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**Submission of Comments by the Canadian MSB Association Addressing the  
“Consultation on the Review of the Canadian Payments Act”**

**Document Sharing:** We consent to the disclosure of our comments in whole or in part;

**About the CMSBA:** The Canadian MSB Association is a national organized group of MSBs and partners of the MSB industry that provide AML training to members and advocate on behalf of the industry participants.

**Scope:** This report aims to shed light on the proposed changes as they relate to the MSB industry.

**Responses to Review Points:** The following constitute the Association’s comments with respect to each of the following proposed changes. Sections that have no comment from the CMSBA have been omitted from this document.

***Should the government create an associate membership class to facilitate access to the RTR?  
Should alternate approaches be considered?***

The CMSBA believes that the Government should create an associate membership class in order to facilitate greater access to the RTR. A 2016 study by Acorn Canada indicates that, “3% of all Canadians – close to one million - are unbanked, meaning they have no relationship at all with a mainstream financial institution such as a bank. In addition, 15% - or close to five million Canadians –are underbanked. Underbanked Canadians may have a bank account, but

their engagement with the mainstream financial sector remains limited.”<sup>1</sup> Most often, MSB’s, offering important services such as foreign exchange, money remittance and transfers, and issuing and redeeming money orders or traveller’s cheques, often serve as the single link between these marginalized Canadians and the broader Canadian financial landscape.

Therefore, when MSBs are unable to access even the simplest of financial services that allow them to provide these services, all parties collectively suffer. Those unable to access the traditional Canadian financial market continue to have the inability to enter it, while Canada’s financial intelligence units cease to have the opportunity to better understand and mitigate important issues such as money laundering and terrorist financing.

As seen with the success of Project Protect, the “reporting entity-led initiative that mobilized partners across the country to combat human trafficking in the sex trade,”<sup>2</sup> STRs and other forms of collective collaboration and association by various public and private actors are essential to combatting illegal activities. Interestingly, a 2016 study by the Financial Action Task Force (FATF), reports that half of the suspicious transaction reports (STRs) that FINTRAC receives, vital to Project Protect, are submitted by MSBs; indicating an immense willingness by Canadian MSBs to strengthen institutional partnerships and collectively combat money laundering and terrorist financing.

Thus, constant collaboration and cooperation between all financial entities is essential for future anti-money laundering and anti- terrorist financing success. If MSBs are disallowed access to banking services in general, and thus are unable to have access to modernized payment initiatives such as the RTR system, MSBs will be unable to upkeep this same level of collaboration. Furthermore, barriers to modernized payment services may cause MSBs to be driven underground, eliminating the link between the vulnerable and the financial system, as well as the quality and quantity of current information reporting.

***Should registration and regulation under the proposed retail payments oversight framework be a pre-condition for associate membership?***

The CMSBA does believe that registration and regulation under the proposed retail payments oversight framework be a pre-condition for associate membership. However, due to differing size and scope, MSBs have various levels of exposure to risk and sophistication of compliance

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<sup>1</sup> Acorn Canada. "It's Expensive to Be Poor: How Canadian Banks Are Failing Low-Income Communities." <https://www.acorncanada.org/resource/its-expensive-be-poor-how-canadian-banks-are-failing-low-income-communities>.

<sup>2</sup> Department of Finance Canada. "Reviewing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime." <https://www.fin.gc.ca/activity/consult/amlatfr-rpcfa-eng.pdf>.

regimes. It is therefore imperative that registration and regulation, as a pre-condition for associate membership, be flexible enough to address these discrepancies within the MSB landscape. The Department of Finance's very own 2018 publication on *Reviewing Canada's Anti- Money Laundering and Anti- Terrorist Financing Regime*, notes that "regulations need to continue to remain flexible and adaptive in an environment of rapid development and emerging technologies."<sup>3</sup>

While leveraging technology solutions such as the RTR can strengthen MSBs compliance regimes, if registration and regulation is highly inaccessible, the risk of MSBs being driven underground, increases. As also stated in the 2018 publication, "under the PCMLTFA, reporting entities are expected to manage (but not necessarily eliminate) their exposure by taking a risk-based approach with respect to their clients. This assessment is expected to take place on a case-by-case basis and not impact an entire industry."<sup>4</sup> We ask that the Department of Finance take this opportunity, and structure registration and regulation under a similar risk-based approach and case- by- case basis as to not impact the entire MSB industry, as what has occurred with continued widespread de-banking.

***How could Payment Canada's government structure be adapted to allow for appropriate reflection of associate member views into Payment Canada's decision-making process? In what ways can this be designed?***

In order for associate membership and registration and regulation to occur, the current Payments Canada's governance structure should be adapted to reflect the broader Canadian financial landscape that currently exists. For example, of the 13 current members of the Board, all are current Payments Canada Members. However, as detailed in the beginning of this submission, the Canadian financial landscape continues to exist outside of traditional entities eligible for Payments Canada Membership. Therefore, it is impossible that Board decisions are made in "the broader public interest", as much of that financial landscape, as well as vulnerable and marginalized Canadians, are unrepresented.

It is therefore imperative that Payments Canada expand their Independent Board to include members that may qualify for an associate membership as to reflect decisions that more accurately depict 'broader financial interest'. Moreover, in regard to the one member one vote policy, for true equality of voting rights, it would be essential for equal Board representation to exist between full Payments Canada members and associate members. The same principle would apply for the nominating committee, which would need to have adequate representation from smaller associate members, in order to appropriately nominate associate members.

***What are your views on whether and how to broaden membership so that systems that are designated by the Bank of Canada as systematically important financial market structures can directly access Lynx?***

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<sup>3</sup> Department of Finance Canada. "Reviewing Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime." <https://www.fin.gc.ca/activity/consult/amlatfr-rpcfa-eng.pdf>.

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Payments Canada membership should largely be broadened to address the differences in financial entities across the Canadian financial system. Making membership a tiered structure should be considered, as the capacity and resources of MSBs vary greatly, making a single associate membership class highly unfeasible. Tiered membership requirements associated with differing functionalities with systems such as Lynx would consistently incentivize entities to continue managing risk.

Moreover, the CMSBA feels that membership should be broadened only to financial entities in good standing with regulatory agencies such as FINTRAC and who are consistently operating within Canada. Broadening access to entities that operate largely outside of Canada would not only potentially heighten money laundering and terrorist financing risk but also monopolize the financial field, stifling already struggling Canadian MSBs. Currently, due to sector-wide debanking, the number of MSBs registered with our association has dropped from 2400 to 800. Meanwhile, larger foreign MSBs who have had the support of foreign banks and their services are prospering. Recently, the large UK financial technology company, Transferwise, has secured a partnership agreement with Groupe BPCE, the second-largest French bank. Broadening membership in ways that would favour both large and foreign MSBs like these, would only inundate the Canadian financial services market, eliminating the existing 800 MSBs.

As sector-wide MSB de-banking has continued, irrespective of statements of condemnation made by both national and international regulatory and government agencies, it is essential that the changes to the Canadian payment system are implemented in ways that truly allow MSBs to co-exist alongside larger, more traditional financial entities. Another way this can be done is by making membership conditional, on the adoption by the member, of an anti-discrimination and pro-national competition policy regarding the on-boarding of client and maintenance of bank accounts.

The Canadian MSB Association would like to thank the Department of Finance for the opportunity to provide feedback on the effectiveness of the 2015 amendments to the Canadian Payments Act. Should you require further comment on these or any other proposed changes, we welcome your contact through our association website or individually through our office contact information, 1417 Thistledown Road, Oakville, Ontario, L6M 1Y4, [info@canadianmsb.org](mailto:info@canadianmsb.org).

Sincerely,



Michael Smith, Co-Chair



Carinta Mannarelli, Co-Chair