

Supervisory guideline for the safeguarding of end-user funds: Bank responses to feedback from the public consultation

Introduction

Between February and May 2024, the Bank of Canada carried out a public consultation on its draft supervisory guidelines that describe how the Bank expects payment service providers (PSPs) to apply the *Retail Payment Activities Act* (RPAA) and the *Retail Payment Activities Regulations* (RPAR). In October 2024, the Bank published an [overview of findings from the retail payments supervision consultation](#) that thanked respondents for providing their feedback and set out final versions of the guidelines for [operational risk and incident response](#), [incident notification](#) and [notice of significant change or new activity](#).

The Bank has now published the final [supervisory guideline for the safeguarding of end-user funds](#) (the guideline). The guideline sets out the Bank's expectations to ensure the safeguarding objectives under the RPAA are achieved. The objectives are to:

- ensure end users have reliable access without delay to their funds held by a PSP
- protect end-user funds against financial loss in the event of a PSP's insolvency

The Bank is also publishing this document to highlight key themes that were identified in the consultation, and to provide additional context for and details on certain updates made to the guideline.

The legislative and regulatory provisions covered in the guideline come into force on September 8, 2025. The Bank expects PSPs to begin reviewing their compliance with the guideline and, if necessary, make changes to support their compliance. The Bank recognizes that compliance with safeguarding obligations will represent important changes for the industry, but these changes are necessary to protect end-user funds and achieve the RPAA's objectives.

Key themes of feedback from the public consultation

Trust arrangements

Consultation feedback: *Stakeholders asked for guidance from the Bank on how to establish a valid express trust arrangement. They asked whether the trust agreement needed to be signed with end users and suggested that establishing a valid express trust can create other compliance obligations for PSPs and their account providers, particularly under those legislations related to trust, anti-money laundering and taxation.*

Bank of Canada response: The guideline sets out what a valid express trust arrangement is by describing the three legal certainties of trust that must be met under Canadian law. The guideline also clarifies that when initially establishing a trust, the PSP must have the intent to create a trust; after the trust is established, end users must demonstrate that they intend that their funds be held in trust. The guideline also speaks to the establishment of a trust arrangement in Quebec. However, the guideline is not intended to provide legal advice to PSPs on how to set up trusts or respect their obligations under other applicable laws, because these legal matters do not fall within the Bank's authority. The Bank expects a PSP to seek legal advice to ensure that a valid express trust arrangement has been established.

Segregation of end-user funds

Consultation feedback: *Stakeholders sought clarity on the timeframe for segregating end-user funds and the treatment of end-user funds not yet placed into a safeguarding account.*

Bank of Canada response: Delaying the placement of funds into the safeguarding account, particularly when end-user funds are to be held in trust, can create risk of loss to end users. The Bank updated the guideline to clarify that the Bank expects PSPs to segregate end-user funds from their own funds by placing them in a safeguarding account on receipt. There may be situations in which it is not feasible for PSPs to place end-user funds in a safeguarding account on receipt because of processing constraints that cannot be avoided despite the PSP's best efforts. In these scenarios, placement of end-user funds into a safeguarding account must occur, at the latest, on the business day following the day of receipt. In addition, the Bank expects PSPs to meet certain requirements when funds are not placed into a safeguarding account on receipt. The guideline has been updated to elaborate on these requirements, specifying how funds not yet placed into the safeguarding account should be treated under the PSP's safeguarding framework and as part of the PSP's evaluation of insolvency protection.

The Bank will monitor whether PSPs inappropriately delay segregating funds or use these funds for other purposes. The Bank may revise the guideline if needed, including reducing the amount of time allowed before placing end-user funds in a safeguarding account.

Use of indirect arrangements

Consultation feedback: *Stakeholders raised concerns regarding holding end-user funds in trust as it applies under indirect arrangements. They noted the requirement to establish a valid express trust will be challenging and PSPs using these arrangements often have limited ability to change or influence their account arrangements, since they do not have a direct relationship with the account provider.*

Bank of Canada response: Through the consultation, the Bank identified significant regulatory barriers and operational challenges to using indirect arrangements for safeguarding purposes. The barriers and challenges may limit a PSP's ability to comply with the RPAA or other applicable laws. Barriers and challenges include:

- The intermediary PSP (i.e., the PSP providing indirect access to an account) is not a registered trust corporation and may not have obtained the appropriate authorizations or exemptions to undertake activities as a trustee and comply with applicable trust laws—without these authorizations or exemptions, there is a risk that the intermediary PSP's trust activities could be shut down by trust regulators or the intermediary PSP's account provider
- The delegation of safeguarding functions to an intermediary PSP may violate certain provisions under the Civil Code of Québec applicable to the relevant trust arrangement
- The return of funds to end users, should any one of the PSPs become insolvent, would be complex and operationally challenging because multiple PSPs are involved. It would also create a greater risk that end users' access to their funds would be impeded

The Bank will not accept these types of indirect arrangements as compliant with the RPAA's requirements for safeguarding unless, at a minimum, the PSP can demonstrate to the Bank that the barriers and challenges set out in the guideline have been addressed.

Insurance or guarantees as methods to safeguard end-user funds

Consultation feedback: *Representatives of the Canadian insurance sector requested further design details on how to structure insurance products suitable for safeguarding end-user funds pursuant to paragraph 20(1)(c) of the RPAA. They also proposed the use of surety bonds as a form of insurance suitable for safeguarding.*

Bank of Canada response: To ensure an insurance or guarantee product satisfies regulatory requirements, the Bank recommends that providers developing insurance or guarantee products, and PSPs who will obtain such products, refer to the minimum conditions for insurance or guarantee arrangements as set out in the guideline.

The Bank will not propose or approve designs for potential insurance products. To support the development of market-based solutions, the Bank can, however, provide its interpretation of regulatory requirements and clarify its supervisory expectations relating to insurance or guarantee methods of safeguarding end-user funds. The Bank is open to meeting with interested providers in the insurance sector.

Additional feedback from the public consultation and the Bank's responses

The table below summarizes other feedback received during the consultation period and the Bank's responses, including updates made to the guideline where applicable. It also elaborates on updates to the guideline made for certain key themes described above.

Application of end-user funds safeguarding

	Feedback topic	Feedback summary	Bank of Canada response
1	Interpretation of holding funds	Stakeholders requested clarity on the definition of holding funds and what is meant by funds "in transit" and "at rest."	In response to the consultation feedback, the Bank updated the holding funds section of the Criteria for Registering Payment Service Providers and published specific case scenarios about holding funds to provide more practical examples. These documents should support PSPs in assessing whether they hold end-user funds.
2	Funds reserved for chargebacks	Stakeholders requested clarity on the specific circumstances subsection, and whether it was intended to include exceptions for funds reserved for chargebacks.	The Bank updated the guideline to specify that funds reserved for chargebacks do not need to be safeguarded as they do not meet the interpretation of holdings funds.

Safeguarding account

	Feedback topic	Feedback summary	Bank of Canada response
3	Access to safeguarding accounts	PSPs have challenges with accessing banking products and account services directly from financial institutions.	The RPAR requires PSPs to use accounts provided by a prescribed financial institution to safeguard end-user funds.
4	Purpose of safeguarding accounts	Stakeholders sought clarity on the phrase “account not used for any other purpose.” Stakeholders wanted to know if a trust account could also be used to pay fees or meet settlement obligations arising from end-user payment activity.	The safeguarding account should be used only for the purpose of safeguarding end-user funds. This means funds in the safeguarding account should be segregated from the PSP’s own funds and any funds used for non-RPAA activities. As a best practice, a PSP using the trust method of safeguarding should pay fees and settlement obligations using an account that is separate from the trust account.

Trust arrangements

	Feedback topic	Feedback summary	Bank of Canada response
5	Trust arrangements with end users	Stakeholders requested clarity on whether trust arrangements with end users require a trust agreement with each end user, or whether a declaration of trust for the benefit of end users is an acceptable alternative.	To establish a valid trust arrangement, a PSP must ensure that the three legal certainties of trust are met under Canadian laws (see below regarding particularities for Quebec). With respect to the certainty of intention, the guideline has been updated to clarify that the person transferring property to the trustee does so with the intention that the property be held in trust. When initially establishing the trust, the PSP must have the intent to create a trust; thereafter, given that end-user funds will be transferred into the trust, end users should have the intent that their funds be held in trust. The PSP may consider a range of methods to demonstrate the end users’ intent, such as signed agreements or clear acknowledgements by end users. However, the Bank expects the PSP to seek legal advice to ensure that certainty of intention has been established and to determine how best to demonstrate the end users’ intent for the trust arrangement it has established. For a trust arrangement established in Quebec, the Bank expects the PSP to seek legal advice to ensure that the trust arrangement qualifies as a “trust” as defined in the <i>Civil Code of Québec</i> , or clearly establishes that the PSP holds and administers the end-user funds as administrator of the property of the end users.

6	Trustee	Stakeholders asked for clarity on whether PSPs are expected to act as the trustee of the trust account and whether there could be conflict with provincial legislation.	The guideline has been revised to clarify that a PSP may act as the trustee or use a third party to act as the trustee. In Quebec, the PSP could act as a simple administrator or appoint a third party to act as trustee. In both cases, the Bank expects that the PSP seek legal advice to confirm that there is a valid trust arrangement (in Quebec, that there is a valid trust or that the PSP has been validly appointed as administrator of the property of end users) and that the trust arrangement adheres to any applicable laws and regulations, including without limitation any registration requirements under such laws and regulations.
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Insurance or guarantee

	Feedback topic	Feedback summary	Bank of Canada response
7	Safeguarding end-user funds through insurance or a guarantee	Stakeholders sought clarity on the meaning of “insurance or guarantee” and on the acceptable types of insurance or guarantee products.	The Bank has not defined “insurance or guarantee” in the guideline because these financial products can take various forms depending on the provider and other factors. PSPs are encouraged to seek legal advice to confirm that any insurance or guarantee products are structured in a manner that complies with the requirements of the RPAA.

Safeguarding-of-funds framework

	Feedback topic	Feedback summary	Bank of Canada response
8	Segregation of end-user funds	Stakeholders sought clarity on the treatment of end-user funds not yet segregated and placed into the safeguarding account.	The Bank updated the guideline to elaborate on how end-user funds not yet placed into a safeguarding account, to the extent permitted under the guideline, should be treated under the safeguarding framework. These updates clarify that PSPs must: <ul style="list-style-type: none"> ▪ not use the funds for any other purpose ▪ be able to demonstrate to the Bank the reason why end-user funds are not placed in the safeguarding account on receipt ▪ disclose such situations to end users PSPs must also record the funds on its ledger that are yet to be placed in the safeguarding account and identify and report these funds as a shortfall to the Bank.