

February 9, 2023

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# Written Submission to Finance Canada in Advance of the 2023 Federal Budget

## Recommendation

That the Government of Canada amend the *Canadian Payments Act* as part of *Budget Implementation Act, 2023, No. 1* to expand Payments Canada's membership eligibility to:

1. Credit unions;
2. Payment service providers (regulated under the *Retail Payment Activities Act*); and
3. Financial market infrastructure entities (designated under the *Payments Clearing and Settlement Act*).

## Summary

Payments Canada is pleased to submit recommendations to Finance Canada as part of its 2023 pre-budget consultations. We recommend that the Government of Canada complete its [Review of the Canadian Payments Act](#) that was launched in 2018 and amend the *Canadian Payments Act* to expand Payments Canada's membership. Expanded membership will provide greater choice for Canadians and Canadian businesses in addressing their payment needs. It will encourage greater competition and innovation, resulting in efficiencies and faster payments for consumers and businesses.

## Introduction

The Canadian economy depends on the transfer of billions of dollars each day and Payments Canada plays an essential role in the safe and efficient operation of Canada's payment systems. We are a public purpose, non-profit organization, with legislated public policy objectives to promote the safety, soundness and efficiency of Canada's payment system, taking into account the interests of users.

Payments Canada owns and operates Canada's payment clearing and settlement infrastructure, including associated systems, by-laws, rules and standards, which underpin the Canadian financial system and economy. In 2021, Payments Canada cleared and settled over \$135.5 trillion – more than \$500 billion every business day – supporting a wide range of payments made by Canadians and businesses.

Payments Canada is nearing the conclusion of an ambitious multi-year program to modernize Canada's national payment systems – the technology and rules that support the exchange of hundreds of billions of dollars every day in Canada. Modernized payment infrastructure and related regulatory reform will deliver significant benefits to individuals, small and medium enterprises (SMEs) and larger corporations as Canada emerges from the global pandemic and beyond.

## Context

A review of Payments Canada's membership was last undertaken in 2001. Since that time, the way Canadians and Canadian businesses pay has evolved significantly. There has been exponential growth in electronic payments and online commerce. Cash and cheque payments have declined dramatically. Businesses are shifting to digital payment methods to take advantage of the convenience and cost savings that electronic payments provide. There are new

technologies and innovative solutions being developed by both incumbents and new players in the payment ecosystem.

For Canadians and Canadian businesses to realize the full benefits of payment modernization, regulatory changes are required. To date, the federal regulatory framework for electronic payments has not kept pace with global and domestic payment trends. Consumers and businesses lack full protections, and non-traditional payment service providers (PSPs) are challenged to effectively compete with established financial institutions. The Government of Canada has recognized this situation, and has indicated its intention to level the playing field.

In Budget 2021, the Government of Canada took an important legislative step toward enabling modern payment regulation through the introduction of the *Retail Payments Activities Act* (RPAA). RPAA was first announced in Budget 2019 in response to the rapid pace of innovation in the retail payments space. Implementation of the RPAA will require PSPs to establish sound operational risk management practices and protect users' funds against losses. We commend the Government of Canada, in particular the Department of Finance, for following through on this Budget 2019 commitment, especially while simultaneously advancing the extraordinary policy making activities necessitated by the pandemic. The combination of RPAA, and the anticipated amendments to the *Canadian Payments Act* will provide for broader access to Canada's national payment systems.

Implementation of RPAA is a critical step towards Payments Canada's ability to safely open our systems for PSPs to participate and compete in Canada's payment ecosystem. The next step is for the Government of Canada to introduce required changes to the *Canadian Payments Act* to support broader Payments Canada membership.

## **Recommendation: Amendments to the *Canadian Payments Act***

As the Bank of Canada proceeds with the implementation of RPAA, it is important that the Government of Canada expand Payments Canada's membership to enable credit unions, non-financial institution PSPs and financial market infrastructure entities to participate in Canada's national payment, clearing and settlement systems. These changes have been under consideration for five years. The 2018 consultation demonstrated broad-based stakeholder support for expanding membership.<sup>3</sup>

Membership in Payments Canada is currently limited to banks, credit union centrals, and a select few other financial institution types. Only members may exchange, clear and settle payments across our systems. The industry continues to evolve and now includes a range of non-financial

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<sup>3</sup> See the Department of Finance Canada's [Report on the Review of the Canadian Payments Act](#) (2019)

institution entities who are driving competition. Payment system enhancements are being made under Payments Canada's Modernization program that are accelerating the evolution.

The *Canadian Payments Act* is currently a barrier to providing more open, risk-based access to the core national payment systems for three groups:

1. PSPs who will be regulated under RPAA will seek to become members of Payments Canada and participate directly in our payment systems in order to compete with traditional financial institutions in offering innovative payment services and experiences to Canadians.
2. Credit union locals will seek to access the payment systems to better serve their consumer and small business clients and offer enhanced electronic payment services that can compete with those offered by bigger institutions.
3. Regulated financial market infrastructure entities may wish to access the high-value payment system to directly settle securities, derivatives and foreign exchange transactions, as is possible in comparable jurisdictions.

Since Payments Canada's membership was last reformed 20 years ago, the credit union marketplace in Canada has become significantly more concentrated, and some local credit unions are now larger than their provincial centrals. The *Canadian Payments Act* currently prohibits local credit unions that are a member of a provincial central from becoming members of Payments Canada. Credit unions have proven to be important drivers of competition and access to financial services. They also play a particularly important role in rural communities, providing financial services to Canadians from coast to coast to coast.

These amendments to the *Canadian Payments Act* are urgently needed to ensure Payments Canada can make necessary changes to its by-laws that govern participation. It is critically important that the government make these changes to support innovation within the regulated financial sector, instead of the current situation where limited innovation occurs outside the framework of by-laws, rules and standards intended to manage risks within the payment system.

## Conclusion

Payments Canada's national payment systems underpin a safe, sound and efficient financial system in Canada. Amending the *Canadian Payments Act* to expand membership eligibility will enable Payments Canada to support broader access to Canada's payment systems. Broader access is in the interests of Canadians and Canadian businesses and will support Canada's competitiveness globally. We request that the government complete the legislative review it started in 2018 to provide Canada with the modern payment legislation it needs.