# Public Consultation Report: Retail Payments Advisory Committee (RPAC)

16 and 17 November 2021

The Retail Payments Advisory Committee (RPAC) held its meeting on 16 and 17 November 2021. This is a summary of the discussions.

| Who we consulted | | |
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| **Participants:**<br>• Bank of Canada (the Bank)<br>• Department of Finance Canada (Finance Canada)<br>• Apaylo<br>• Clik2pay<br>• EukaPay (regrets)<br>• FIRMA<br>• Leav Inc (regrets)<br>• Mastercard<br>• MOGO<br>• Moneris<br>• nanopay<br>• Neo Financial<br>• OTT Pay<br>• Paypal<br>• Ria Telecommunication du Canada (regrets)<br>• SparcPay<br>• Square<br>• Stripe (regrets)<br>• Tappy Tech<br>• Telpay<br>• Trendigo<br>• Wealthsimple<br>• Western Union<br>• Wise | **Method of engagement:** Virtual (Webex) | **Purpose of engagement:** To discuss a preliminary approach to fees and identify factors or considerations that have not been accounted for. |

| What we asked |
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| • Participants were asked their feedback on:<br>    ○ The principles for fee design;<br>    ○ The approach for the fee at registration application;<br>    ○ The annual assessment fee design; and |

- The use of a threshold so that only a subset of payment service providers (PSPs) are subject to the minimum assessment fee.
- Detailed questions of what was asked can be found in the discussion guide for this event.

## What we heard

This section contains comments received from participants and clarifications provided by the Bank or Finance Canada at this RPAC meeting.

### Policy Intent on the Approach to Fees – Provided by Finance Canada

- Finance Canada noted that recovering supervision costs from regulated entities is a requirement of the *Retail Payments Activities Act* (RPAA) and in line with other financial sector regulatory regimes. Designing the fee approach is an important part of developing the regime under the RPAA.
- The set-up costs will be covered by the Government of Canada and the Bank and will not be recovered from PSPs.
- Administrative monetary penalties associated with notices of violations under the RPAA would not offset costs as they would be paid to the Receiver General of Canada.
- Participants recommended a regular review of fees and that the Bank should have the administrative flexibility to do so (rather than relying on amendments to the legislation or regulation).

**Principles for Fee Design**

Participants agreed with the four principles for fee design (transparency, simplicity, predictability, fairness), and noted the following:

- Simplicity and predictability are important for the PSP's own planning purposes. Transparency of the Bank's total costs is also important for accountability;
- Issues of relative competitiveness (including how the fees under the RPAA compare against those under similar regimes in different jurisdictions), the costs of doing business in the broader ecosystem (e.g., costs to be part of Payments Canada/real time rail), and barriers to entry should be considered; and
- The regime should aim to foster innovation and competition in payments so that Canadians benefit from better service and more options.

### Fee at Registration Application

- Participants expressed no concerns with a $2,500 fee for the registration application. Some suggested that this figure was relatively low, but acknowledged that there is also an annual assessment fee.
    - The Bank noted that the $2,500 preliminary estimate is considered the average level of effort for reviewing an application under a registration regime, and not a licensing regime.
- A single fee at registration was viewed as fair and simple.

## Annual Assessment Fee Design

Generally, participants agreed with a two-part approach to annual assessment fees (i.e., part one is a minimum assessment fee and part two distributes the remainder of costs proportionally across PSPs). Their comments are captured below.

- Having a minimum assessment fee is sensible, and there are no material concerns to having this fee be determined by formula.
- Views varied on the use of three retail payment activity metrics (payment volumes, payment values, end-user funds held) for determining the remainder of the assessment fee.
- Most agreed with using the metrics for payment volume and payment values to calculate part two of the annual assessment fee. This approach would reflect the principle of fairness by redistributing the costs of supervision proportionally to PSPs' market share of the payments ecosystem.
- How and when these metrics are measured is important, and some indicated their preference for aggregates and averages.
- Some participants disagreed with using the metric for end-user funds held.
    - There could be unintended consequences to a PSP's behaviour and business practices that may introduce additional risks. The degree of this unintended consequence would be dependent on how this metric is calculated, as well as how much of the cost would be assigned to be distributed based on this metric.
    - PSPs holding end-user funds would essentially be bearing a greater portion of the cost, and this would conflict with the objective of fairness.
    - The Bank clarified that the intent behind capturing the metric for end-user funds held is to reflect that PSPs holding end-user funds will need to be assessed against section 20 of the RPAA on end-user fund safeguarding, as well as section 17 of the RPAA on operational risk management.
- Some participants noted that larger entities who have more resources for compliance will require less supervision from the Bank. The level and time of supervision should dictate costs, or a methodology should be used to arrive at specific risk ratings for PSPs and assign fees accordingly.
    - The Bank noted that the fees should balance both level of supervisory effort and undue financial burden for PSPs to meet the fairness principle.
    - There would be a trade-off between a simple and predictable fee design and one that details a methodology to map fees precisely to the level of supervisory effort expended.
- One participant suggested categorising PSPs as 'low, medium, high' effort until there is more certainty around the number of PSPs and the cost of the supervision program to avoid giving a false impression of precision.
    - The Bank noted that this comes with implementation challenges, such as setting the thresholds for each category.

    - Additionally, solely relying on a subjective input for the annual assessment fee calculation would greatly reduce the predictability of the fees for PSPs.
- Participants acknowledged the difficulties in balancing both supervisory effort and undue financial burden to meet the fairness principle. Some suggested to consider:
    - Whether the level of supervisory effort would be different for PSPs who become members of Payments Canada versus others; and
    - Alignment with other regulatory regimes.
- No strong views surfaced on whether metrics should reflect the geographic scope of the PSP.

### Using a Threshold in the Assessment Fee Design

The concept of adding a threshold to the assessment fee design, where PSPs falling below it would only pay the minimum assessment fee, was discussed.

- Most participants expressed agreement with this concept from a fairness perspective.
    - Some raised that this element should be designed to support the goal of lowering the barrier of entry to new PSPs, while others reiterated to be mindful of ensuring that the cost of supervision is borne by those requiring the most supervisory effort.
- Some noted that revenue as a metric should form part of the assessment fee calculation.
    - Others cautioned that this would be a deviation from metrics that are often used to reflect the degree of impact and market share of a "payments" entity.
    - The Bank added that there are implementation challenges, including PSPs' ability to easily isolate the revenue generated from retail payment activities and the risk of incentivizing PSPs to structure their business to shift revenue out of a function in an attempt to lower their fees.
    - Additionally, capturing revenue alone in the assessment fee calculation would not reflect the level of supervisory effort, which does not align with the fairness principle.
    - One participant cautioned that some companies could become highly ubiquitous yet not generate significant revenue, particularly those in the tech space.
    - Some participants expressed strong views against using income as a metric to determine fees, as this figure can be manipulated through charges and expenses.
- A preference was expressed for relying on payment volumes and payment values as the appropriate metrics to use for a threshold, if it were to be implemented.
- One participant suggested that the regime should consider exempting PSPs that are below a threshold from being subject to some of the requirements as they are less likely to cause harm.
    - The Bank acknowledged that the U.K. Financial Conduct Authority applies this type of distinction between small payment institutions and large payment institutions, but the RPAA legislative framework is not structured this way. The intent is to apply a risk-based approach to supervision.

**Feedback from Non-RPAC Participants**

Notes below capture the views provided by stakeholders, who are not members of RPAC, through written comments in response to the discussion guide.

- It is helpful to have fee certainty for a medium- to long-term period (e.g., 3 to 5 years), formal consultations, and well-publicized implementation date of changes, so that PSPs are able to make changes to their financial budget processes accordingly.
- A single fee at registration application would be preferred as it would be easy to administer.
- Revenue or income should not be used for the assessment fee calculation, as there would be implementation challenges when a PSP operates in many jurisdictions. Income should not be used as it can be manipulated, and revenue, if used, must be tailored so that it reflects the level of supervisory effort.
- The preliminary approach presented in the discussion note is sensible.

## What happens next

- The Bank will continue to provide advice to Finance Canada as they work to develop regulations in relation to the topic of fees.
- The Bank will keep stakeholders updated on when and how specific operational elements of fees associated with the RPAA may be socialised for input.
- The next meeting is currently scheduled for 9 -10 February 2022.