

A bill to change the Bank Act introduced in Parliament

Finance Minister John Crosbie introduced in the Commons on October 23 a bill revising legislative proposals to govern Canadian banking for the next ten years, with the main object of increasing competition in the financial system.

The bill, which includes the main points of Bill C-15 that was before Parliament in the last session of Parliament, also embodies several proposals of the Government following recommendations of Committees of the House of Commons and Senate.

Revisions

The broad principles of the current revision, which were first expressed in the white paper on banking of August 1976, include:

- an increase in the competitiveness of the banking system, including easier entry to the banking system by new or existing Canadian-owned financial institutions;
- establishment of a Canadian Payments Association to provide a common clearing facility for banks and all other financial institutions offering chequing facilities to depositors;
- provision, for the first time under the Bank Act, of rules governing activities of foreign banks, permitting them to set up bank subsidiaries in Canada;
- restriction of banks' powers in certain areas such as securities, portfolio management, data processing and investments in Canadian corporations, and broadening their scope of operation into new fields of leasing and factoring.

Foreign bank subsidiaries

To allow the Government to maintain a tighter control over the performance of foreign bank subsidiaries, the new bill provides for licensing of such subsidiaries, with initial and renewal licences for periods of up to three years. Bill C-15 had not proposed any licensing or review other than the decennial review of the Bank Act.

The new measure also re-defines the proposed limit on the over-all size of foreign bank subsidiary operations in Canada; their total actual domestic assets would not be permitted to exceed 8 per cent of all actual domestic assets in the banking system.

It strengthens the prohibition against foreign banks operating in Canada except

as subsidiaries, so as to encourage them to bring their Canadian operations under the supervision of the Bank Act.

It would remove the C-15 ceiling limiting a foreign bank subsidiary to no more than five branches, but any branches in addition to the first would require ministerial approval to ensure the protection of small Canadian-owned banks and promote a wider regional distribution of such branches.

It would increase the amount of assets which a foreign bank subsidiary would be required to hold in Canada against its deposit liabilities to Canadian residents.

It would permit foreign bank subsidiaries, in certain circumstances, to have associated non-financial companies in Canada.

Bank reserves

As in C-15, the cash reserves requirements would be reduced, but the phasing-in period for this reduction would be shortened by a year to three-and-a-half years.

A proposal in C-15 for a reserve requirement of 3 per cent against foreign currency deposits used in Canada was amended to avoid placing Canadian banks at a competitive disadvantage to foreign banks. The new bill would limit the 3 per cent reserve requirement to foreign currency deposits of Canadian residents booked in Canada.

Disclosure, business and powers

Banks would be required to disclose the names of companies in which they own an interest of 10 per cent or more.

Banks wishing to enter the financial leasing and factoring fields would be required to set up subsidiaries for those purposes. They would continue to have an option whether to establish subsidiaries to carry out mortgage lending and venture capital businesses. A bank's subsidiaries in all four fields would have to be majority-owned by the bank, and identified with the bank.

While lifting the existing ban on financing the leasing of equipment, the new bill specifies that banks may not direct proposed lessees to obtain the equipment at specific dealers.

The new bill would continue the present Bank Act limitation on a bank's holdings of conventional residential mortgages to 10 per cent of its Canadian de-

posit liabilities and debentures. C-15 had proposed removing this limit.

It would increase the amount of the priority claim allowed for producers of perishable farm products who seek to make recoveries from bankrupt food processors.

It would extend Section 88 lending (Section 177 in the new bill) to include retail goods, wares and merchandise.

Trust companies which convert their operations into banks would be allowed five years, instead of two, to divest themselves of non-allowable business activities.

Share ownership

So as to avoid concentrated ownership of a bank, a general rule limits to 10 per cent the number of a bank's voting shares which any person or associated group may hold. The bill clarifies this rule in the case of co-operative credit unions or *caisses populaires* and their provincial centrals or federations. The 10 per cent limit would apply to the combined holdings of all credit union locals, centrals and federations that are linked by membership and operate within a single province. A "grandfather" clause would permit continuation of existing holdings by a credit union group, but the group would not be able to purchase further shares until its holdings fall below 10 per cent of the bank's outstanding voting shares.

Mr. Crosbie emphasized the urgency of passage of the bill, to conclude a long-delayed decennial revision of the Bank Act. The operating authority of the banks under the Bank Act was originally scheduled to terminate on June 30, 1977. Three subsequent bills have been required to provide successive extensions of that authority pending parliamentary revision and the latest is scheduled to expire April 1, 1980.

As in the case of Bill C-15, the new bill is an omnibus measure providing for a new Bank Act, amendments to the Bank of Canada Act and Quebec Savings Banks Act, a new Canadian Payments Association Act, and consequential amendments to other legislation.

In addition to the banking legislation, the Minister of Finance released draft regulations which would take effect in three fields once the bill is enacted. The regulations apply to leasing, guarantees by banks, and cash reserve requirements. Other draft regulations were released in the last session of Parliament.