

Issues Note

StatCan Data Request to Banks re: financial transaction data

Background:

On October 26, a Global News media story reported that Statistics Canada (StatCan) plans to collect “individual-level financial transactions data” and sensitive information, like social insurance numbers (SIN), from Canadian financial institutions to develop a “new institutional personal information bank” (PID).

- Starting January 2019, the “*nine largest financial institutions*” in the country—banks and credit card companies, as well as, “*other organizations that may process financial transactional data*”—will be asked for financial transaction data and personal information on a representative sample of 500,000 randomly chosen Canadians. (A new sample of 500,000 individuals will be chosen each year.)
- The personal banking and financial transactions being requested include bill payments, cash withdrawals from ATMs, credit card payments, electronic money transfers and account balances of Canadians across the country.
- According to the news story, the information is to be provided to StatCan “*without the knowledge or consent*” of the chosen individuals.
- Office of the Privacy Commissioner of Canada (OPCC) is aware of the plan and “*discussions are on-going.*” However, no objections have been raised so far by the OPCC.
- The story continued that “*Canada’s biggest banks have not yet fully agreed to the project.*” The CBA was reported to have “*lots of questions about the project*” and is “*working with members to understand the nature of this request and next steps.*”
- A variety of reactions from other privacy experts were noted. For example:
 - Ann Cavoukian, former Ontario Privacy Commissioner, was said to have expected a much different response from the federal Privacy Commissioner and called for “*a full investigation*”.
 - An information technology expert was said to have noted that massive databases of consumer transactions mean that elected officials will have to get involved. Current privacy laws do not contemplate something on this scale.
 - Others were said to have acknowledged that while there are “*obvious privacy concerns, there is tremendous potential for a lot of benefits to help the government, businesses, researchers to get better data about our country and if we have better data we can make better decisions.*”

Purpose of the StatCan Initiative:

- To develop a new “institutional personal information bank” (PIB) that describes individual financial transaction information. i.e. to create a database of financial transactions that will help obtain



comprehensive and accurate data about the economy, e.g. track household spending, retail sales, international trade in services, financial and wealth accounts, distributed household economic accounts, Canadian housing and income statistics programs.

- Data will be transmitted using a secure file transfer protocol and held on StatCan’s own unique servers, protected by a network firewall.
- Data requested will include a description of the transaction (value, date, location, etc.) and must be linked to an individual person by the inclusion of a SIN, date of birth, name, address and gender.
- Once aggregated, personal data will, however, be “stripped out” and the data “anonymized”.
- According to StatCan, the data is necessary to get a “snapshot” of spending habits of different kinds of Canadians.
- The new database will eventually “replace and improve on” data that used to be gathered through surveys and questionnaires as responses to surveys are low.

Legal Framework

Statistics Act

As outlined in the *Statistics Act*, a prime responsibility of Statistics Canada is “to collect, compile, analyse, abstract and publish statistical information relating to the commercial, industrial, financial, social, economic and general activities and condition of the people.”

In this regard, StatCan derives its legal authority to ask financial institutions for the information in question through section 13 of the *Statistics Act*, which states that “A person having the custody or charge of any documents or records that are maintained in any department or in any municipal office, corporation, business or organization, from which information sought in respect of the objects of this Act can be obtained or that would aid in the completion or correction of that information, shall grant access thereto for those purposes to a person authorized by the Chief Statistician to obtain that information or aid in the completion or correction of that information.”

However, application of this section is restricted to obtaining or using data that pertains to Canadian society, economy or environment—that is, it must fall within the mandate of StatCan as outlined in the Act. Furthermore, the data must be held to exacting “secrecy” standards as outlined in subsection 17(1).

PIPEDA

The legal framework also appears to permit this type of information collection from privacy perspective. While under the *Personal Information Protection and Electronic Documents Act* (PIPEDA) an organization must typically obtain an individual’s consent to collect, use or disclose that individual’s personal information, there are exceptions. In particular, section 7(3)(c.1)(iii) of PIPEDA would seem to permit a financial institution to disclose the type of information requested by StatCan without the knowledge and consent of the individual, providing certain conditions are met:

Disclosure without knowledge or consent

7(3) For the purpose of clause 4.3 of Schedule 1, and despite the note that accompanies that clause, an organization may disclose personal information without the knowledge or consent of the individual only if the disclosure is



(c.1) made to a government institution or part of a government institution that has made a request for the information, identified its lawful authority to obtain the information and indicated that ...

(iii) the disclosure is requested for the purpose of administering any law of Canada or a province,

...

Disclosure without consent

(5) Despite clause 4.5 of Schedule 1, an organization may disclose personal information for purposes other than those for which it was collected in any of the circumstances set out in paragraphs (3)(a) to (h.1).

(Click [here](#) to view Schedule 1)

Discussion

The scale of this initiative has been described as “unprecedented” and some subject matter experts have observed that while legal, these provisions have neither been publicly debated, nor tested. Others have pointed to the risk of government mishandling, or losing, this sensitive data. The OPCC is reported to have recommended that StatCan increase transparency by letting the public know the how and why of increasing data collection from administrative and other non-traditional sources and consider if it could achieve the same objectives if financial institutions were to “de-identify” the data before disclosing it.

All of these points seem to hinge on the degree of trust that Canadians are willing to place in the government/StatCan’s ability to (1) only use such “administrative data” for statistical purposes, and (2) to safeguard the data appropriately. Given that the legal framework could compel disclosure of such information, these concerns will have to be addressed. One obvious solution would seem to be for financial institutions to “anonymize” the data *before* sending to StatCan, as the OPCC has reportedly suggested. However, this may not meet StatCan’s needs and could prove to be a costly exercise for financial institutions, significantly diluting the intent behind the use of administrative data to reduce “respondent burden.” (See Statistics Canada’s [policy](#) on the use of administrative data.)

The issue of safeguarding the data is perhaps more problematic. In today’s environment, robust cybersecurity is a priority for *all* organizations, whether public or private, since all sectors, including the government, have been—and will continue to be—targeted by hackers or become victims of employee error or deliberate malfeasance. In this regard, the government has not demonstrated a greater disregard for robust data security measures, although it has recently suffered from a poor track record for successful IT project implementations. The government has voiced unequivocal faith in StatCan’s ability to safeguard this information and given the enormous data breaches recently made public at organizations such as Facebook, the government has arguably done a better job at protecting the data in their care than many private sector organizations.

This leaves the fundamental question of whether the government needs this information in the first place. StatCan points to low survey responses and the need for accurate and reliable data to underpin good decision-making. While there is much discussion of the invasiveness of government into private lives this initiative represents, we should not lose sight of the reality that the government already has access to Canadians’ Social Insurance Numbers, date of birth, name, address and gender, and financial institutions routinely link at least some of these dimensions with financial transactions to meet regulatory compliance obligations.



StatCan's need for such linkage is presumably two-fold: firstly, to ensure data integrity and secondly, to facilitate data aggregation by the various characteristics such as age, gender and location that could be important for diverse purposes, including policy development. In fact, this information at an individual level has little or no value for StatCan, and StatCan is prohibited from using it, or sharing it, for any other purpose.

Nevertheless, credit unions and their members are rightly concerned with this development. Privacy is a very important issue. CCUA has contacted StatCan for further information on this initiative, and when, or even if, credit unions might be approached for similar data on their members.

Talking Points

- *CCUA and its member credit unions consider their members' financial privacy concerns very seriously.*
- *There is nothing more important in our business than safeguarding the privacy of credit union members.*
- *Nevertheless, credit unions will share member information with government when obligated to do so by law.*
- *We have not heard of any member credit unions that have been approached by Stats Canada as part of this data request, but we will be issuing a communication to members at the earliest opportunity.*
- *We respect Statistics Canada, recognize its operating restrictions laid out in the Statistics Act, and its ability to manage sensitive data in a professional and confidential manner. However, we do have concerns about this particular request given the sensitivity of the data and the large-scale nature the request.*
- *We will continue to monitor this story, be in touch with members, and ensure that consumers' privacy remains paramount.*

