

## **Consultation on the Review of the *Canadian Payments Act***

**Closing date:** July 24, 2018

Written comments should be sent to:

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Department of Finance Canada

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In order to add to the transparency of the consultation process, the Department of Finance Canada may make public some or all of the responses received or may provide summaries in its public documents. Therefore, parties making submissions are asked to clearly indicate the name of the individual or the organization that should be identified as having made the submission. Submissions should preferably be provided electronically in **PDF format or in plain text** to facilitate posting.

In order to respect privacy and confidentiality, when providing your submission please advise whether you:

- consent to the disclosure of your submission in whole or in part
- request that your identity and any personal identifiers be removed prior to publication
- wish any portions of your submission to be kept confidential (if so, clearly identify the confidential portions)

Information received throughout this submission process is subject to the Access to Information Act and the Privacy Act. Should you express an intention that your submission, or any portions thereof, be considered confidential, the Department of Finance Canada will make all reasonable efforts to protect this information.

Original proposal is [here](#).

Questions for Consultation	nanopay Response
<p><b>Payments Canada Governance:</b></p> <p>1. Have the 2015 changes to Payments Canada's governance been successful in better enabling the organization to achieve its public policy mandate to promote the efficiency, safety, and soundness of its systems while taking into account the interests of users?</p>	<p>Overall, the changes had a positive effect in achieving the goals while taking into account the interests of a broader audience.</p> <p><b>Successes:</b></p> <ul style="list-style-type: none"> <li>Specifically, an independent board and one member one vote balanced the previous structure of an entirely Member appointed board.</li> <li>The independent board ensures the public interest is met and reduces conflicts of interest in its decision making.</li> </ul> <p><b>Opportunities:</b></p> <ul style="list-style-type: none"> <li>Despite the new structure, there continues to be an imbalance between the Member Advisory Council (MAC) and the Stakeholder Advisory Council (SAC) when providing recommendations to the Board. <ul style="list-style-type: none"> <li>As certain institutions are represented on both the MAC and the Board, the MAC messages tend to be communicated directly to the Board (albeit the role of Payments Canada to relay the messages from both MAC and SAC to the Board).</li> </ul> </li> <li>There needs to be greater transparency in the process of providing recommendations to the Board, and the role of Payments Canada in this process requires clarification.</li> </ul>
<p><b>Payment Canada Governance:</b></p> <p>2. Are there aspects of Payments Canada's governance structure that could be improved to better allow Payments Canada to carry out its mandate and serve its public policy objectives?</p>	<p>A few small changes to the board structure and mandate would improve the balance between SAC and MAC, improve competition and increase transparency.</p> <p><b>Board Structure:</b></p> <ul style="list-style-type: none"> <li>Payments Canada should consider adding a SAC and a MAC chairman to the Board. This would improve the</li> </ul>

	<p>balance between the Member Advisory Council (MAC) and the Stakeholder Advisory Council (SAC) when providing recommendations to the Board.</p> <ul style="list-style-type: none"> <li>• Equal representation on the Board of the SAC and the MAC would streamline communication and further increase efficiencies.</li> </ul> <p><b>Board Mandate:</b></p> <ul style="list-style-type: none"> <li>• The Board should focus on innovation and competition in order to support the Canadian economy in both a domestic and global capacity.</li> </ul> <p><b>Board Transparency:</b></p> <ul style="list-style-type: none"> <li>• For additional transparency, the results of how the Board votes on key issues should be made public.</li> <li>• Transcripts or a high level summary of the discussion should also be made available.</li> </ul>
<p><b>Membership:</b></p> <p>3. Should the Government create an associate membership class to facilitate access to the RTR? Should alternate approaches be considered?</p>	<p>Yes - it's highly recommended that the Government create an associate membership class.</p> <p><b>Benefits of Associate Membership:</b></p> <ul style="list-style-type: none"> <li>• Promote competition and innovation by supporting new entrants</li> <li>• Encourage the introduction of new products for the benefit of consumers and the economy</li> <li>• Act as a catalyst for change in the payments industry, with Canada at the forefront of global payment developments</li> <li>• Ensure the payments industry is end-user focused</li> <li>• Allow for better regulatory oversight</li> <li>• Support financial stability by developing new risk-reducing technologies and reducing settlement risk</li> <li>• Increase Canada's attractiveness for global trade</li> </ul>

<p><b>Membership:</b></p> <p>4. Should registration and regulation under the proposed retail payments oversight framework be a pre-condition for associate membership?</p>	<p>Yes - new entrants should adhere to a registration process as a pre-condition for associate membership, while the regulation of associate members should be based on their respective risk to the financial system.</p> <p><b>Registration:</b> The registration processes must be:</p> <ul style="list-style-type: none"> <li>• Consistent, simple, and mandatory for all potential participants</li> <li>• Relevant, well-defined, and easy to understand</li> <li>• Achieve the right balance between: offering simplicity of access to encourage competition; and maintaining Canada's underlying financial stability.</li> <li>• Provide effective support to those considering a new associate membership status</li> </ul> <p><b>Regulation:</b> The regulation of potential participants must be:</p> <ul style="list-style-type: none"> <li>• Graduated and in-line with risk to financial system (i.e. lenders pose significantly more risk than payment service providers).</li> <li>• Lenient enough to ensure the pre-conditions are not overly stringent as financial risks are limited. <ul style="list-style-type: none"> <li>◦ Existing system LVTS (or Lynx) will be used to fund BoC account, while all RTR transactions are pre-funded.</li> </ul> </li> </ul>
<p><b>Membership:</b></p> <p>5. How could Payments Canada's governance structure be adapted to allow for appropriate reflection of associate member views into Payments Canada's decision-making process? In what ways could this be designed?</p>	<p>The current structure includes two advisory councils, both of which adequately cover the interests of members and participants. However, the end user (individual consumers, small businesses, charities and corporations) are underrepresented. Also, with the addition of an associate membership, a change in the governance structure will be</p>

	<p>required to accommodate the new class.</p> <p><b>Recommended Governance Structure:</b></p> <ul style="list-style-type: none"> <li>• An alternate approach could be to maintain three councils. One for members (including associate members), one for stakeholders, and one for end-users. <ul style="list-style-type: none"> <li>◦ Associate members could be represented on the MAC with the minimum number of seats reserved for non-FIs.</li> <li>◦ Some SAC members (who fall under associate members category) could be transferred to MAC.</li> </ul> </li> <li>• Each council will elect a chairman to represent its respective council on the Board to ensure transparency and balanced feedback.</li> <li>• This creates a better forum to consolidate feedback from the different perspectives and provide guidance to the board.</li> </ul>
<p><b>Membership:</b></p> <p>6. What are your views on whether and how to broaden membership so that systems that are designated by the Bank of Canada as systemically important financial market infrastructures can directly access Lynx?</p>	<p><b>Membership:</b></p> <ul style="list-style-type: none"> <li>• Membership should be broadened, so that other entities can directly access Lynx.</li> <li>• Alternate or sub-types of memberships should be considered to allow many different types of associate members including FMIs (Financial Market Infrastructure Providers) or Cross-border Payment Service Providers that would want direct access to Lynx.</li> <li>• Note that providing access to Lynx for non-FIs does not increase the financial risk, since all of the non-FI connections would fund their BoC account via SWIFT from an existing direct connector or member.</li> </ul>