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Lobbyists' Code of Conduct Consultations
Office of the Commissioner of Lobbying
255 Albert Street
Ottawa, Ontario
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TD Bank Group ("TD") wishes to thank you for this opportunity to provide comments on the proposed changes to the *Lobbyists' Code of Conduct* (the "Code").

TD appreciates that this was a significant undertaking and we appreciate the work that has been done. In general, TD supports the majority of the changes proposed to the Code. However, TD is concerned with the proposed new Rule 8 on Preferential Access which states:

"A lobbyist shall not lobby a public office holder who is a relative or friend of the lobbyist or has financial or business dealings with the lobbyist. A lobbyist shall also not lobby other public office holders who work within that public office holder's area of responsibility."

We are particularly concerned with the inclusion of the term "friend" and the prohibition against lobbying persons who are friends, and persons within the friend's area of responsibility. TD is concerned that these changes would be unworkable in practice.

TD is unaware of any instance or claim that would necessitate a prohibition against lobbying friends or those who work within a friend's area of responsibility. In the absence of any compelling evidence providing a rationale for the change, TD believes the rule should not be amended as proposed. Our reasons are set out below.

The proposed rule prohibits lobbying a "friend of a lobbyist" but the word "friend" is undefined in the Code. What constitutes a "friend" under the Code will be determined by the Office of the Commissioner of Lobbying. This places the Commissioner's staff in the untenable situation of trying to rule on whether two individuals are determined – based on unknown criteria – to be "friends" and therefore in violation of the Code. There are many different and subjective interpretations of "friend". There are people who you may not have spoken with in years who you still consider to be friends, and there are people who you speak with every day who you do not consider to be friends. While you may consider someone to be

only an acquaintance, that person may consider you to be a friend. It is unclear how the Office of the Commissioner would enforce the friend rule, given these concerns, and in the absence of any interpretive guidelines.

Further, over the course of time it is quite easy for a working relationship to build into a friendship based on mutual respect and trust. This does not mean that nefarious dealing will now occur. One of the keys to lobbying is forming a relationship with someone so that you are able to have an open and trustworthy dialogue with each other. Public office holders need to have a trust in the person with whom they are dealing, so they feel comfortable in dealing with a lobbyist, from an information-providing and an information-gathering perspective.

TD also believes the proposed rule is overly broad, since it also prohibits a lobbyist from lobbying anyone within their friend's area of responsibility. If you are a friend of the Policy Advisor or the Chief of Staff to the Minister this could potentially mean that you could not lobby anyone at all in the Minister's Office. Or if you are friends with the Minister or Deputy Minister, would that then preclude you from lobbying the entire department? If the rule is applied in such a broad manner, it suggests that other staff members could have their judgment swayed by someone they have never dealt with or possibly never even met, on the basis of their friendship with someone else. That is not a fair statement on their character and integrity. If a public office holder feels that they are in a conflict on a file they are being lobbied on, they should recuse themselves from the file and insist that another office member take it on, rather than having a prohibition in place that would prevent the issue from being dealt with in the office entirely.

TD suggests the following restatement of the new proposed rule: *"A lobbyist shall not lobby a public office holder who is a direct relative of the lobbyist or has financial or business dealings with the lobbyist."*

"Direct relative" should be defined.

The purpose of the Code is to assure the public that lobbying is done in a manner that enhances public confidence and trust in the integrity, objectivity and impartiality of government decision-making. The wording that we are proposing is consistent with this purpose. The Code should provide clear guidance to lobbyists on what is expected of them. Further, the Code should not make it more difficult for lobbyists and public office holders to communicate and share ideas. The wording that we are proposing is also consistent with these principles.

Thank you for taking the time to consider these submissions.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary", followed by a long, horizontal flourish.