Written Submission for the Consultation on Proposals to Strengthen Canada's Financial Sector

September 11, 2024

1300 Connecticut Avenue
Suite 475
Washington, DC 20036

202.828.2635
800.695.5509
electran.org

Introduction

The Electronic Transactions Association (ETA) is pleased to submit a response to the consultation on proposals to strengthen Canada's financial sector, with a focus on upholding world-class regulation and addressing the impacts of artificial intelligence (AI).

ETA is the world's leading advocacy and trade association for the payments industry. Our members span the breadth of significant payments and fintech companies, from the largest incumbent players to the emerging disruptors in the U.S. and in more than a dozen countries around the world. ETA members make commerce possible by processing approximately $47 trillion annually in purchases and P2P payments worldwide and deploying payments innovation to merchants and consumers.

Enhancing Federal, Provincial, and Territorial Collaboration

Canada's regulatory framework for financial services has long been a model of stability and innovation. Yet as the pace of technological change accelerates, it is imperative that regulation keeps stride without stifling progress. ETA believes that fostering greater coordination between federal, provincial, and territorial regulators is essential to maintaining Canada's edge in an increasingly competitive global landscape.

The proposal to create a more harmonized regulatory environment that reduces redundancies is particularly welcome. Financial institutions and payment providers often face a patchwork of overlapping rules that can impede efficiency and innovation. By streamlining requirements across jurisdictions, Canada can reduce compliance burdens while maintaining robust consumer protections. This approach would be especially beneficial for startups who may lack the resources to navigate complex regulatory regimes.

Accordingly, we propose establishing a formal, ongoing dialogue mechanism between federal and provincial/territorial regulators specifically focused on emerging financial technologies and payment innovations. Potentially taking the form of a quarterly working group or task force, this group would be well-positioned to discuss regulatory approaches, share information on new developments, and coordinate policy responses.

Second, we recommend developing a framework for mutual recognition of regulatory approvals and licenses across jurisdictions where appropriate. This would reduce compliance burdens for companies operating nationally while maintaining high standards.

![ETA Electronic Transactions Association logo]

1300 Connecticut Avenue
Suite 475
Washington, DC 20036

202.828.2635
800.695.5509
electran.org

Thirdly, we suggest creating a centralized database or information-sharing platform accessible to regulators at all levels to facilitate collaboration and avoid duplication of efforts in areas like licensing, examinations, and enforcement actions.

Lastly, we advocate for establishing clear protocols for how federal, provincial, and territorial regulators will coordinate in the event of a major incident or crisis affecting the financial sector, such as a large-scale cyber attack.

A Strong and Predictable Regulatory Framework

ETA agrees that a predictable regulatory environment is essential for the effectiveness of the framework and Canada's competitiveness.

Regarding coordinated periodic announcements, we recommend quarterly announcements of upcoming regulatory actions, with a 12- to18-month forward-looking horizon. This should include expected timelines for consultations, draft regulations, and implementation dates.

On impact statements, in addition to their publication, we suggest establishing a formal process for industry feedback on these statements prior to finalization. This would help ensure all potential impacts are considered.

We also strongly support the initiative for an international collaboration forum and recommend including industry representatives in addition to regulators. Key areas of focus could include AI governance, open banking, and cross-border payments.

While we support enhanced information sharing on risks, we note that it is crucial to establish clear guidelines on what information can be shared and how it will be protected. To effectively implement enhanced risk information sharing, a comprehensive framework must be developed. This framework should outline specific categories of information that can be shared, ranging from general market trends to more sensitive data on potential threats. Further, robust data protection measures would be essential in safeguarding such shared information. These measures would need to include state-of-the-art encryption protocols, secure communication channels, and regular security audits.

Additionally, we recommend developing a public-facing dashboard or scorecard to track the progress of regulatory initiatives and their outcomes. This would enhance transparency and accountability in the regulatory process.

We also suggest implementing a formal post-implementation review process for major regulatory changes, to be conducted 18 to 24 months after implementation. This would allow for assessment of the actual impacts and effectiveness of new regulations and provide opportunities for refinement if needed.

1300 Connecticut Avenue
Suite 475
Washington, DC 20036

202.828.2635
800.695.5509
electran.org

Enhancing information sharing about financial sector integrity and security risks is another critical area for improvement. In an interconnected digital economy, threats evolve rapidly. Accordingly, regulators and industry players need timely, actionable intelligence to stay ahead of malevolent actors. With appropriate safeguards, a more open flow of information could significantly bolster the sector's collective defenses.

ETA also commends the consultation's emphasis on regulatory predictability. As financial services firms make long-term investments in technology and infrastructure, sudden regulatory shifts can upend business models and erode investor confidence. The proposed coordinated announcements of forthcoming actions would provide welcome visibility. However, we caution against a rigid approach that might hamper regulators' ability to respond nimbly to emerging risks.

Conducting and publishing impact statements for regulatory actions is another useful suggestion that aligns with global best practices. Such analyses can reveal unintended consequences and foster more informed policymaking. They also promote transparency, helping industry stakeholders and the public better understand the rationale behind regulatory decisions.

Finally, the idea of developing a forum for coordinating on international issues is particularly pertinent given the borderless nature of financial technologies. Canada has an opportunity to play a leading role in shaping global standards for emerging areas like open banking, digital currencies, and AI in finance. A coordinated approach would amplify Canada's voice on the world stage.

Artificial Intelligence

ETA members believe current laws and regulations adequately encompass the use of AI and other technological tools. As we navigate the ever-evolving financial landscape, legislative and regulatory adaptability and flexibility will be paramount in fostering a vibrant, competitive ecosystem.

From refining credit decisioning to offering bespoke financial guidance, AI's applications are as diverse as they are profound. By fostering innovation while continuing to uphold high standards of safety and fairness, Canada can cement its position as a global leader in financial services for years to come. The path ahead may be complex, but with thoughtful, collaborative approaches like those outlined in this consultation, we are confident in Ottawa's ability to navigate the challenges and opportunities that lie ahead.

As current laws and regulations already cover the use of AI, ETA recommends allowing the sector to continue encouraging innovation, ensuring national economic competitiveness, and further reducing financial crime. New laws and regulations, if any, should leverage existing policies, remain technology agnostic, be principles- and risk-based, and account for industry-led standards. By ensuring the continued development

![ETA logo] ELECTRONIC TRANSACTIONS ASSOCIATION

1300 Connecticut Avenue
Suite 475
Washington, DC 20036

202.828.2635
800.695.5509
electran.org

of secure and inclusive financial services, consumers will yield dividends from the financial sector's use of AI.

ETA stands ready to contribute its expertise and insights to this crucial ongoing process. Our members have long been at the vanguard of responsible AI deployment, seamlessly integrating this technology to enhance security and streamline transactions. These advancements have yielded a multitude of benefits for consumers, merchants, and the industry at large, making payments more secure and nearly frictionless

ETA encourages policymakers to review how the payments industry has used AI over the past decades to better understand the scope, scale, and impact that these tools have in fostering a stronger and more secure payments ecosystem. New laws and regulations, if absolutely needed, should keep pace with innovation while improving, rather than duplicating, the rules to which the payments industry already adheres. This requires recognizing how AI is and is not currently being utilized in payments today and acknowledging the rapid advancements occurring in this field.

For years, payment companies have integrated AI tools to benefit consumers. AI and machine learning are integral to maintaining the safety and security of payment systems, which include consumer information and resources. AI's ability to work faster, identify more patterns, and respond more quickly than humans is an asset in protecting consumers from financial crimes. For example, payments companies use their technological capabilities and unique industry insights to detect, track, and stem the flow of fraud schemes.

As the volume and complexity of fraud in transactions have risen, the importance of identifying, preventing, and deterring fraud in payments has likewise increased. Crucially, as these frauds may now increasingly be enabled by criminal malign exploitation of AI like through use of deepfakes, financial institutions will increasingly rely on AI capabilities to enable timely detection and combating increasingly sophisticated fraud schemes.

Further, AI has revolutionized regulatory compliance efforts by enabling real-time transaction screening and efficient risk identification. Advanced algorithms can sift through enormous datasets to flag suspicious activities that may indicate money laundering or terrorist financing, thereby bolstering compliance with anti-money laundering (AML) regulations

In lending decisions, the payments industry has successfully implemented ethical AI use within existing legal frameworks. The industry adheres to principles of explainability, privacy, risk management, and fairness, particularly in underwriting processes. This approach ensures that AI-driven lending decisions are not only efficient but also comply with fair lending laws and regulations.

1300 Connecticut Avenue
Suite 475
Washington, DC 20036

202.828.2635
800.695.5509
electran.org

While AI's capabilities are remarkable, the industry recognizes the importance of human oversight and transparency. Our members enhance, rather than replace, human decision-making with AI. In the payments industry, AI is viewed as a tool to augment human expertise. There is a strong emphasis on explainability in AI systems, ensuring that decision-making processes are transparent and comprehensible. This human-centric approach allows for the examination of inputs, processes, and outcomes, thereby improving the accuracy and fairness of AI-driven decisions

In the area of lending decisions, ethical AI use is central to underwriting, adhering to the principles of explainability, privacy, risk management, and fairness within existing legal frameworks, such as fair lending laws. This robust framework is further strengthened through rigorous internal and external reviews of AI applications in lending to ensure responsible, ethical, and compliant decision-making processes. Notably, for ETA members, generative AI is largely not employed in this critical area. This multilayered approach ensures that AI in underwriting is responsible, ethical, and compliant with relevant regulations, contributing to a fair and trustworthy lending process.

In total, the payments industry has consistently demonstrated its ability to safely deploy AI, adapt to new challenges and technologies, and maintain high standards of security and fairness. Moreover, we note that existing laws and regulations already provide a framework for addressing many of the concerns associated with AI use in finance.

As AI technologies continue to evolve, the payments industry is well-positioned to adapt and innovate responsibly, maintaining its role as a leader in secure and efficient financial services. This comprehensive approach underscores the industry's capacity for responsible AI implementation and its readiness to address emerging challenges.

We also encourage policymakers to work with industry experts and stakeholders to prioritize efforts that can build a common framework of understanding amongst key ecosystem participants. For example, policymakers should establish common definitions and understanding of key AI terms to ensure clarity and consistency of AI technologies, and prioritize standards, guidance, and regtech developments to support necessary controls like transparency and security.

The potential for AI to enhance regulatory compliance, whether through regtech or otherwise, is particularly salient. AI integration enables companies to efficiently screen transactions and identify potential risks in real-time, thereby enhancing assessment and monitoring to reduce false alerts while mitigating risks and saving time and resources. AI-enabled risk detection and monitoring streamlines compliance efforts, allowing for swift response to potential compliance violations and focusing human oversight and intervention to make decisions on the highest-risk activities. This not only improves the effectiveness of compliance efforts but also reduces the burden on financial institutions.

Conclusion

ELECTRONIC
TRANSACTIONS
ASSOCIATION

1300 Connecticut Avenue
Suite 475
Washington, DC 20036

202.828.2635
800.695.5509
electran.org

By embracing a collaborative to AI regulation and implementation, Canada can solidify its position as a global leader in financial services. The path ahead may be complex, but with continued dialogue and cooperation between industry stakeholders and policymakers, we can navigate the challenges and opportunities that lie ahead to ensure ensuring a thriving, innovative, and secure financial services sector that benefits all Canadians.