# Electronic Transactions Association

# Written Submission for the Pre-Budget Consultations in Advance of the 2022 Budget

# Recommendations

- **Recommendation 1:** That the Government of Canada move quickly to advance a framework for **open banking** in order to generate economic benefits to the Canadian economy, most importantly new opportunities for small businesses to access innovations in financial lending.

- **Recommendation 2:** 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.

- **Recommendation 3:** That all business activities subject to the proposed Digital Service Tax (**DST)** should be fully creditable against any tax; that the DST's scope be limited to only capture highly digitalized business models that involve the active participation of users on an internet platform (such as online marketplaces, social media, and online advertising); and that the Canadian DST should include a definitive exemption excluding payment service providers from all in-scope or taxable services subject to the DST.

**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.

**ETA Members are doing their part to support economic recovery.**

During the pandemic, Canadians have embraced the digital economy and electronic payments solutions in an unprecedented way. 43% of small and midsized businesses (SMBs) see digital payments as more important to their business today than before the COVID-19 pandemic[1].. And now as SMBs begin to recover, 38% report an increase in sales since the beginning of the pandemic.

Through the pandemic, ETA members have also taken many steps to help their customers. For debit and credit card users, members have waived fees, lowered monthly minimums, and offered deferrals, among other actions. ETA members have also noticed a notable shift during the pandemic in the ways in which Canadians pay for goods and services. Digital wallets are now accepted by 44% of SMBs and are the third most common way to pay after credit/debit cards (70%) and cash (64%).

FinTech is continuing to help consumers, small business and charities battle and recover from the effects of the pandemic. Canadian customers have gotten accustomed to accessing their financial accounts from home through either a website or mobile app. As we begin to consider a post-pandemic economic recovery, ensuring stability will be key and ETA members are committed to keep working to ensure the security of online payments and protect consumers by fighting fraud.

At the conclusion of the G20 conference in July, it was agreed that "digital transformation has the potential of boosting productivity, strengthening the recovery and contributing to broad-based and shared prosperity[2]".

ETA members agree and are working to ensure that Canadians have access to the latest innovations in digital payment solutions, including contactless payments, peer-to-peer (P2P) platforms which allow consumers to transfer funds through mobile phones, and convenient digital

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[1] www.prnewswire.com/news-releases/survey-shows-smbs-relied-on-digital-payments-to-survive-2020-301280349.html

[2] www.g20.org/wp-content/uploads/2021/07/Communique-Third-G20-FMCBG-meeting-9-10-July-2021.pdf

“Pay” solutions for customers and SMEs to that support commercial activities that will lead to a robust economic recovery.

**Open Banking**

ETA is pleased to see the Government of Canada working to advance open banking in Canada, particularly as COVID-19 has underlined the importance of ensuring capital is available to small businesses at a time of need.

Canada’s FinTech sector has provided lending support to small businesses during the pandemic, however with an open banking framework in place it could do even more to support small business, particularly when expediency and adaptability are so critical. For example, in the United States ETA members – banks and FinTech lenders – have deployed innovative solutions and products that have helped tens of thousands of American small business owners access billions of dollars under the Paycheck Protection Program.

FinTech lenders in Canada are important players given many small businesses rely on them for financing. Canadian FinTechs have designed lending models that can capture small businesses traditionally excluded from Canada’s large financial institutions. Fintech lenders have the technological capacity to provide rapid access to products and services. This capability is particularly important in the context of COVID-19 where small businesses were assessing viability in a matter of days or weeks. **ETA submits that the completion of the government’s open banking framework would create an opportunity for small businesses to receive lending from FinTech providers as an alternative to traditional lenders.**

Open banking has several other key features that can facilitate faster adoption of FinTech and can catalyze the economic potential of financial services in Canada, while enhancing privacy and security. ETA members have developed innovative open banking enabled products and services that help consumers manage their financial needs and increase their transaction security.

As Canada embarks on its recovery, it will be important to ensure businesses continue to have the necessary capital. Many Canadian small businesses were adversely impacted by the crisis and have relied on financial support. FinTech can provide another avenue for lending to small businesses. Open banking in Canada would create new business models for Canada’s FinTech players. 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 FinTech.

**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.**

**Canadian Payments Act ("CPA")**
The implementation of the Retail Payments Activities Act ("RPAA") is a critical first step toward modernizing Canada's payments system. Looking ahead, 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. Currently, only Payments Canada members can participate in the payments system, excluding direct access for many new and innovative firms.

ETA encourages the government to continue to build on the foundation that will be established with the RPAA by modernizing the CPA to create an associate member class within Payments Canada during the next budgetary process. Such a change would facilitate access to the RTR that Payments Canada is on track to complete by the end 2022. In combination, these measures would provide ETA members with the opportunity to deliver innovative, cost-effective products and services to consumers and merchants.

**In formulating the access rules to the RTR, ETA believes the Department of Finance should tailor the approach so that it is appropriate for the FinTech industry's participation and provide equal opportunity. This would ensure that the FinTech industry is provided with a level playing field so that it can effectively compete in the Canadian market and have a positive regulatory framework for innovation.**

**Digital Service Tax (DST)**
ETA and its members favour a multilateral solution to the tax challenges arising from the digitalization of the economy, and we are encouraged by the recent discussions towards ensuring fair international taxation of multinational corporations that resulted in an historic G7 agreement on the parameters of a broader international framework that includes a commitment to "appropriate coordination between the application of the new international tax rules and the removal of all Digital Services Taxes, and other relevant similar measures, on all companies"[3].

The Government of Canada has signalled its intention to proceed unilaterally with the proposed DST as an interim measure. ETA believes that unilateral responses to complex tax issues like the implementation of the DST could stifle innovation and make it more challenging for new products and services to launch and operate in Canada. This would have an impact on the economic recovery, and we therefore caution that a unilateral approach should only be considered as a last resort.

This proposal has unintended consequences for Canadian based digitally intensive companies such as FinTech. While the DST is intended to capture digitally-intensive or consumer-facing companies that do not pay taxes in jurisdictions where they conduct business, there is a risk of it being imposed on our companies who already pay taxes in Canada.

ETA members do not believe that the Canadian DST proposal is intended to apply to the business model of its members, but in the interest of removing any ambiguities, proposes an explicit exclusion from the DST on revenue connected to supplying financial and other payment services

[3] G7 Finance Ministers & Central Bank Governors Communiqué. June 5, 2021.

as well as activities already captured by banking regulation or technology provided to the financial sector to facilitate activities that would otherwise be performed by individuals. Such exclusions would be consistent with the OECD Pillar One Blueprint and jurisdictions that have implemented or proposed a DST, such as the United Kingdom, Italy, France, Spain, Turkey, Belgium, Kenya, New Zealand, and the Czech Republic.

**To ensure and fairer approach, ETA submits that the Canadian DST should include a definitive exemption excluding payment service providers from all in-scope or taxable services subject to the DST.**

ETA members submit the proposed DST also creates broader concerns with respect to double taxation. Currently, any taxes imposed on gross revenue will result in a far greater burden than a net income tax. The current proposal does not permit the deduction of costs from gross revenues. The result is that a 3% DST results in a higher income tax rate than the indicated rate. The OECD has acknowledged this problem and has warned that "economic double taxation could also arise through cascading effects where a certain supply of e-services is made to a person that incorporates those services into an onward supply that is itself subject to the tax". Therefore, ETA believes the DST should be creditable against any tax a group might already pay in Canada on the same revenues, including corporate income tax and value added taxes such as the GST/HST.

**To address concerns with respect to double taxation of specific business activities, ETA submits that a proposed DST should treat all companies equally and avoid double taxation: meaning that all business activities subject to the DST should be fully creditable against any tax, excluding customs and excise duties, paid in Canada.**

If Canada were to impose a temporary Canadian DST, the tax would result in significant compliance burdens to businesses in this sector, given the low local revenue threshold of $20 million CAD for the DST to apply.

ETA members will require more time to source data, validate information, appropriately apportion revenues, and generate consistent reports and data that support the payment of a Canadian DST.

**Given the complexity of implementation, ETA would suggest that the January 1, 2022 timeline to create a new tax regime this multifaceted is overly ambitious and will be challenging for obligated parties to manage from an administrative perspective. ETA therefore recommends that should Canada proceed unilaterally with a DST, that it should delay the enforcement date until at least July 1, 2022 and publish detailed guidance to allow companies to achieve compliance with the requirements of the new regime.**

## Conclusion

ETA thanks you for the opportunity to submit these comments and looks forward to providing whatever additional information we can to inform the Committee's deliberations on the complex issues, in particular the proposed DST.

Respectfully submitted,

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