

Public consultation report: Retail Payments Advisory Committee

The Retail Payments Advisory Committee (RPAC) held its meeting on March 7, 2023. This is a summary of the discussion.

Who we consulted		
<p>Participants:</p> <ul style="list-style-type: none"> • Bank of Canada • Department of Finance Canada (Finance Canada) • Clik2pay • EukaPay • Mastercard • MOGO • Moneris • Neo Financial • OTT Pay • PayPal • Ria Telecommunication du Canada • SparcPay • Square • Stripe • Tappy Tech • Telpay • Trendigo • Wealthsimple • Western Union • Wise 	<p>Method of engagement:</p> <p>MS Teams (virtual)</p>	<p>Purpose of engagement:</p> <p>Proposed regulations for the <i>Retail Payment Activities Act</i> (RPAA) were published in Part I of the <i>Canada Gazette</i> for public comment on February 11, 2023.</p> <p>Finance Canada presented to members of RPAC, providing an overview of the proposed regulations and answering policy-related questions.</p> <p>The meeting was intended to provide members with an opportunity to discuss the proposed regulations with Finance Canada to inform their feedback submissions. Members must follow the process outlined in the <i>Canada Gazette</i> to submit their formal comments on the proposed regulations before the public comment period closes on March 28, 2023.</p>
What we discussed		
<p>Finance Canada presented an overview of the proposed regulations, discussing five key themes:</p> <ul style="list-style-type: none"> • scope and registration • operational risk management • safeguarding of end-user funds • cost recovery • compliance 		

Officials from Finance Canada answered questions related to the proposed regulations and the intent of the policy. Subject matter experts from the Bank of Canada provided additional details on how the Bank will interpret and implement the proposed regulations.

Members provided some feedback on topic areas discussed and were encouraged to elaborate further on their comments in formal submissions to the *Canada Gazette* consultation process.

What we heard

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

Scope and registration

Finance Canada presented an overview of the scope and registration elements of the proposed regulations, including exemptions and requirements for registration and the national security review.

- Members expressed a desire to engage with the Bank as it develops its approach to incidental retail payment activities. Members also said they would appreciate further clarity on how the Bank will define “end user.” The Bank noted that it will publish guidance to clarify incidental retail payment activities and the meaning of “end user.”
- Members asked several questions about the timing of guidance material. The Bank clarified the anticipated timing of guidance material on scope and registration, which will be released soon after final regulations are published in Part II of the *Canada Gazette*.

Operational risk management

Finance Canada discussed how payment service providers (PSPs) must identify and manage their operational risks as outlined in the proposed regulations.

- Members expressed a desire to leverage compliance with other regulatory regimes and certification programs in their compliance with the operational risk and independent review requirements. Finance Canada clarified that PSPs will have to comply with the requirements outlined in the regulations and that the intention is to align with best practices undertaken internationally.
- Members noted that the geographic location of “senior officer” is ambiguous in the proposed regulations and asked whether the senior officer must work in Canada or at the Canadian subsidiary of an international parent company. The Bank clarified that this is not prescribed in the proposed regulations but may be clarified in guidance documents.
- Members asked for further clarity about materiality thresholds, such as for reporting incidents and significant changes. One member also suggested that the requirement in the proposed regulations to send individual incident notifications should be clarified; the member expressed a need for flexibility in providing notice to materially impacted individuals or entities.

Safeguarding end-user funds

Finance Canada presented the two policy objectives of safeguarding end-user funds, which are to protect end users from financial loss in the event of a PSP’s insolvency and to ensure that end users have reliable and timely access to their funds held by a PSP.

- Members agreed that protecting end-user funds is highly important to ensuring consumer confidence, but some expressed an interest in exploring other safeguarding methods.
- Overall, members expressed concern over the requirement to segregate end-user funds when safeguarding with an insurance or guarantee, noting that this may be overly burdensome on PSPs and differs from other jurisdictions with similar regulatory regimes. Finance Canada clarified that these

requirements, which are set in the RPAA, are not intended to be duplicative and are necessary to address different risks. The segregation of end-user funds is to ensure that end users have reliable and timely access to their funds held by the PSP, whereas the insurance or guarantee is to ensure that the funds are returned to end users in the event of PSP insolvency.

- Some also noted the administrative burden of the proposed regulations, which require reviews of the safeguarding arrangements. Some members noted that federally regulated financial institutions are subject to less stringent requirements than PSPs, creating an uneven playing field. Finance Canada clarified that such institutions are subject to broader prudential regulation requirements than PSPs would be.
- A member asked for clarification on who makes the assessment for prudential standards for funds that are held in foreign financial institutions. Finance Canada clarified that the PSP would have to undertake that assessment and ensure that it complies with the regulations. More details on this would be provided in the guidance on safeguarding funds.
- Members asked about the type of assets a PSP can hold that are permissible for funds safeguarding. Finance Canada clarified that the regulations are not prescriptive on what exactly can be held: what is important is that the policy objectives are met. The PSP can explain in its framework for safeguarding funds how it is meeting expectations.
- The issue of insurance was raised by several members. Some noted that private insurance may be cost-prohibitive to smaller entities. Some also raised the possibility of introducing public Canada Deposit Insurance Corporation pass-through insurance to protect end-user funds. Finance Canada noted that this is not actively being considered at this time.
- Members were encouraged to share their ideas on other safeguarding options that meet the policy objectives in their formal feedback submissions.

Cost recovery

Finance Canada presented an overview of the requirement for the Bank to recover the cost of implementing its supervisory role under the RPAA through registration application fees and assessment fees.

- Members were interested in learning more about the Bank's operational cost estimates and how fees will be calibrated once all PSPs have registered.
- Members asked for clarification on when assessment fees will be collected. They noted that all PSPs may not register when the regime comes into force and asked that the Bank consider a later date for collecting assessment fees.
- Members asked about how the Bank will report on its annual operating costs. The Bank emphasized that it will be transparent about its operating costs and will publish an annual report that will be available to the public.
- Members expressed a desire to understand their share in the market and asked if this would be distributed to PSPs individually or included in annual reporting. Some members emphasized that any public reporting on this should consider protecting PSPs' competitive information, including values and volumes.

Compliance

Finance Canada presented an overview of the tools available to the Bank to promote compliance, including administrative monetary penalties (AMPs).

- Members wanted to know how the Bank defines “harm” when calculating AMPs. The Bank said it is developing a methodology for calculating AMPs and that it would publish related guidance on its website.
- Some members noted that what is directly in the proposed regulations (and the Act) is why a PSP may face an AMP; they mentioned that this should be considered carefully when balancing what is directly in the regulations and what is explained further in guidance.

General comments

- Members noted that they will be comprehensive in their comments on the proposed regulations and elaborate on the feedback they provided during the RPAC meeting. Finance Canada encouraged all members to provide fulsome feedback, noting that feedback can help shape the final regulations and guidance material.
- Members also suggested that the Bank publish guidance material before the final regulations are published because they are both interpreted together. The Bank clarified that guidance is related to the provisions of the Act so they will be drafted based on the final regulations.
- Members noted that it would be useful to have a list of planned guidance material to help them understand which elements of the guidance will be consulted on and which will not.
- Members expressed that it is important to have a sense of the implementation timeline to ensure they are prepared to comply. The Bank clarified that its expectation is that PSPs will have the Act, final regulations, and applicable guidance at least one year before they are expected to comply.

What happens next

- The public comment period to provide feedback on the [proposed regulations](#) is open until March 28, 2023. We encourage all stakeholders to make their voice heard and provide their feedback.
- The Bank invites RPAC members and non-RPAC members to [email](#) their questions and suggestions for discussion at future RPAC meetings.