

# Electronic Transactions Association



## Written Submission for the Standing Committee on Finance's Pre-Budget Consultations in Advance of the 2024 Budget

## Recommendations

- **Recommendation 1: That changes be made to Canada’s payments system, including amendments to the Canadian Payments Act (“CPA”) to broaden the membership of Payments Canada to allow access to new system participants who are focused on payments. ETA urges the government to commit to advance changes to the CPA at the earliest opportunity, given that these amendments are a requirement for the successful implementation of Payment Canada’s Real-Time Rail (“RTR”) initiative.**
- **Recommendation 2: That the Government of Canada amend the geographical scope component of the *Retail Payment Activities Act (RPAA)* as the current provisions for an extraterritorial application would have an adverse impact on the growth and usage of electronic payments in Canada.**
- **Recommendation 3: That the Government of Canada move quickly to finalize the framework for open banking to generate economic benefits to the Canadian economy, most importantly new opportunities for small businesses to access innovations in financial lending.**

## **About ETA**

The Electronic Transactions Association (ETA) is the leading trade association for the payments industry, representing over 500 companies that offer electronic transaction processing products and services. Its membership spans the breadth of the payments industry to include independent sales organizations, payments networks, financial institutions, transaction processors, mobile payments products and services, payments technologies, equipment suppliers, and online small business lenders. ETA member companies are creating innovative offerings in financial services, revolutionizing the way commerce is conducted with safe, convenient, and rewarding payment solutions and lending alternatives. ETA advocates for the payments industry in Canada to help drive innovation in the global market for payments technology services.

## **Contribution of ETA Members to Canada's digital economy**

Payment systems are vital to any successful digital economy and the payments sector remains committed to enabling frictionless electronic transactions while strengthening Canada's position as one of the world's leading economies. While the pandemic triggered economic headwinds which redefined how societies work, live and play, it also created certain permanent shifts in terms of how we transact online – digital payment preferences and consumer behaviour – providing a foundation for the future of Canada's economy.

Looking ahead, as we evolve from conversations around the role of payments in economic recovery to building an inclusive economy of the future, it is important that both industry and policy makers take stock of the payment methods popular with Canadians. The decline of cash and an uptake in the adoption of electronic payment methods continues to feature heavily as a recurring trend among all ETA members.

Our observations have also been supported by the latest findings from Payments Canada. In 2021, the Canadian payments market was valued at \$10.8 trillion across 19.7 billion transactions. The total payments transaction volume for cash in 2021 fell by 62% with online transfers (+469%), credit cards (+33%), prepaid cards (+16%) and debit cards (+10%) dominating the number of transactions over a five-year period.

The e-commerce industry, often held as a key pillar of the digital economy continues to go from strength to strength. With almost three out of five Canadian consumers (58%) in 2021 making an online purchase on a monthly basis, e-commerce transactions totaled 500 million transactions worth \$63 billion in Canada, with credit cards and debit cards among the top 3 preferred payment methods of the Canadian consumer. Buy now, pay later (BNPL) has also emerged as a popular payment option for those looking to shop in-store and online, with three out of ten Canadians indicating that they would start using a BNPL service.

On a similar note, businesses have responded by expanding the suite of payment options available to their customers. In 2021, 14% of businesses reported accepting payments offered by a popular FinTech payment platform, while 7% reported using a QR code to interact with their customers and suppliers. Business payments are also undergoing a similar transformation, with

SMEs reducing their reliance on cash and cheques, while turning to *Interac* e-Transfer and FinTech payment services to conduct transactions ranging from payroll to rent.

However, payment preferences are far from uniform. What is unique about innovation in the payment sector is that while it disintermediates the traditional model of payments and creates more convenience for businesses and individuals, it has also resulted in the proliferation of multiple payment models and methods which cater to their specific needs. Whether it is contactless payments, peer-to-peer (P2P) platforms which allow consumers to transfer funds through mobile phones, or e-wallets, industry and government need to work together to promote payment and regulatory solutions that address the needs of Canadians.

To this end, ETA and its members welcome the opportunity to contribute our experience and know-how to help Canadian consumers, small business and charities better participate in an inclusive digital economy.

### **Canadian Payments Act (“CPA”)**

We support the government’s effort to implement the Retail Payments Activities Act (“RPAA”) as a critical first step toward modernizing Canada’s payments system. To leverage the potential of the regime however, important changes to Canada’s payments system, including amendments to the Canadian Payments Act (“CPA”) are needed to broaden the membership of Payments Canada to allow access to new system participants. This entails creating new rules to facilitate risk-based access to the Real Time Rail (“RTR”), as well as the proposed access to the exchange networks for electronic payments streams.

These processes have the potential to increase consumer protection while unlocking increased innovation and competition in Canada’s payments ecosystem. Currently, however, only Payments Canada members can participate directly in the regulated payments system. This excludes many new and innovative firms such as payment processors and FinTechs from accessing the RTR and other core payments functions. As outlined above, given the diverse payment preferences of Canadians, it is critical that we can address this issue so that no Canadian is left behind when it comes to deciding how they want to pay for goods and services.

**Given the need to establish fair access to the RTR for new system participants at the outset of its establishment, ETA recommends that the government amend the CPA to facilitate the expansion of Payments Canada’s membership and provide certainty for payment service providers (PSPs) wishing to participate in the RTR.**

The inclusion of these changes is particularly urgent, given that they are necessary for the successful implementation of the Real-Time Rail (“RTR”) initiative. Without these changes in 2024, there is risk that the new RTR will not be accessible to non-members of Payments Canada when the function comes online. This latency risks creating a competitive imbalance that jeopardizes innovation in the Canadian payments system and should be addressed as a priority given the intention of the RTR is to increase competition and innovation.

### **Retail Payments Activities Act (RPAA)**

ETA is supportive of efforts to safeguard the integrity of the Canadian payments system while protecting consumers at the same time. ETA remains engaged in ongoing conversations within the industry and with policymakers about the implementation of the RPAA, and believes that harmonization with leading regulatory jurisdictions, anchored in the principles of necessity,

proportionality and consistency are essential for an effective and well-considered regulatory framework.

Specifically, ETA is concerned with the overly broad geographic scope of the RPAA, a matter of importance for many PSPs given their global footprint. While the RPAA has set out a framework outlining the conditions in which the location of a PSP and an end user determine whether a payment activity is regulated, we are extremely concerned that the RPAA carries an extraterritorial application, a matter which has been confirmed in our discussions with the Bank of Canada.

For example, the RPAA's extraterritorial application would mean that visitors who use cards issued by Discover in the United States or Japan's JCB in Canada would be subject to the RPAA. ETA is highly uncomfortable with the extraterritorial application of the RPAA in this situation, as this would lead to two outcomes. First, PSPs could choose to comply with the RPAA, but this would result in additional operational burdens, affecting efficiency but also diverting resources away from PSPs that could otherwise be allocated to other commercial activities, fraud prevention, and anti-money laundering initiatives. Second, PSPs could also choose to stop providing payment services to their customers when they want to transact in Canada. The common thread underpinning both outcomes is that it will result in consumers seeing more friction in their payments experience.

ETA would also like to reiterate that there is also no regulatory precedent when it comes to how the RPAA scopes a payment activity geographically. Other global payment regimes do not take a similar approach. Nor do other similar frameworks in Canada such as Canada's privacy legislation, which does not consider extraterritorial application in such a way.

Additionally, the cessation of payment services in this manner will also create roadblocks to Canada's aspirations as a global business and financial hub and undermine the government's Federal Tourism Growth Strategy, where the improvement of infrastructure and modernization of the travel experience has been identified as one of the key pillars. Accordingly, we urge the government to consider amending the legislation to ensure that the matter of geographical scope is addressed as soon as practically possible.

**ETA recommends that the Government of Canada amend the geographical scope component of the RPAA as the current provisions for extraterritorial application would have an adverse impact on the growth and usage of electronic payments in Canada.**

### **Open Banking**

ETA is encouraged by the Government of Canada's efforts to advance Open Banking. However, we believe that more urgency is required to ensure that Canadians can reap the benefits offered by Open Banking. ETA appreciates that the appointment of the Open Banking Lead was for a fixed period, but we are concerned that his departure in Fall 2023 and the absence of Open Banking updates in Budget 2023, could lead to additional uncertainty offered over Open Banking's implementation pace.

ETA is cognizant of the government's position that the industry needs to do more to raise awareness of Open Banking among Canadians. ETA would like to state that its members stand ready to play their part to educate Canadians about the benefits of Open Banking in Canada. At

the same time, the delivery of an Open Banking framework is also equally critical - the availability of Open Banking products will create more competition and better choice for Canadians, reducing their cost of accessing financial services while making their lives more convenient and frictionless.

As an example, Open Banking could play a key role in current conversations around the Canada Emergency Business Account program (CEBA), with private lenders offering to refinance small businesses' CEBA loans. In this context, ETA sees enormous potential for Open Banking when it comes to lending to small businesses. Canadian FinTechs have designed lending models that can capture small businesses traditionally not served by Canada's large financial institutions and at competitive rates at the same time. These new entrants have the technological capacity to provide rapid access to products and services in areas where traditional banks have struggled to be nimble.

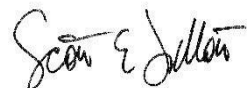
Open Banking in Canada would encourage Canada's FinTech players to pursue new business models that could open up new financing options for the thousands of small businesses that might be unable to secure lending from banks, as well as avoid falling into the trap of predatory lending. This would not only increase the opportunities for Canada's FinTech sector, but it would allow for small business to benefit from the lending capacity of FinTechs.

**Consequently, ETA recommends that the Government of Canada move quickly to advance a framework for open banking to generate economic benefits to the Canadian economy, most importantly new opportunities for small businesses to access innovations in financial lending.**

### **Conclusion**

ETA thanks the Committee for the opportunity to submit these comments and looks forward to providing whatever additional information would be helpful as you consider these complex issues.

Respectfully submitted,



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