

The National Council of Women of Canada (NCWC) is pleased to present the comments in this Brief to the Senate Banking Committee on Bill C-8, *An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions*.

## **The Organization Of Council Of Women**

Founded in 1893, NCWC is a non-profit organization of women representing a large number of citizens of diverse occupation, language, origin and culture, reflecting a cross section of public opinion. NCWC is currently composed of twenty local councils, five provincial councils, two study groups and twenty-seven nationally organized societies.

National Council policy is created by means of local council initiative. Policy additions and changes are proposed, circulated and voted upon by the general membership. Council members may speak only on existing policy when contacting government, the media and the public. In this way, our comments come from the united voice of the federated membership of the National Council of Women of Canada.

NCWC enjoys consultative status (Category II) with the Economic and Social Council of the United Nations (ECOSOC). In addition, the National Council is a federated member of the International Council of Women (ICW), similarly a non-governmental organization holding consultative status (Category I) with ECOSOC. Founded in 1888, ICW is composed of National Councils in seventy-four countries, bringing together women of many races, creeds and cultural traditions.

## **General Policy pertaining to the Economy and Financial Institutions**

This Brief is written from the point of view of consumers: we do not pretend to be experts in banking or even economic matters. By its Constitution, National Council of Women of Canada is committed to work for improvement in the status of women and their families as well as for the betterment of general conditions for all members of society. **While believing that a strong, credible banking and financial sector is essential to the prosperity of Canada, and favouring a strong role for the federal government in financial matters, NCWC policy supports equitable distribution of financial resources.**

Our remarks follow those we presented in October/1997 to the Task Force on the Future of the Canadian Financial Services Sector; and in October/1998 to the Senate Committee on Banking, Trade and Commerce on the Report of the Task Force. Commenting on the proposals in Bill C-8, NCWC will reiterate many of the comments made to the House of Commons Standing Committee on Finance regarding Bill C-38 of the 36<sup>th</sup>. Session of Parliament.

We note that detailed rules will not be known until after the Bill has become law and regulations have been written.

### **Accountability of Financial Institutions**

Council of Women has been asking for disclosure of profit and loss records by the financial institutions regarding the costs of doing business and how bank charges are calculated. For instance, we would like to see a demographic analysis, by neighbourhood, of loan applications and how they were treated, and the rate of default among large borrowers given that small businesses, particularly women's, find it so hard to get loans. A Community Reinvestment Act, similar to that in the US, would hold the banks accountable by requiring disclosure of these items of information. We note that the recommendation by the Task Force for the creation of such an Act has been largely ignored. In Bill C-8, we can find only a requirement to report on a national level, "a bank with equity of one billion dollars or more shall annually publish a statement describing the contribution of the bank and its prescribed affiliates to the Canadian economy and society" [page 80, line 6].

Our members acknowledge that financial institutions are privately owned and shareholders expect to make a profit. In order to be legitimate in the eyes of the public, these institutions must ensure ethical practices, be financially viable as well as being good corporate citizens. They must gain and retain the public's confidence to conduct business and should contribute to the well-being of their communities. This can be achieved by providing accessible and affordable banking services and investing time and resources in projects in their local communities. By investing in local communities, financial institutions can contribute to a more equitable growth thus helping remove some of the disparity between rich and poor. NCWC supports the principle of granting loans based on sound business practices. Nevertheless, we have advocated an equitable lending policy that benefits small borrowers (as in the practice of micro-credit), low income Canadians, women, projects designed to benefit local communities and people with ideas about innovative technologies.

*Therefore, we commend the Minister for proposing:*

- *no minimum deposit or minimum balance is required in a bank account [ page 74, line 16];*
- *an individual may request a low-fee retail deposit account [ page 74, line 35];*
- *an individual does not have to be a customer of the bank in order to cash a cheque [ page 77, line 25];*
- *protection from coercive tied selling [page 78, line 12]; and*
- *a bank intending to close a branch must give notice and hold a meeting with interested parties in the vicinity [ page 79, line 10] - although we note with dissatisfaction that there are circumstances in which this is not required at all; further that C-8 contains no requirement for supplying information of profit and loss.*

## Financial Consumer Agency of Canada

National Council of Women commends the Minister for proposing the establishment of the Agency and the Office of Commissioner. NCWC policy has long favoured the creation of a federal government agency, independent of financial institutions, for regulation of compliance by financial institutions.

*We are pleased with the recommendations for:*

- *a requirement of the Commissioner to “promote consumer awareness about the obligations of financial institutions” [ page 4, line 1];*
- *a procedure dealing with complaints against a bank, whereby a bank shall provide “prescribed information on how to contact the Agency if the person has a complaint” [ page 76, line 31];*
- *the Commissioner shall prepare a report respecting “ the number and nature of complaints that have been brought to the attention of the Agency” [ page 77, line 7]; and*
- *ensuring compliance by the banks as in, “The Commissioner, from time to time but at least once in each calendar year, shall make or cause to be made any examination and inquiry that the Commissioner considers necessary for the purposes of satisfying the Commissioner that the applicable consumer provisions are being complied with and, after the conclusion of each examination and inquiry, shall report on it to the Minister.” [ page 191, line 10].*

With respect to this last point:

**1. We recommend that these reports be made public.**

**2. We recommend that codes of conduct be written into Bill C-8**

The proposal in Bill C-8 is that the Agency shall monitor the implementation of voluntary codes of conduct adopted by financial institutions [page 3, line 33]. We question the effectiveness of voluntary codes in the protection of the interests of consumers.

**3. We recommend clarification and an increase in the recommended fines for violations.**

It appears to us that the fines recommended for violations are inordinately small as in, “The maximum penalty for a violation is \$50,000 in the case of a violation that is committed by a natural person, and \$100,000 in the case of a violation that is committed by a financial institution.” [page 11, line 12].

## Consumer-run Financial Consumer Organization

NCWC strongly supports the establishment by the government of a consumer funded and directed Financial Consumer Organization. In Bill C-8, we find no mention of this important measure recommended by the Task Force on the Future of the Canadian

Financial Services Sector; your own Committee on Banking, Trade and Commerce; and the House of Commons Standing Committee on Finance. The creation of such an organization, publicized periodically by a flyer in banks' mailings to their customers, would provide consumers with a place, independent of government, dedicated to serving the interests of the public.

**4. We recommend that the new Act define more precisely "reasonable return".**

In view of the very large profits currently enjoyed by banks, which further lowers the level of public confidence in banks, we are concerned about the vague nature of the following wording, "The directors of a bank shall establish and the bank shall adhere to investment and lending policies, standards and procedures that a reasonable and prudent person would apply in respect of a portfolio of investments and loans to avoid undue risk of loss and obtain a reasonable return." [page 86, line 30]

**5. We recommend that financial institutions be required to have consumers represented on their Boards of Directors.**

Members of the Council of Women believe strongly in the need to make financial institutions accountable. In past presentations, we have suggested that consumers sit on the Boards of Directors of the various financial institutions.

**6. We recommend that financial institutions be required to report the results of a gender analysis of the effects of policies and strategies of their human resources departments.**

Of prime importance to our members is gender equality. We remain concerned that women are still under represented at the executive levels of financial institutions.

**7. We recommend that the government permit no further mergers between large banks.**

Members of NCWC are concerned about the Section on the relationships between Canadian and foreign banks and the World Trade Organization [page 29, line 25 and pages 83-177, line 127]. In our previous Briefs, we requested greater Canadian control of all financial institutions and suggested increased protection for Canadians in relation to transactions with or competition with foreign banks.

*We commend the government therefore on measures for additions to requirements for the disclosure of information, particularly by foreign banks trading in Canada.*

On the other hand, we are concerned that the regulations for bank mergers still do not go far enough. The Minister, personally, reserves the final discretionary power to accept or dismiss any proposed merger. Also, we note that we found numerous instances where the Governor-in-Council is permitted to create exemptions. In short, there remains considerable leeway for financial entities to acquire similar institutions, to be acquired or to amalgamate [pages 22-27, line 20]. The Canadian public has clearly shown its distaste for such occurrences knowing the danger that large banks would pose should they get into financial trouble. As the Task Force pointed out, Canada already has a concentrated banking sector where the five biggest banks control 81% of the assets. In 2000, in the Netherlands, the figure was 75%, 40% in the UK and 19% in the US.

**8. We recommend that the government retain the boundaries between banks and those companies selling securities and insurance.**

National Council of Women of Canada regrets the relaxation of regulations during the 1980s of measures to ensure the separation between the banking, leasing, securities and insurance sectors. We note that a blurring of the lines between those sectors is still permitted [page 46, line 20 and page 60, line 20].

**9. We recommend that the government retain the rule that no person may own, or vote on, more than ten percent of any class of shares.**

NCWC agreed with the Task Force about the importance of retaining the rule that no individual can own more than ten percent of any class of shares in a bank. Yet we see that the proposal is to raise that percentage to twenty for the purpose of voting, "At a meeting of shareholders of a bank with equity of five billion dollars or more, no person and no entity controlled by any person may, in respect of any vote of shareholders or holders of any class or series of shares of the bank, cast votes in respect of any shares beneficially owned by the person or the entity that are, in aggregate, more than 20 per cent of the eligible votes that may be cast in respect of that vote." [page 32, line 27].

**10. We recommend that phrases, "significant interest in a class of shares" and "major shareholder" be more clearly defined.**

In several Sections, these phrases occur frequently [pages 45-60, line 1].

**We note with regret that no provision has been made to deal with excessive credit card interest rates. Also, bank tellers will still be able to reject arbitrarily account applicants.**