BRADLEY CRAWFORD, Q.C.

20 October 2016

Financial Institutions Division
Financial Sector Policy Branch
Department of Finance Canada
James Michael Flaherty Bldg
90 Elgin Street
OTTAWA, ON
K1A 0G5

Ladies and Gentlemen,

re: Consultation Document on Financial Sector Framework Review

I enclose my comments in response to your invitation to the public to participate in the formation of policy for the review of the framework of the Canadian financial sector in advance of the anticipated legislative changes by Parliament in 2019.

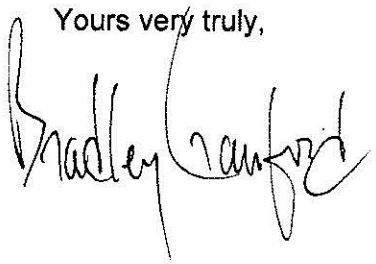
I note that your invitation requested specific responses to three preliminary questions concerning the privacy and confidentiality of respondents and their submissions.

In response: (i) I consent to the disclosure of my enclosed submission in whole or in part; (ii) I do not request that my identity or any personal identifiers be removed prior to publication; and (iii) I do not wish you to keep any part of my submission confidential.

I have also taken the liberty of enclosing a copy of some related comments that I submitted to you in May 2015 on similar issues in response to your request for submissions on the Consultation Document *Balancing Oversight and Innovation.*

Thank you this opportunity to participate in your policy-formation process. If any part of my submission is not clear, or if I can provide any further documentation in support of my submissions, please contact me again.

Yours very truly,



BRADLEY CRAWFORD, Q.C.

MEMORANDUM

to: Ministry of Finance Canada
date: 20 October 2016
re: **Consultation Paper: *Financial Sector Framework Review***

Thank you for creating the opportunity for interested persons to comment on the formation of policy to govern the Canadian financial sector for the next decade.

I am an independent legal advisor and commentator on issues of Canadian banking and payment law. I am a Life Member of the Law Society of Upper Canada, having practiced for more than 50 years. My current practice is limited to retainers by banks and law firms on issues of banking and payment law. My treatise, *The Law of Banking and Payment in Canada* (2008 and current to October 2016) is now in what is effectively its third edition, having begun in 1986 as *Crawford & Falconbridge on Banking and Bills of Exchange*, and continued as Crawford, *Payment, Clearing and Settlement in Canada* in 2002. I represented Canada at the United Nations Commission on International Trade Law on issues of banking and payment for over 25 years, ending in 2002. I also participated in the deliberations of the Task Force on Payments System Review as a member of the Legal and Regulatory Advisory Group led by Professor John Chant.

I believe that your Consultation Paper is well-advised in stating that the principal policy considerations that this exercise will attempt to implement are: (i) stability; (ii) efficiency; and (iii) utility. But I think your review of the intended scope of your deliberations falls short in addressing only the governance of Payments Canada[1]. As the Consultation Document notes earlier,[2]

> Much of the innovation in the financial services space is the product of emerging fintech start-up companies. These companies operate in a range of business lines, including payments ...and all of Canada's banks have entered into at least one partnership with a fintech company.... While fintech companies are creating the potential for more innovation and competition ... *concerns have been raised regarding appropriate regulation ... consumer protection, and how best to support a level playing field with regulated financial institutions.* (emphasis added)

My purpose in submitting these comments is to support those concerns.

As I consider developments in other mature economies, I find that Canada is already behind, and falling further behind, in failing to recognize Payments as a new industry; in failing to create an authority to monitor unregulated innovators in that sector;

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[1] Consultation Document, Appendix, p. 24.

[2] At p. 21.

and in failing to assert control over their activities. It is difficult to document the extent of those failures by reason of a second failure. There is almost no information available to the public on what risk or problems for the public those failings are enabling. The current provisions of the financial services statutes mandating dispute-resolution procedures have deprived observers of the payment systems of their most important source of information about the functioning of the various services and service providers. Neither the authorities nor the scholars have any information about how effectively the public is being served; whether the systems are operating safely and soundly at reasonable cost.

The Task Force on Payment System Review recommended in its final report in 2011[3] recommended that Payments be recognized as distinct from Banking, and brought under the oversight and regulatory control of a new body to establish policy, maintain order, and protect the public. Five years on, the gap between Canada and other developed economies on this issue has only grown wider. The following 4 developments are representative of a trend in many of the developed economies:

- Payment Services Directive, European Commission (December 2007), Directive 2007/64/EC, Journal p. L 319/1, began harmonization of payments systems across EU

archived at http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32007L0064&from=EN

- Second European Directive (November 2015), EU 2015/2366, Journal p. L 337/35

available at http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32015L2366&from=EN

- Financial Conduct Authority, Payment Systems Regulator created by *Financial Services (Banking Reform) Act, 2013*, began to function April 2015, oversees all forms of payment in UK

see https://www.psr.org.uk/

- Reserve Bank of Australia, Payments System Board, four statutory mandates starting 1959, ending 1998 to control risk, promote competition and efficiency in the payments system, consistent with overall stability.

see http://www.rba.gov.au/about-rba/boards/psb-board.html

Canada has developed a hybrid payments system, in which all the major wholesale systems, and a few of the retail systems[4] are under a degree of control of, and operated, by the Canadian Payments Association, but two of the most important retail systems are not. This is a relic of the pre-1982 regime in which the same group of financial institutions controlled the CPA, and were permitted to innovate with credit and

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[3] *Moving Canada into the Digital Age*, (December 2011) archived at http://paymentsystemreview.ca/index.php/papers/moving-canada-into-the-digital-age/index.html

[4] The

Cheque systems (both paper-based, and now digital), and Pre-Authorized Debit, Automated Funds Transfers, some Internet, ACSS-bill-payment and e-mail transfers, for example.

debit card systems through other organizations. It was natural for them to join one of the established American credit card associations, rather than attempting to recreate them within the CPA. It was less obviously desirable for them to create Interac as a separate entity outside the CPA, but it was not strongly opposed. In any event, the introduction of the new entities to operate the separate point-of-sale card systems resulted in more competition, since membership in the new organizations was not restricted to the same extent as it is for the CPA.[5]

In the past five years or so, innovative payments services have been introduced in the systems not controlled by the CPA, by unregulated, unsupervised entities who have interposed themselves between the customers and the financial institutions operating the systems. In the absence of any official control over market entry, they attract customers by making available payments methods not offered by the established participants. Some operate effectively as transaction data acquirers, receiving payment messages from their customers through mobile phone connections and passing them on to a participant in the debit or credit system for processing and settlement. At any given time, considerable sums are owed by these entities to the merchants who have accepted the customer's card as payment for goods and services. Other innovators have added deposit-taking to their list of services, eliciting credit card and bank account numbers and access codes from their customers in order to provide more convenient payments services through mobile phone "wallets".

Some of these entities provide a reasonable amount of information about their terms of service on their web site; others do not. In any event, the terms of service are not vetted by any regulatory authority, but simply what they entrepreneur's legal advisors recommend. Account statements, error correction, dispute resolution, pricing, are not always clearly explained. Funds on deposit are not insured or guaranteed; they may not even be held in segregated accounts, thus exposing all customers to a share of any loss suffered by any customer. It is not possible to determine objectively how fairly or effectively these services are functioning, since there is no obligation on the operators to give a public accounting of any kind.

Surely, no argument is necessary to demonstrate that this is an undesirable state of affairs. Nor is it acceptable to discount the risk to the public by arguments based on the small volumes and values involved. If there is a scandal, the public will not be able, or willing, to draw distinctions between the traditional financial institutions and the innovators, when they are so closely aligned in the operation of the systems not within the control of the CPA.

There is no federal authority with a mandate to regulate the entities providing retail payments services to the public. Bank of Canada has the authority to oversee the operations of the major wholesale payment systems for systemic risk,[6] and the clearing and settlement operations of the ACSS for payment system risk,[7] but no authority over

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[5] See the list of members at: https://www.interac.ca/en/about/membership.html

[6] *Payment Clearing and Settlement Act* S.C. 1996, c. 162, Sch. s. 4. See my treatise, *The Law of Banking and Payment in Canada,* (Toronto, Canada Law Book, current to October 2016) §7:50.10(1) "Systemic Risk".

[7] *Ibid.*, See my §7:50.10(2) "Payment System Risk".

fintech entities providing payment services directly to the public. Provincial legislation, such as the *Money-Services Business Act* of Quebec[8] is, I think, not constitutionally competent to regulate the fintech payments services providers, for the reasons that I offer elsewhere.[9]

I propose that there be a new federal agency with the mandate to monitor the payment systems not operated by the CPA, in part, to ensure that they do not create a risk to the public, but also to ensure that the benefit of their good innovations become widely available for the benefit of all the users of the Canadian payment systems.

This has recently been determined in the United Kingdom. The Financial Conduct Authority, a statutory oversight agency, has created a "regulatory sandbox" in which innovative payments services providers may operate under supervision of the supervision of the statutory Payment System Regulator,[10] without the usual restrictions or constraints that mature financial institutions must observe. The philosophy is summarized in a publication from 2015 by the FCA,[11] as follows:

> The FCA is committed to promoting effective competition in regulated financial services in the interests of consumers. Disruptive innovation is a key part of effective competition, which is why we launched Project Innovate. Project Innovate aims to support innovation that offers new products and services to customers and challenges existing business models. To do this, we engage constructively with innovative businesses, and seek to remove unnecessary regulatory barriers to innovation.

The rationale of the initiative was elaborated further by Bank of England Governor Carney in a speech prepared for the Lord Mayor's Banquet for Bankers of the City of London.[12] He observed:[13]

> FinTech has the potential to deliver more resilient financial infrastructure, more effective trade and settlement, and new ways to encode, share and analyse data. ...the potential to deliver a great unbundling of banking into its core functions of settling payments, performing maturity transformation, sharing risk and allocating capital. ... [and] the potential to affect monetary policy transmission, the safety and soundness of the firms we supervise, the resilience of the financial system, and the nature of the shocks that it might face.... We are actively exploring how new financial technologies could support our policy objectives.

Governor Carney then went on to list five initiatives by the Bank, only two of which directly impact payments services providers: (i) widening access to central bank money by extending direct access to the Bank's real time gross settlement system to approved FinTech firms. In effect, this would enable start-up innovators to clear and settle their reciprocal claims with established members of the top tier of the British

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[8] CQLR, c, E – 12.000001.

[9] See my §1:25 "Constitutional Jurisdiction over Payment Systems and Payment Methods".

[10] See the PSR web site at https://www.psr.org.uk/ .

[11] Financial Conduct Authority, *Regulatory Sandbox*, (November 2015) available at https://www.fca.org.uk/publication/research/regulatory-sandbox.pdf

[12] See http://www.bankofengland.co.uk/publications/Documents/speeches/2016/speech914.pdf .

[13] *Ibid.*, at p.4.

payment system; and (ii) calibrating its regulatory approach to FinTech developments (i.e., the "regulatory sandbox"):[14]

> FinTech should neither be the Wild West, nor strangled at birth. The Bank is devoting considerable resources to ensure that whatever develops is sustainable, not ephemeral. ... That is why the Bank has been engaging with FinTech firms to understand better the financial stability risks that could emerge as banking is reshaped.

There can be no credible argument that Canada is somehow exempt from the influences tallied by Governor Carney. But there has been no indication yet that Ottawa is prepared to take control of this issue and to bring unregulated payments services providers within even a diminished regulatory ambit, such as a "sandbox" regime would create.

A new agency is to be preferred to enlargement of the mandate of the CPA, I think, because it would be inappropriate to give regulatory authority over the innovators to an agency whose membership and traditions reflect the old order, rather than the new. Payments Canada has no experience as a regulatory agency. Also, with so much innovation being experimented with worldwide, it would be desirable to have a separate entity whose mandate to scan the developments and oversee their introduction to the Canadian market could be discharged without any proprietary or competitive concerns for the possibly disruptive influences. If there were some such control over the methods and systems of the fintech innovators, it would be more likely that they could be granted access to the ACSS through clearing agents, as is now being done in the United Kingdom, thus reducing systemic risk. And finally, the present oversight of the CPA by the Minister is, I think, chiefly effective to alert the authorities to developments that may have potentially harmful macroeconomic, or political, consequences. That should be maintained in its present form for the CPA, but a new agency, dedicated to identifying the good developments in payment methods worldwide would be more likely to keep Canada current with the best practices elsewhere.

The case for the creation of a payment system regulator for the non-CPA systems is established on the foregoing evidence, but can be strengthened further by consideration of a second emerging problem: loss of public access to information concerning the disputes of customers and, therefore, the problems with the payment systems from the perspective of the users. Comprehensive information of the number, nature and disposition of disputes raised between providers and users of the payment systems will be essential to the ability of the new regulator to discharge its mandate. If the information must be recorded and provided for that purpose, it adds a very slight burden to the participants or the regulator to make it available to the public.

The publication of reports of decisions of the courts on issues of payments has virtually stopped. The role of dispute resolution has been transferred from the courts – in all but the largest cases involving millions of dollars, or class actions claiming relief for numberless complainants – to the ombudsmen in the individual banks, or to the dispute resolution chambers authorized by the amendments to the financial institutions

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[14] *Ibid.*, at p. 10.

legislation over the past 10 years or so. The process of removing disputes between banks their customers began with the *Bank Act* of 1991. Banks were required to establish in-house procedures and provide staff to receive and deal with customer complaints. Initially, there was nothing more to the law. But in 2001, with the creation of the Financial Consumer Agency of Canada,[15] banks were required to report the activities of these, popularly called, "ombudsmen" to the Commissioner of the Agency, who had a duty to report on "the number and nature of the complaints" handled.

Whether the reference in the mandating legislation to the "number and nature" of the complaints handled was intended to serve as a guide to the content of these reports or not, it has prevailed as the model. Only numbers of complaints and a general classification of the nature (e.g., "banking" or "investment) are generally given in the published versions, at least, of even the best of these ombudsmen's annual reports. No bank's ombudsman report sets out any description of the facts giving rise to any complaint, or the decision made, or the reasoning by which it was determined. They are, therefore, of no use to the public in attempting to monitor the resolution of consumer's disputes with banks over the products or services provided.

It is the same with the industry's Ombudsman for Banking Services and Investments, which was created in 1996, and augmented by amending legislation from time to time, the last coming in 2002 when Investments were added to its mandate. It publishes a report annually, disclosing something of the office's functions in the year. The reports do not disclose the nature of each complaint, or the facts giving rise to it. Nor do they set out the decision of the Ombudsman, or the reasoning by which it was arrived at. They are not an effective source of information about the functioning of the payment systems.

A third private option for dispute resolution is offered by professional dispute resolution chambers, mostly staffed by senior, retired, lawyers and judges. These were authorized as alternatives to the industry Ombudsman by amendments to the legislation in 2010, following the dissatisfied withdrawal of two major banks from the Ombudsman program.

No doubt the provision of dispute resolution facilities other than the courts has been a benefit to the public by improving access to disinterested investigation, consideration and redress of their complaints, and either eliminating, or greatly diminishing the costs to the public of seeking legal advice and remedy. But the culture of confidentiality that arbitrators and other dispute resolution services providers have developed and in general use, is ill-suited to the conditions in which it is being applied now with respect to payment system disputes. I think that such conditions are very different from those in which the private dispute resolution processes now employed in the Canadian banking and payments environment operate. That is because the contracts to which those mediators and arbitrators must first turn for a resolution of the dispute are not private, or unique to the disputants: customer banking services agreements, and credit card or debit card user agreements are issued in standard form

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[15] S.C. 2001, c.9, *Financial Consumer Agency of Canada Act*.

to millions of Canadians. A decision by a mediator or arbitrator on the meaning or application of some provision of one of those contracts, has potential implications for all customers who have the same contract.

It may also have implications for subsequent proceedings before a different arbitrator. The lack of publicity makes it impossible for arbitrator A to test her sense of a reasonable and fair decision with decisions or awards in previous disputes by arbitrators B, C and D and mediator E.

The secrecy of arbitration proceedings and awards also deprives commentators, such as myself, of the opportunity of monitoring the nature and number of disputes arising from the relations of banks and other depositary financial institutions, and payments services providers with the public. There is no evidence either to confirm or to challenge the quality of the decisions, or their fairness, reasonableness or impact on the previously established principles and rules of law. The influence of the law is being diminished. The government loses the ability to make the necessary adjustments to it as conditions change. The performance of the payments sectors of the financial services industry is not being publicly reviewed. The absence of official reports of dispute resolution does not support public confidence that all is being conducted fairly. On the contrary; silence is usually interpreted as suspicious – or worse.

It is true that the English Court of Appeal has determined[16] (probably correctly for application in Canada as well) that there is an important distinction between a dispute, and a cause of action. The mandate of mediators and arbitrators is often not "to do justice according to law", but "to ascertain a fair resolution of the dispute". It appears that, on occasion, mediators and arbitrators think that fairness can be achieved only if the legal rights or privileges of the financial institution are not fully protected. I do not quarrel with that. Nor do I think that every dispute should be made public. The matters brought before the individual ombudsmen, and even the Industry Ombudsman can probably be safely assumed to be relatively trivial. Also, there would be a problem with the volume of those complaints if each had to be documented.

But those considerations do not apply, I think, to disputes that go to arbitration. For one thing, they are fewer in number, and more likely to involve some provision in a contract, or point of principle, rather than a simple dispute over the facts of the case. In addition, arbitrators[17] are customarily required to provide a written award, or decision, setting out the salient facts, the issues and reasons for the decision. These could be provided to a central registry of some sort, and posted online with minimal cost or effort. If considerations of confidentiality are important in some instances, there would be no objection to redacting the names of the individuals. Names of banks or payments services providers should probably not be routinely redacted. The public has a right to know the facts of service providers' relations with other members of the public, as part

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[16] *Clark v. In Focus Asset Management & Tax Solutions Ltd.*, 2014 EWCA Civ.118, [2014] 1 All E.R. 313. I discuss the decision in my §7:70.30(3) "Judicial Review of Ombudsman Decisions".

[17] I do not have enough experience to make a judgement whether mediators ought to be included. I think not, since I understand that their mandate is often to find a compromise, rather than to determine the rights and duties of the parties.

of the process of making good decisions in selecting service providers for themselves. But that must be balanced against the importance of maintaining public confidence in the payment system; deletion of names in cases involving irresponsible, unfair, or unproven allegations, for example, could be tolerated.

Thank you for your attention. I hope that you will find my comments to be of some assistance to you in your deliberations.

BRADLEY CRAWFORD, Q.C.

MEMORANDUM

to: Ministry of Finance Canada
date: 07 May 2015
re: **Consultation Paper: *Balancing Oversight and Innovation***

Thank you for creating the opportunity for interested persons to comment on the formation of policy to improve oversight of the development of novel payments services by new, unregulated, providers. It is both a welcome, and an essential, project - and not too soon.

I am an independent legal advisor and commentator on issues of Canadian banking and payment law. My practice is limited to retainers by banks and law firms on issues of banking and payment law. My treatise, *The Law of Banking and Payment in Canada* (2008 and current to October 2014) is now in what is effectively its third edition, having begun in 1986 as *Crawford & Falconbridge on Banking and Bills of Exchange*, and continued as *Payment, Clearing and Settlement in Canada* in 2002. I participated in the deliberations of the Task Force on Payments System Review as a member of the Legal and Regulatory Advisory Group led by Professor John Chant.

Before I address your specific questions, I would like to make a few more general observations.

I think that the Canadian retail payments environment has been made disorderly by the admission of unregulated and even unsupervised providers of innovative payments services. It has been made complex and confusing by the multiplicity of terms of service offered by these providers, and the proliferation of basically identical, but differently branded, competing services by established services providers. Finally, it has been made less secure by the intervention of many of these new service providers into the relations of customers with their banks and credit card issuers.

The Task Force's Final Report found that Canada's failure to keep pace with developments in retail payments services in other advanced economies is the result of the inertia of the Canadian Payments Association, and the lack of incentives to adopt novel payments methods. I think that another factor was the ineligibility of many persons offering new payments services providers for membership.[1] As a result, innovators were unable to use existing payments networks or the clearing and settlement infrastructure,

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[1] The *Canadian Payments Act*, R.S.C. 1985, c. C – 21, s. 4(2) restricts membership to the entities listed. That list makes no provision for entities such as PayPal, Google, Apple, Square etc. etc.

I think that the description of the risks by the Consultation Paper is thorough and satisfactory, but (if I understand it correctly) the proposed policy response is not. In the boxes on page 7, the Consultation Paper lists five important measures to ensure safety and security of the payments systems being monitored. I agree that all are important, and should be part of the final policy. But nowhere is there a proposal that all service providers will be subject to the measures adopted. It is only on page 8 that the Consultation Paper raises the "*possibility*" that "*consideration*" could be given to mandatory registration or licensing of payments services providers. That misplaces the emphasis. In the absence of some effective requirement that every payment services provider with customers in Canada is brought within the jurisdiction of the oversight authority, there will be gaps in the implementation of the policy. The Province of Quebec has seen the need for a policy of compulsory application in enacting its (questionably competent) *Money-services Businesses Act*.[2] The Consultation Paper cites the example of the Australian *ePayments Code* with apparent approval, but that commentary fails to note that only PayPal among the innovative retail payment services providers has adopted it. That omits Google, Apple, facebook and others, and represents a significant gap in the effectiveness of the protections of the Code to all Australians.

In brief, there is a risk that not all retail payment services providers will voluntarily adopt whatever policy the oversight authority adopts or promotes. I think that it would be overly optimistic to apply the current policy favouring volunteerism to innovative service providers. Unlike the participant entities that have adopted the two Canadian Debit and Credit Codes, the innovative service providers are much more aggressive in their efforts to gain market share; they have much less at stake in the existing structure of the market, and less reason to be cooperative. I cite the example of Netflix, which recently openly defied the CRTC in refusing to cooperate with it by disclosing numbers of customers and other information that Netflix considered to be proprietary and confidential. I see no reason why we should not expect similar refusal to cooperate by some innovative payments services providers.

One of the measures that the Consultation Paper raises as an example of the kind of oversight contemplated, is "segregation of funds requirements". I agree that this is extraordinarily important, and that it is not always provided. You may not be aware of the terms of service of PayPal Canada on that issue. Its web site[3] explains its practice regarding segregation of funds as follows:

> If you do hold a Balance, PayPal will hold your funds separate from its corporate funds, and it will not use your funds for its operating expenses or for any other corporate purposes. ***PayPal will not voluntarily make your funds available to its creditors in the event of bankruptcy***. While your funds are in our custody, PayPal will combine your funds with the funds of other Users and place

[2] CQLR c E-12.000005.
[3] See: https://www.paypal.com/ca/webapps/mpp/ua/useragreement-full

I think that the CPA will continue to have an important role in supporting the retail payments system if membership is made mandatory for all payments services providers who offer their services in Canada, but that role should be subordinate to, and under the control of, a Superintendent of Payments Institutions, by whatever name you choose to give it.

2. Perimeter of Oversight

My answer to the Consultation Paper's question as to whether the new policy should adopt a functional approach to oversight is: "Yes". That is the whole basis for recognizing payments services suppliers as participants in a different industry than banking, or any other establish financial service. It is also the reason why oversight (and, ideally, regulatory authority) should also be separate.

The regulatory ambit of the new policy should include all payment functions and all payment instruments that effect a payment or transfer of anything that is legally recognized as Money. There are established legal definitions of Money,[7] which emphasize the necessity of common acceptance of a medium of payment as a condition precedent to its legal recognition as a form of money. I have recently published a commentary proposing that the legislative authority over Money under the distribution of powers in the *Constitution Act, 1867* be officially recognized as exclusively federal.[8] A part of that commentary is a proposal that electronic communications of bank credit be recognized as a new form of money, since everyone's everyday experience is that everyone will accept payment by that method.[9] Credit cards, debit cards, online payments, email transfers, mobile phone payments pre-authorized debits, automated funds transfers - all operate by communicating specific commitments of bank credit to a payee, or a participant acting as a representative for a payee. We need a theory of money that accommodates these new payments methods. It is no longer sufficient or efficacious to characterize bank deposits simply as debts of the depositary bank ("*choses in action*"). That analysis was adequate for a time when most payments were made in cash or by negotiable instrument. It no longer serves in the modern era, when most payments are made by a transfer of bank credit through some electronic medium. Assignment of a chose in action is an unsatisfactory legal foundation because it cannot ensure that payments are final and irrevocable when made. The common law recognized those two features of money as essential to the

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[7] See Crawford, *The Law of Banking and Payment in Canada*, (Toronto, Canada Law Book, 2008 and current to October 2014), §3:10 "The Meaning of Money".

[8] See Crawford, "Money in Constitutional Law" (2015), 56 C.B.L.J. 281.

[9] With respect, this essential characteristic is not shared by Bitcoin or Litecoin; they are a form of intangible property that has a value for some, and will be accepted in satisfaction of some obligations, but in transactions properly characterized as barter, not payment. The government's announcement of its intention to regulate them is misguided. Since they are not money, the legislative authority is provincial: Property and Civil Rights.