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Re: Comments on review of the Canadian Payments Act

The payments landscape in Canada and globally is changing rapidly. In many cases, other jurisdictions are making innovative advances in payments faster than Canada. The changes introduced in 2015 by the Department of Finance (DOF) set forth a fundamental shift in how we view payments and set the stage for a much-needed overhaul of Canada's payment systems. Much of the innovation in Canadian payments to date has focused on consumer payments provided on credit card based platforms. Unfortunately, innovation in business to business EFT payments (B2B) has been much slower, and adoption of payment systems like that offered by Telpay, for example, have been hindered by a dated national payment infrastructure and a policy direction, driven by financial institutions, and not focused on user interests (payor and payee).

Telpay has a long history in the payments industry beginning with Comcheq in the 60's. The experience of Telpay and its founder's during this period is one where the Banks dominated the decision making of the Canadian Payments Association. Opportunities for input, like the Stake Holders Advisory Council, were found to have little influence over the Bank dominated Board. In fact, Telpay's founder felt that dissent was not accepted and this was proven when after presenting a dissenting report for the Bill Payment Taskforce, the organization he represented was removed from SAC. Banks most certainly have the technical experience regarding the movement of money. However, modern-day payments also require the movement of information. From his experience our founder it is unlikely that banks will provide solutions required for accounts payable and receivable functions.



Those who have expertise in those areas need to have the authority to decide what the payment system must provide to meet their needs; experience has shown that this has to be more than just an advisory position. For example, if a few financial institutions want to decide how they will communicate with one another that is their business; but they should not be allowed to impose that standard on hundreds of thousands of businesses. PSPs such as Telpay have provided flexible systems that adapt to the varying needs of business and government payments. Our founder believes that it is important that businesses have the opportunity to choose the services that suit their needs; they should not be stuck with adapting to what suits what a few banks who don't understand the issues that businesses and governments face with regards to payments. Our founder believes that a fully functioning payment system, for today and the future, requires that businesses, not banks, have control over the information that has to pass between them.

As part of its review of the Canadian Payments Systems, and more specifically the Canadian Payments Act, Telpay is happy to provide its views on two themes highlighted by the DOF:

- 1) The impact of the 2015 governance changes in achieving intended public policy objectives
- 2) Payments Canada's current membership in light of developments in the payments ecosystems and Payments Canada modernization initiatives.

The drive for change in payments must occur within the context of the government's three public policy objectives: Safety and Soundness, Efficiency and finally User interests. Safety and Soundness is an overarching public policy goal for the banking and payment systems in Canada and therefore one of the most critical pillars.

Safety and Soundness

Telpay has long lobbied for increased oversight of payment service providers (PSP's) in Canada and is pleased that the DOF has developed an oversight framework that is consistent with Telpay's views on needed oversight for PSPs. When introduced as law or regulation, the oversight framework will have an immediate impact on the payment industry by protecting the interests of users and providing the transparency that allows users to make informed decisions when selecting a PSP will be a critical step in the transformation of payments in Canada. Although a new framework will create a leveler regulatory field between Canadian Financial Institutions and PSPs, PSPs are still at a competitive disadvantage as a



result of not having direct access to payment systems in Canada. Regulation without direct participation will only continue to foster the interest and benefit of those who are allowed exclusive access to the "Club," Payments Canada.

Efficiency

The Canadian payments system, although works efficiently to process trillions of dollars of payments annually, can't be entirely judged on this merit alone. Non-electronic payment, both cash, and cheque continue to live on, especially payment to and from businesses. The clearing and settlement system in Canada is still relatively slow; notification of a returned debit can take up to 4 business days. The process for an individual to provide guaranteed funds may even require a couple of days to process a payment. Canadians have adopted email as their primary communication method which has displaced traditional mail delivery or "snail mail." The mass adoption of email has primarily occurred because it allows users a fast and efficient means to communicate that is accessible to the majority of the population. Increased exchanges, real-time processing and settlement, and data that can accompany a payment will help improve system efficiency and increase adoption of electronic payments, especially B2B payments. It is critical, however, that one of the central processing bottlenecks, the quick clearing of debits, be addressed to ensure that payments can be processed as quickly as possible with nearly guaranteed funds.

User Interests

User interests should encompass both consumer and business needs but also take into consideration the needs of both the Payor and the Payee. Before 2015, user interests were defined by CPA members, comprised almost entirely of Financial Institutions. Further democratization of our payment systems needs to occur still which will help to ensure that needs of all users of Canada's payment systems are considered.

The 2015 governance changes delivered the first significant change related to payments in decades. The governance changes initiated by the DOF demonstrated an acknowledgment and commitment by the government of the importance of payments in the Canadian economy. The move towards a more independent board, where the majority of its members are independent was a move to recognize the need of all stakeholders more directly. Independence is an important governance goal; moving to



complete independence would ensure that user interests are served. The existing membership brings experience and knowledge to the Board, however, many unrepresented stakeholders have much to offer as well. The broad knowledge and experience of all stakeholders could be represented by creating a new Advisory Board consisting of representatives from financial institutions, financial service providers, payment service providers and other stakeholders could be formed to advise an independent Board. This redesigned Advisory Board would replace the existing MAC and SAC.

Although an independent and autonomous board is the preferred option to achieve the goal of meeting a public interest objective, an alternative to a completely independent Board could be achieved by allowing PSPs to participate directly in the payments system through membership to Payments Canada. As a participating member or other class of membership, a PSP could be represented on the Board via one of the five-member seats. The five-member seats could be drawn from 2 members that hold settlement accounts with the Bank of Canada and the remaining three from other members including at least one who is a non-bank PSP. This could be a more near-term solution on the road to complete independence.

The payments environment is changing rapidly, and the Act should remain as flexible as possible; the expanded Ministerial Directive powers provided in the 2015 governance changes provides some additional flexibility. Additional measures that can support this type of flexibility are welcomed. In the fast changing Paytech and Fintech environments both domestically and internationally, review of the Payments Acts should occur at least every two years; changes that are in the public interest should be made by the Minister as required.

Membership criteria is a critical component of the public policy goal of meeting user interests and efficiency through encouraging innovation and technological advancement. Under the act, membership is currently largely restricted to Financial Institutions. This limited payment stakeholder representation has caused Canada, in some respects, to lag other jurisdictions when it comes to payments innovation and technology. On the other hand, it is also important to ensure that the public policy objective of Safety and Soundness, is also achieved. Open and risk-based access can achieve all three public policy objectives; the DOFs oversight framework will assist with this risk-based approach.



Allowing membership that permits access to only the Real Time Rail (RTR) would primarily serve those PSP's who are focused on small consumer or P2P and P2B payments. For efficiency billers/payees who receive large payment volumes tend to use a lead bank model to consolidate their payments. However, these services are only available through Financial Institutions at a significant additional cost. Some PSPs, like Telpay, consolidate payments to billers, however, without the ability to directly exchange payment details in the payment system, they are at a competitive disadvantage with banks. PSPs who consolidate payments will continue to use the redesigned SOE, however, excluding a PSP from access to the SOE would continue to support the lead bank model and deny PSPs the volume associated with these payments. Both batch and real-time systems need to consider access for PSPs to help promote innovation of all types.

Financial institutions in Canada also face complex regulatory requirements to operate; this regulatory regime is warranted to achieve the public policy objective of Safety and Soundness since Financial Institutions operate diverse and complex business lines and products like securities and lending instruments. The business models of most Payment Service Providers like Telpay do not generate the same level of risks. Telpay, for example, collects payment instructions which are funded with guaranteed funds to a trust account; payments are processed accordingly through a chartered Financial Institution. If a PSP meets the requirements of the proposed Oversight Framework membership to Payments Canada should not be restricted or even diluted via a lesser membership category. An established PSP meeting proposed regulatory framework may pose limited risks to both the RTR and SOE systems.

Telpay supports changes to the Canadian Payments Act and governance that promote innovation and technology geared towards ensuring that all user interests are met (payor and payee). To meet the policy objectives of the government Telpay believes that registration and regulation under the proposed payments oversight should be a precondition to membership. Access to the exchange of payments directly into the payments system, either via the RTR or SOE, is a primary request of Telpay; this can allow PSPs to operate on a more level basis with charter Financial Institutions. The ability to exchange payments will promote competition and innovation in the payments industry in Canada. Being able to provide similar processing timelines as that of Financial Institutions is a fundamental competitive piece. Membership and additional governance changes will also ensure that a Canadian Payment System meets the needs of all users.



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