance and what types of rules they set in place and how they're impacting the potential distribution or operation of open banking in Canada. I think that's very important. It's very reasonable for us to be looking at it.

The focus that the public safety committee might have is much more around counter-terrorism, national security and perhaps the integrity of Correctional Services and the public safety bodies, like the RCMP or the Canada Border Services Agency. Perhaps that would be their focus on the cybersecurity there.

Again, our focus would be much more about current data security risks and threats posed by domestic and foreign actors or private data

information of Canadians. We'd focus on financial data and financial information, which is information that Canadians feel very strongly about being protected, and we saw that last November when Statistics Canada came out and said that it was going to collect and had already started a pilot project that's now been suspended, but had started to collect the banking information of potentially of up to 1.5 million Canadians. That's five hundred thousand households and 1.5 million Canadians.

I think it's perfectly reasonable for this committee to then look at cybersecurity of Canadians' private banking information. Regarding banking information, from the conversations I've had with constituents, they feel the same way about their medical information as they do about their banking information. They don't want the Government of Canada or the Parliament of Canada to be nosing around their purchases, what they're buying and what they're returning, what's on their credit cards, and their financial practices. I think it's perfectly reasonable.

● (1205)

With regard to “b) how best the government can ameliorate such risks and threats posed to the private data of Canadians”, again, the focus is financial information within the context of open banking. If we are proposing that open banking be made the standard in Canada or be made available as the default setting, and it empowers consumers to then share their data, it will involve things like: How long are they sharing it for? Once they agree to share it with one financial institution, do they share it with more than one? Are they agreeing to a lifetime of access to their private information, or are they not? Those are all financial, Finance Canada-related regulatory questions that this committee could look at.

On that point, I'll have to disagree with Mr. Fragiskatos. It's in the original motion as well. Cybersecurity, privacy, financial stability and consumer protection are there. The context of what we're trying to get at is clear.

There is also:

f) how the development of new Canadian fintech innovation has been advanced or curtailed by broader government policies including, but not limited to; the levels of taxation imposed on small and medium sized enterprises, corporate welfare, payroll taxes, openness to foreign direct investment, and the retention of skilled labour;

It was mentioned that this, perhaps, is a better study for the industry committee. Fintech is the leading edge of what most of the chartered banks and what most financial institutions in Canada are trying to be involved in. That is a purview of this committee.

Oftentimes I hear constituents accuse the government and parliamentarians of being siloed, of only looking at one specific area, of keeping their comments very specific and of ignoring the broader construct, what's happening in broader society. Too often we make policy decisions or we approve of policy decisions in a silo, without looking at everything else that's going around. I don't know how we could undertake an open banking study without taking a look at the impact on payroll taxes, on FDI, on what would happen to small and medium-sized businesses, and on the retention of skilled labour.

There, I think, the point becomes this: You have a bank, Motusbank, which is the one I was offering up, being started by Meridian Credit Union. It's proposing to not have any physical branches. If open banking is the future and the physical branch location will be less and less necessary and eliminated, and if the government proceeds with confirming that, yes, open banking is the direction it would like the banking system to go, that's a huge impact on all the skilled labour working there. All the employees of all those financial institutions may find that, over time, the location they're working at is not necessary, so they may not need to be there, but a number of them may not be necessary anymore. I don't know how we can look at open banking without looking at the jobs impact it will have, broadly, across all financial institutions.

We don't need to be very specific, but I think we should be conscious of the impact that it will have on Canadians and then the impact that this would have on taxation revenue and on small and medium-sized businesses.

When I travelled with a different committee that was doing a review of Canada Post's mandate, I heard time and time again about banks' leaving smaller communities and about its being increasingly difficult to do simple things like just taking cash to your deposit box and making sure that, at the end of the day, all the cash you may have on hand is not left inside your business. That cash box at the local bank was not necessarily available anymore.

With regard to remote communities, I can't think of anything more concerning than the lack of that ability to safely deposit any cash you might receive. On the flip side, too, in remote communities with good access to the Internet and with access to online open banking, what's the opportunity, then, for people to pick it up? Those two are really important points. What will be the mix? What will be the opportunities gained and the losses received from it?

I represent a large urban area. I can tell you that, for my area, the number one concern would be job losses at banking institutions, credit unions and others. I can see that already. If branches are going to close because they're no longer necessary and everything is going to be on these cell phone devices, then I can see that the impact will be this loss of jobs. I think we should seriously consider this. I'm not saying that it's necessarily a negative. Perhaps there are positive things in there, too. People will go and, perhaps, start their own smaller financial institutions.

Again, fintech is not just an industry matter. It's a finance matter because it will have an impact on public revenue and on jobs. We should not limit ourselves to just looking at the silo.

●(1210)

Moving on to the last point that was made about public accounts, point (j) states:

j) how the principle of financial transparency latent in the idea of open banking ought to be applied more broadly to the public accounts of the Canadian government;

Again, the public accounts committee exists because there's a public accounts document that's tabled in October. It's made public. That's the document where you can see line-by-line every dollar that is spent by the Government of Canada. If you're ever curious how many cellphones were lost by the public service, and how many new ones it needed to buy by department, there will be a line item for that. The documents are extensive and exhaustive in the information they provide. They're a great document for any parliamentarian to review, but they're exceedingly long.

My point in (j) is not to say that we should look at the public accounts. My point, in general, is to determine how we do our public accounting, how we account for the money spent, because these are taxpayer dollars being spent. If open banking is to be the way we do it for financial institutions, how about if the Government of Canada did a little bit of it itself with the accounts that it holds on behalf of Canadians?

It would be nice if the government was more leading-edge on technology. Things move slowly here. Some members have been here much longer than I have, and have seen things move at a different pace, but business moves at a much faster one. It would be interesting to at least consider allowing Canadians to have live access to their CPP accounts, if they could actually see live, on an app or something, what their opportunities are, and if they were willing to share that information with the bank, or perhaps make retirement planning.

The government makes that information available to financial institutions on a client basis, so the client, the consumer, controls that information and says, "I'm planning for my retirement. I don't want to call the CPP office. Can't I just consent to that information being shared with my financial institution, so I can do my financial planning?" That's what I'm trying to get at here.

It would be also interesting to see if people could plan ahead with their taxes when they reach the age of retirement or they take early retirement. Those are all, again, related back to how the government does accounting on its side. The government has EI, the government has lots of different accounts that Canadians take advantage of or use. It's a benefit oftentimes that they've paid into. It would be interesting to see whether there would be a way for us to exercise financial transparency on the government.

Again, those public accounts documents are not easy documents for my constituents. I haven't had any so far come to me and say they've read the public accounts, and were able to explain how dollars were spent by the Government of Canada. Why not apply some of those principles of financial transparency? What we hear at the committee level is people telling the government, "You know, we'd like you to proceed with open banking, we see lots of opportunities."

But in government operations, in the way you respond not only to the concerns of Canadians but also with accounts that you hold under registered accounts, for example, RRSPs, RESPs and RDSPs, is there an opportunity there to provide Canadians more of that financial information without their having to call another body or another organization?

Could they consent to information being shared ahead of time that's for their benefit? They could retract their consent, and hopefully that's something the government will consider. We want to say we're going to empower Canadians with financial information that the Government of Canada holds, or accounts it holds on their behalf, that they would be able to share.

It's not an issue of the public accounts committee. The public accounts committee looks at how the government has spent money; it considers the Auditor General's report. It's about transparency. It's making sure that line items are clear.

I'm running dry.

It's making sure the line items are—

• (1215)

The Chair: You're operating on fumes.

Mr. Tom Kmiec: What do you mean by "on fumes"? I have all the actual content material here.

That's where I would disagree with you, Peter. I know we have worked together on a couple of committees now. I disagree that other committees could look at it. This is perfectly reasonable here.

Two, all the points I have made here would improve this motion, and I would be willing to vote for the motion. The only thing that hurts me now is that we have this amendment that's been approved to include the United Kingdom travel in it.

In consideration of this motion, ahead of time I went through and did a bit more work on open banking, on what other jurisdictions have done, what Canadians have said about it, what news outlets have written about the data and privacy side of things. We've all heard the stories about foreign hackers targeting Canadian banks and governments as well. It's happened multiple times, and cybersecurity experts told the same thing to members of Parliament at different opportunities.

So again, to go back to the point about the public safety and national security committee, that point was made by financial organizations that appeared at the House of Commons committee on public safety, but they haven't appeared here to tell us about the financial data impact, the reputation impact on those organizations. Most chartered banks and most financial institutions will tell you that in an open banking era where consumers are able to move around

much more easily than they used to... On mortgages, for example, you can go online and look at Ratehub and find all the publicly available data quite quickly.

As I mentioned at the beginning of this, if the intent is to say Ratehub is okay, it's already being done, 90% of everything is being done.

What we could look at is not specifically which organized crime organizations are doing it and the financial damage to the organizations, but we could ask financial institutions what their focus area is, what the reputational damage is, whether they have quantified that, what the potential loss is to the customer base, whether that is something they have considered, what opportunity they have seen.

Again, to fintech, which is one of my points here, a lot of large financial institutions are getting into the business of fintech. Either they are starting arms of their businesses to look at fintech or they are buying up smaller start-up entrepreneurial outfits that have some new fintech technology to share—either an app or an algorithm or artificial intelligence they are looking at. That's the type of information we should be getting before the committee here.

I'll mention a Global News article on February 6, 2019, because it's recent. It talks about FireEye, which routinely uncovers major underground sites selling thousands of stolen Canadian credit cards at a time, sometimes from major banks but also targeting customer accounts at smaller banks and credit unions.

If you will remember—and this is much more the credit unions—when we introduce new regulations or we approve of regulations by OSFI and others, we should take a look at what open banking will do to large financial institutions that have the capital base, the employees and the ability to adjust how they do business. They have a larger client base, so they can adjust how they're doing business, versus the smaller players in the market. We have a heavily concentrated banking sector and we should also be looking at these new up-and-coming financial institutions and how we can make sure they are not wiped out potentially by something like open banking that is introduced too speedily or too slowly or doesn't allow the opportunity to compete with the larger players.

It's already happening that major banks are suffering from it, but oftentimes criminal organizations target smaller institutions, which is why it is worthy.

Paragraphs (a) and (b) make sense. They refine the study areas on privacy, and you could say that the ethics, privacy and information committee should be looking at this, but we should look at the security risks involved and the consent consumers should be providing.

Another article I want to mention is written by Howard Solomon: "Organizations still fall short on cybersecurity, Canadian breach response expert tells privacy conference". They mostly focus on organized crime and the types of criminal activity out there and they use the word "mind-blowing" on how much financial information is available on Canadians online that you can just purchase. In the area of open banking, would that facilitate thieves' stealing the banking information of Canadians, or is there a way to make it safer for Canadians to do that type of business? What would happen in a situation where somebody approves, on a customer's behalf, some type of data or information transaction and then they lose it?

Setting those limits and looking at what other jurisdictions have set, but also within Canada and what fits for Canada, falls within the amendments to paragraphs a) and b) that I am proposing we do.

● (1220)

OSFI, the Office of the Superintendent of Financial Institutions, has issued an advisory. The following is based on an article from January 30:

The Office of the Superintendent of Financial Institutions ("OSFI") today issued an advisory setting out new guidelines for how federally regulated financial institutions ("FRFI") report technology or cyber security breaches.

We have a government considering open banking in the budget. We are considering a motion for the committee to look at open banking, but we have a regulator that has already gone ahead on two of the points in the main motion, which corresponds to two of the points in my amendment, and has already proceeded with establishing rules.

The rules are detailed. If the committee will indulge me, these are the rules they have. This makes it a reportable incident so it means you need to track the information, you need to be able to put it into a report, and then you need to provide it to OSFI. This would be a regulated lender, which would exclude a lot of other financial institutions.

This is the depth of information they want. They want: significant operational impact to key critical information systems or data; material impact to FRFI operational or customer data including confidentiality, integrity, or availability of such data; significant operational impact to internal users that is material to customers or business operations; significant levels of systems service disruptions and extended disruptions to critical business systems operations; the number of external customers impacted as significant or growing; negative reputational impact that may be subject to public or media disclosure; material impact to critical deadlines, obligations and financial market settlement or payment systems, such as, for example, financial market infrastructure; significant impact to a third party deemed material to the FRFI; material consequences to other FRFIs or the Canadian financial system; a FRFI incident that has been reported to the Office of the Privacy Commissioner or local foreign regulatory authorities. They gave 72 hours' notice through the lead supervisor for that particular...

You can see how detailed that is already. Forgive me for providing a very detailed amendment, but you have a regulator that has already proceeded to establish some ground rules. To meet the requirements of OSFI, any regulated lender would have to somehow collect all of that information, synthesize it into a report, and then provide it to

them in, I'm guessing, an understandable format, which already will include by default a lot of customer information and customer data. It will have to include exact total amounts of damages, whatever way they quantify it, which is, again, why I think it's reasonable to look at these two.

I won't read the full advisory, because I have it here. Again, it's very detailed. As to the duplication, it's already being done. The OSFI regulator is already doing it and already looking at it. I really think cybersecurity as it's mentioned in the original motion could be vastly improved with my two points.

We could then look at "c) the appropriateness of government bodies collecting the personal banking information of Canadians", because if we have a situation where we're going to expect the information to be shared on a consent basis, but a customer controls information between financial institutions, I think we really have to look at how much information will be retained.

I know we live in a new era where Canadians are a lot more concerned about their privacy. I'm sure you all get the same types of messages when you send a letter or a survey into your riding asking questions. People are asking how we got their address, their name. We say it's a national list of electors, and we're trying to communicate with them because they're voters in the riding, they're constituents, and we want to hear from them to find out what they think of our proposals.

On the same basis, a financial institution may collect information on several clients over time, and then they have all this information. How long can they keep it? Until the person is no longer a client? What happens if there is a data breach in the meantime? Are they then responsible for disclosing a data breach for a former client? Is it just current clients? How long should they hold that information?

We saw the impact with Statistics Canada. StatsCan was trying to collect Canadians' banking information through a pilot project. That was 500,000 households, roughly 1.5 million Canadians, they had started to look at. Statistics Canada shouldn't expect to be able to just Hoover up that type of information anytime it wishes to. I'm glad that program was suspended. Whoever made that decision to go ahead, to cancel that collection of information, that was the right thing to do.

•(1225)

That was probably one of the issues I got the most email traffic and phone calls about from people I had never heard from before who were really concerned about their private banking data now being held by StatsCan. I think Statistics Canada generally has a good reputation. Small business owners have issues with their surveys and the frequency of them, but they have a good reputation generally. Still people were concerned about all the banking information they were going to get.

People were telling me they thought StatsCan was going to get their Visa or Mastercard statements, that the agency would literally see every single transaction of theirs. I couldn't tell them that wasn't the case. I actually didn't know, which is why I think if we're going to have government bodies like OSFI making rules to collect information from banks and other regulated lenders, we should be able to direct them, through the ministry of finance, and provide the findings to the minister that perhaps would say OSFI shouldn't be then holding this banking information. It shouldn't be holding personalized information. How much information the banks have to share with the regulator, in cases of data breach, I think is important too. A regulator can suffer a data breach as well, and what would happen in those cases?

There are entire avenues to consider here. The Statistics Canada example is a perfect one. At the time, the Information Commissioner and Privacy Commissioner had already recommended the removal of personal identifiers before the data was disclosed to the agency. I think that's an important point here: if OSFI has made these regulations already, as of January 30, requiring this private data to be shared, are they going to be the ones removing any personal identifiers from banking information and client information from the bank or are they going to be doing it after the fact? That means that regulators at OSFI will know which Canadians by name and which accounts have a data breach, who has taken it, where they are, and which financial institution they're with. It's very detailed. Those are areas that we should be looking at.

We spend a lot of time, I think, as a parliament and as legislators legislating on Canadians and on people instead of legislating what government departments can and cannot do and what regulators can and cannot do or collect in terms of information. We should spend much more time looking at how civil servants are doing their jobs and whether we can put any timelines on their work, any restrictions on the work that they do, because they're doing it on behalf of Canadians, on behalf of taxpayers.

I think it's incumbent upon us to look at the appropriateness of government bodies collecting that type of information. There were a lot of articles that came out in November and December. A lot of Canadians, I'm sure, contacted all of you about the Statistics Canada not breach but pilot project. That's an important point. Some of the articles talked about things like bill payments, cash withdrawals from ATMs, credit card payments, or even account balances. There's a lot of information out there that could be open for sharing and open banking.

I think without looking specifically at government bodies, which we're not doing here in the main motion—to which I'm proposing to add (c)—we really should be looking at government bodies and our

processes. I know the chartered banks and larger financial institutions invest heavily in their cybersecurity infrastructure. They put a lot of money towards it. But I wonder sometimes how much the government puts towards it and towards ensuring the cybersecurity of information it holds on behalf of Canadians.

There have been data breaches year after year. Stats Canada has had one of them, from the long-form survey. There have been very entrepreneurial journalists who've gone and found census surveys not shredded, not destroyed appropriately, in the garbage behind their building, perfectly available to anyone who just walks by. I think we should look at that.

It would likely be worth it to have the Privacy Commissioner come in and tell us, from their experience, what they have heard from the other committees that have looked at it, for all of the data breaches so far—just for government, not for financial institutions, and not just in terms of best practices but in terms of the best go-forward regulatory changes or legislative changes that we could propose to ensure that OSFI doesn't overreach.

On OSFI overreaching, I'd say they overreached on the B-20 stress test. I like bringing up that particular one. I think they went too far in what they did with the B-20 stress test, and I think they may go too far in other areas too. You heard me list for you the types of information that's being collected by the OSFI regulator, now with a requirement or a guideline to the banks.

•(1230)

That's why I think it's important. That's why I think we should be looking at it.

I want to move on to my next point:

d) the current landscape of the financial services sector in Canada, the major actors, levels of competition, and the sufficiency/stringency of regulations governing financial institutions;

We used to have a big five system. Now we have a big six system, where they own 90% of the assets in the banking system. That's based on the information I could find. Traditionally, it has been believed that a more concentrated industry is less competitive and is liable to compromise economic efficiency.

We saw during the 2008 downturn that our stringent regulatory financial rules actually helped us weather the storm much better. I would also add that it was thanks to a good prime minister at the time who knew what he was doing.

There was also a study by Bikker and Haaf in 2002 on 23 European countries. It found support for the traditional view that concentration impairs competition.

Perhaps during this open banking study we could consider whether that concentration, that stringency of financial regulations and financial rules, is still in the best interest of Canadians or whether there could be a nice middle ground between the two. Can we have the robust, stable financial system that we have now, with strong financial institutions that can weather a storm like we had in 2008-2009, or do we go full on with open banking, and does that compromise it in any way? That is what my amendment point (d)—my (d), which would be (d), (e), (f), (g), I guess, in the clerk and the chair's amended enumeration here—would be going to.

We can't look at open banking without looking at the current landscape and how that's impacting things. To do that, we would then have to look at what the big banks are doing, what the smaller lenders are doing, and what the opportunities are if other potential new lenders such as insurance companies jump into it. They're doing a lot of fintech development. There's the case of Meridian Credit Union, which is starting Motusbank without any branches. How will that impact the stability of the market? What are the regulations that they should be looking at?

What we have now is a financial banking environment that has comfortably accommodated what used to be the big five. Now you have the big six, with National Bank that has made its way into there, and there's a statutory 6% ceiling on bank lending rates, along with other rigidly modern features of conservative banking methods. It is a pretty conservative system. Their lending practices are fairly rigid.

What would happen then with financial product innovation? What would be the role of foreign financial institutions if Santander or a big American bank or regional bank wanted to participate? It could even be a merchant bank that is purely on the corporate side. If they wanted to participate in the Canadian market, what would be the rules?

You could have foreign institutions, perhaps, keeping Canadian customer information in Canada, or would these data centres be overseas? That's worth looking at in that landscape review. I don't think we can look at open banking without first looking at the banking system we have before us.

The regulatory changes introduced by the two bank acts allow financial institutions in Canada to conduct their functions more efficiently and to develop new products and services more effectively in an environment of competition and flexibility within the sector. The two bank acts I'm referring to are the act of 1967, following the Porter commission, and the act of 1980. More recently, the previous government introduced a division between banks and insurance companies that they may own. It was kind of a firewall between the two so that they couldn't easily share banking information.

It's all about building that ecosystem. I think that what open banking does is make jumping between ecosystems a lot easier for customers. It empowers them to make decisions for themselves. I would hope that in any changes that we look at, we consider how they would impact the landscape and how they would impact the flexibility in the sector for the organizations, the financial institutions side, and what risks we're placing upon them and upon the customers.

You may realize that you shared mortgage information with a company and that now they have it, 10 years later, and they're still using it. They're still trying to contact you, perhaps, or using it for modelling purposes now. Perhaps they're using it to model an optimal rate to offer young Canadians or older Canadians, but unbeknownst to you, they still have your banking information, or they still have your home equity line of credit balance from back then, and they are able to track a little bit what has been going on in the marketplace.

I don't think we can separate those two concepts.

• (1235)

Bank mergers.... This goes back to my point about labour and the impact on skilled labour retention, the impact on payroll taxes, openness—which is my point (f), which would be point (i) or (l). In the past, when the big five or the big six were requesting to merge, the decision was made at the time, on political grounds, to deny them permission to merge. It would have created an even more concentrated market, and even less choice for Canadians.

If we're going to allow for more open banking, that would mean potentially more entrants into the marketplace. A lot of smaller institutions would enter, maybe without brick and mortar branches. Perhaps they only have data centres. Perhaps they only have a corporate headquarters or maybe some regional branch just to keep financial advisors, underwriters and maybe mortgage specialists in the field. What would that do in the longer term for the share of the marketplace for the big banks if they don't adjust to it? If they have adjusted to it, would this lead to even more concentration and not allow an opportunity for competition?

I want to make a comparison to the struggles that Liberal and Conservative governments have had to foster more competition in the wireless sector. Different governments have tried different things through the CRTC—or trying to overrule the CRTC—to provide more competition in wireless communications. We all have cell phones. We all have these smart phones that we use for pretty much everything now, including our banking needs. It's all done on these devices now. The governments have repeatedly struggled to provide more competition there. I still hear that a lot of Canadians are unhappy with their choices.

Would that then be the case in open banking 10, 20 or 30 years down the line? Would we have a more concentrated market, or perhaps a very open market where the big six are no longer called the big six and we have the big 20 and there are no more branches? That would then lead to the problem of—

Mr. Francesco Sorbara: That's why we want to do the study. It's to answer these questions that you're asking.

Mr. Tom Kmiec: I would love to do that too, but I would like you to give me some assurances that you'll pass my amendment. Then we can look at all of these things in this study on open banking. It would also give consideration to looking at the mortgage stress test, Mr. Sorbara. I would really love to be able to do that. Other jurisdictions have done it. We have the United Kingdom that we're identifying as the one we want to compare ourselves to. I would love to look at it. I want assurances that we will look at all of these points. I think they are all important to take into consideration.

If my amendment were passed with the main motion, I would be happy to vote with it. I'm at the mercy of the government caucus here, on whether they will vote for my motion, to make Mr. Sorbara's motion more fulsome and complete. I would also like serious consideration to be given to doing that study on the mortgage stress test that we have looked at. I think those are all important issues. They are worthy of consideration. I really want us to look at them.

Moving on to g)—how open banking could impact the process of applying for a loan or mortgage, and why such processes ought to be improved in Canada—I'm so glad that Mr. Sorbara interrupted me, because it allows me to talk a bit about the mortgage stress test and how OSFI rules apply. It was a friendly interruption.

I would really like to know how the members of the government caucus perceive the applications for loans and mortgages. A lot of banks have moved towards having field mortgage specialists, and a diffuse way of delivering the service. It still requires you, time and time again, to meet with someone else, so they can confirm your identity and you can sign in person.

A lot of those requirements are in the Bank Act. Without looking at legislative changes, I don't see how we could say “yes” to open banking, and then not look at how loan and mortgage origination happens in the real world—how people obtain mortgages and loans. They still require you to go and sign documents and see someone. A lot of those things can now be sent back and forth by PDF, but there are requirements in the banking act for you to actually be there in person. A lot of times, the banks have rules that tell them, “No, we want the person to come in.” You can do a lot of the application online, but they still want to physically see you.

That is not the case for credit cards, for instance. You can just apply online, and oftentimes, a T4 is sufficient, or they just want to see your gross income and have your basic information. Then they check with the credit bureau to see your creditworthiness. They have a lot of information on you there already.

I wonder how many times Canadians have considered what TransUnion or Equifax and others have on them. I've actually gone through the experience of asking for a credit report. I saw things there that I never wanted to be shared with a credit-card company. I didn't even know what was being logged, or that information was accumulating.

The Australian experience is that they don't have current account balances on their credit checks, for instance. What I've been told is that you can see the total amount that you are allowed to borrow on a

line of credit, HELOC or credit card. They can't see your current balance.

In Canada, they can see your last balance. It's not perfectly up to date. Is that something that would change in open banking? Is that something that we're actually considering, that during the process of getting a loan, credit card or mortgage, your regulated bank or lender could see your immediate balances, as of the exact day you're asking for it? Would there be a clickable option in your application where they could take all of your information to make an assessment on whether you're a worthy borrower or not?

If that is what we're talking about, I think it needs a broader conversation about the process of application. How much personal information is perhaps too much? Is there something in between that we could do? What will happen with this open banking study if we say, “Go ahead, the Government of Canada is already going ahead with it. It's a great thing. It's good for consumers. It's good for those who want to control their own financial future and financial information”? What will the behaviour impact be on the lenders themselves, at the very granular, local, micro level? Will they then introduce very broad rules that say, “No, you will have to provide us with your current account balance, on all your accounts, before we'll agree to lend to you”?

Maybe we would consider a legislative framework, and stops that say, “No, that's actually too much private information. You can't just request or demand all of that type of information.” Where is the fine line that we're trying to meet?

● (1240)

I am concerned about loans and mortgages. You can go online right now and find lenders, and it is not clear whether they are a regulated lender or not, whether they are based in Canada or not.

You saw it in the experience of Iceland and some of these kinds of open banks that collapsed in the 2008-09 banking crisis. In those cases, there were no physical branches. The Government of Iceland could not say that it was going to seize assets to make sure that the people who have accounts would be paid back.

In those situations, what happens if you obtain a loan with a mortgage lender and that mortgage lender then begins to share it with other financial institutions? What if there is a requirement for you to do that? On this B-20 stress test, we've seen oftentimes...and you've heard me mention this OSFI rule on cybersecurity and the types of financial information they are now requiring

So now you have a situation where we could be empowering them even more. Is that the thought, that we provide for more open banking, more sharing of data, but it empowers the regulator to have even more influence, more directives that they will send to the banks, or these guideline documents that they pretend are not directives but they actually are? Is that the focus? I think that's a worthy area for us to look at.

It's all about that application process. People want it to be easy to apply for credit. At the same time, I think it's incumbent upon us to make sure that the rules for obtaining that credit, for obtaining the loan, the home equity line of credit, the mortgage, are structured in such a way that protect consumers from financial institutions that might just be doing mass data collection to perhaps improve their algorithms, the artificial intelligence software that they're running. That's a concern to me.

I think my amendment g) is a good one. It would make us look at those two things. It would make us go and find that information from financial institutions that are regulated. It would be a way for us to perhaps also offer up suggestions, again on those legislative amendments that I keep talking about, which would be beneficial to the Canadian consumer and the Canadian market.

It's worthy of study—specifically this point—because of the way that OSFI has treated Canadians. It has basically directed regulated lenders on the B-20 stress test, which is a one-size-fits-all rule.

I hope that for open banking, we don't do a one-size-fits-all rule that applies to all financial institutions, that it's perhaps a rule that's created for the big chartered banks, that makes it easy for them, since they have the people power to do it, while smaller financial institutions like the credit unions that want to compete.... And we have Meridian, which is trying to compete in this space, trying to gain clients, trying to gain market share.

Would we, in pursuing open banking then, not make some allocation for smaller financial institutions to be able to compete on an even basis for those loans, the credit applications, the mortgage origination? We've seen how much potential foreign investment could be brought to Canada. Is that the type of foreign investment we would want?

One of my points here is about the investment that other foreign jurisdictions could have, but I hope we don't mean state-owned enterprise from other countries that could invest in our banking sector. I mean by that, large financial institutions in the European market, from the United Kingdom, the American system, that could be wanting to participate.

I really think there's an opportunity here to make sure we direct this through our findings and say that with any type of banking that's open banking, the regulator has to consider the size of the institutions it is trying to regulate. It has to consider the interaction that the customer will have—the customer experience—like dividing it into two.... I think that directing any government regulator when making rules to consider its impact on those it regulates is perfectly reasonable, because then it would force them to consider smaller institutions.

I can't see how that would not be a gain. That would go back to that consumer protection point in the original motion. It would also I

think address financial stability, which is always a point of consideration when we are making any type of adjustments to our banking system.

● (1245)

I'm going to move on to my next point here, which is:

how open banking should be prioritized for the current government, considering the Minister of Finance's mandate letter that was given to him by the Prime Minister in 2015 and the various priorities that were outlined for the Minister in this letter;

I have the mandate letter before me. I'm not going to read it into the record, just as I won't read the Magna Carta into the record.

The Chair: It is a good mandate letter, though.

Mr. Tom Kmiec: It is thorough, I'll tell you that. It is thorough and it has a lot of points in it. At different points, the Minister of Finance has tried to address it, but it's multi-point, two-page, bullet-point, rather like the way my motion is here, on what are the instructions to the Minister of Finance and what he is supposed to be doing.

You'll forgive me for saying this, but when I looked at it initially, I couldn't find open banking in here. It just seems to be an extra thing that was layered on top after the fact. However, some of these things here have not been done yet, as far as I can tell. They haven't been looked at. Some of them are to co-operate with another minister; some of it is about the clean technology fund; some of it has to do with working with the minister of indigenous and northern affairs to establish a new fiscal relationship; and some of it has to do with EI.

Again, when I went through it, I did not find open banking, which then leads me to openly question why the Government of Canada has this advisory group that has this consultation, whereas now this committee is going to look at open banking. I would be the first to say that we shouldn't be looking at the minister's mandate letter for us to consider whether a study is a good idea or a bad idea.

I have gone through many ministerial mandate letters for inspiration, and in here I simply do not see open banking. Open banking would actually impact some of these points and how some of these things work, and it goes back to my point about how government bodies collect private information.

My last point, my last bullet, is about the principle of financial transparency in open banking and how it could be applied to things such as the CCB, how it could be applied to things such as EI. Perhaps it would be a good idea if the same idea about open banking could be practised by the EI fund, where a Canadian could go and consent to a sharing of information with other financial institutions and could maybe access that information, such as “How much have I paid into EI since I started working?” I'm sure there are a lot of people out there who would be curious. I'd be curious. I'm sure there are other members who would be curious. How much have you paid into CPP?

Perhaps it would be a way for you to share your CPP information, just by the click of a button, with your financial adviser or planner, which you have agreed to ahead of time, to share information with them so they can do better financial planning for you. Instead of providing you with an estimate, they could provide, perhaps down to the penny, exactly how much you can expect when you retire at age 55, 60, 65, 70, or 75, and it gives you a better idea of what's out there. However, I just don't see that in the original motion, which is why I am proposing to do it here.

Looking at the mandate letter, I just see a lot of opportunities for, again, these government bodies to be more directed in the type of work they do, the open banking principle, which is transparency. If the consumer is the main focus here, and I think it is, and I totally believe the government caucus when they say that consumer protection is the first thing mentioned, that the consumer comes first and open banking is to maximize the benefit for the consumer, but if that is the way, then why don't we practise that same principle for taxpayers when it comes to the Government of Canada's services and programs and the amount of money we give to them?

The principle should be the same, so that whatever we decide on open banking, could we then also say that for government bodies, you will produce information in a way that makes it simplified for open government, and not just put it in the government's open data website—opendata.gc.ca—where they just drop in a whole bunch of Excel spreadsheets, which are really hard to use and some of them are not all that useful? Give people some more control, at least so they know, as I said, on CPP, on EI, or on registered disability savings plans, so maybe they don't need to go and talk to a financial adviser. Through the click of a button, there could be a Government of Canada app that tells your current balance with all these institutions, so then you know.

Again, I don't see it here in the mandate letter, so I'm just a bit concerned that we're not following what the government is doing, outside of following what this advisory committee has started to do.

If you look at the mandate letter, if you wanted to, you could do a study just assessing whether the minister has met all the points in the mandate letter. I've actually gone through it and colour-coded it for myself, and some of them have not been done at all.

The minister has already taken on an extra task, this open banking, that is not in his mandate letter. I look at the mandate letter and I have seven things that they have done, and there are quite a bit of red and quite a bit of yellow things that are supposedly in progress or not being met. The deadlines are all very quick, because they're

obviously before the next election. Mandate letters expire at some point.

• (1250)

I think, on the point here, that if we're going to do this open banking study, we should make it as detailed as possible. When we make it as detailed as possible, we can report detailed findings to the government. I don't think that's a bad point. I don't think it's negative; I think it's perfectly reasonable.

Again, on point (j), financial transparency should be practised by government institutions. We could discover how.

Then, on the point about prioritizing open banking by this current government, I'm just wondering why that didn't make it into the original mandate letter if it were so important. It's also 2019 already, so we're at the tail end of this current government's mandate to do its review. I'm just a little concerned here that we're going to be undertaking a study while making it as specific as possible, and the minister's mandate letter is very specific, like I mentioned. This is the depth here of the minister's mandate letter. It went detail by detail into what they are doing and the different points in it. Like I said, I think it's incumbent on us to have as complete a motion as possible. It wouldn't hurt the study we're undertaking. It would just make it more specific.

I want to move on to my next point, here, which is point (i):

what the appropriate level of government regulation over Canadian financial service providers ought to be, considering the history of the Canadian context as well as that of other jurisdictions around the world

That goes back to the point I made about how much time we spend legislating what Canadians can do. We don't spend enough time legislating what government departments and regulators can do, and that's really important to me. I've included it here, because if we're going to consider consumer protection, privacy, cybersecurity and financial stability, we have to look at it from the point of view of what government bodies and government regulators are doing now and what kind of rules we can set onto them to empower the consumer and to empower the financial institution to serve the consumer.

Open banking cannot be about making it easier for government to collect data. It just can't be. That will lead to a lack of transparency. There are a lot of Canadians who already feel that way. There's just simply a lack of transparency. Government is so big that it's difficult to keep track of all the things it's engaged in and all the things it's doing. This has to be about putting the consumer first, and, in my mind, the consumer in open banking is not the financial institution. The financial institution is there to serve them.

The previous Auditor General, before he passed away, blasted the government for refusing to provide him with key financial information. He said at the time that the lack of transparency prevented him from completing an audit on the elimination of fossil fuel subsidies. That's the way he termed it. That's from a Globe and Mail article by Daniel Leblanc, parliamentary affairs reporter, dated May 16, 2017.

There's a lot of information held by the government already that would be helpful to consumers, but there is no government rules setting out how they're supposed to make it public. My experience has been, with access to information requests and with OPQs—Order Paper questions—that the government is not forthcoming with information. It provides me with very generic answers or tells me to go to a government website to obtain information. That's not good enough. If in open banking we're talking about that same user experience they have with the government being superimposed onto financial institutions, then that really should not be the way we do this.

In this article, it went on at length to talk about the transparency and openness failings of the Government of Canada in the services it provides and information it shares with officers of Parliament,

including the Privacy Commissioner, which has happened before. That's been an issue of previous governments, too. I'm not going to lay blame just on the current Liberal government. It has been the experience of past governments as well. That's been the experience with the RCMP, with Canada Border Services Agency and with a whole bunch of these institutions.

In this open banking, again, I think that adding in a point about the appropriateness of government regulation and about making sure Canadian financial service providers... We should look at the broader context here, the landscape, what types of rules are being imposed on financial institutions and if any rules are to be imposed on consumers. How much are we expecting consumers to know and be aware of and how much are we wanting them to be involved in their daily financial information and information sharing?

● (1255)

So I would hope that in any study such as this, we don't just leave it to the four broad points we have in here, and we have in here too what steps, if any, the government should take to implement an open banking system.

● (1300)

The Chair: I reluctantly have to interrupt, as we are at the end of our meeting time.

We will pick up where we left off when we come to committee business again. You will have the floor to start.

The notice has gone out for the meeting on Thursday on Bill C-82 and the supplementary estimates.

With that, the meeting is adjourned.

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