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The Electronic Transactions Association (ETA) submits these comments in response to Finance Canada's consultation on upholding the integrity of Canada's financial sector. We hope that these comments offer the government more clarity on the direction required to develop a regulatory regime that is balanced and reflects the ongoing developments in the global technological and geopolitical landscape.

ETA is the leading trade association for the payments industry, representing over 500 companies that offer electronic transaction processing products and services. ETA's members include financial institutions, mobile payment service providers, mobile wallet providers and non-bank online lenders that make commercial loans, primarily to small businesses, either directly or in partnership with other 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.

2023 has been a watershed year for the financial services industry in Canada, with the release of the *Retail Payment Activities Act* Regulations, the Office of the Superintendent of Financial Institutions' (OSFI) introduction of new guidelines to manage third party risks and revision of Capital Adequacy Requirements. Additionally, ETA is particularly pleased and grateful to the government for reaffirming its commitment in the 2023 Fall Economic Statement to amend the *Canadian Payments Act* to grant more payment service providers membership eligibility in Payments Canada.

Together, these initiatives offer clear evidence that the government is committed to shoring up financial resiliency and safeguarding the rights of Canadians. Hence, this review offers a timely opportunity for both policymakers and industry stakeholders to build on the good work that has been done and ensure that Canadians are able to access to innovative and modern financial solutions in a safe and well-regulated manner.

In addressing the objectives of this consultation, ETA and its members are concerned with how digital payments can thrive in an era of open banking and the role of artificial intelligence (AI) in preventing fraud in Canada's financial system – with fair competition and consumer data protection being key themes in our response to this consultation. These concerns are addressed in greater detail in the comments outlined below:

### **Consumer-driven banking**

ETA is encouraged by the Government of Canada's commitment in the 2023 Fall Economic Statement to introduce legislation for a consumer-driven banking framework as part of Budget 2024. Furthermore, the clarity offered by the policy statement released on the upcoming consumer-driven banking

framework will enable industry and consumers to better understand what it will look at, as well as chart out some potential concerns/recommendations for the government to consider.

At a high level, ETA strongly recommends that the government adopt a principled and proportionate approach to ensure that the compliance requirements work to encourage continued innovation helps attract new entrants in consumer driven banking. ETA looks forward to working with the government's new framework on consumer-driven banking.

With that in mind, ETA outlines its position on some of the core elements of the framework below.

### **Governance**

The foundation for a competitive playing field, underpinned by effective oversight can only be achieved via impartial and independent supervision when it comes to financial data sharing under a consumer-driven banking framework. ETA firmly supports the government's decision to mandate a government-led entity to supervise and enforce this framework. This approach will help safeguard the principles of fair competition and promote greater innovation and is also well aligned with leading jurisdictions around the world that have directed a government entity to supervise their own frameworks.

### **Scope**

On the issue of scope, ETA notes that the government's phased approach to rolling out participation for all interested parties to be similar to the United Kingdom and Australia and has no further comment on the implementation schedule. However, it is critical that more clarity is provided on the breadth of data that must be shared. In the absence of regulatory directives to mandate the sharing of all relevant data by banks, it is possible that the more dominant players might move to limit data scope. This could disproportionately affect smaller banks, data aggregators and fintech companies, all of which play a key role in fostering innovation and providing low-cost financial services in Canada.

### **Technical Standard**

ETA is encouraged by the government's announcement in its recent policy statement to transition away from screen scraping and protect all system participants effectively. This means passing and quickly implementing the *Digital Charter Implementation Act* and the right to data mobility provision included therein. It also requires legislative changes to create the structures needed to oversee the transition to consumer-driven banking.

Regarding the technical standard for consumer-driven banking, ETA supports the government's decision to mandate the development of a single technical standard as this will help prevent fragmentation and create cost inefficiencies with the presence of multiple financial service players attempting to share data with each other. The development of a common technical standard should also lead to higher levels of adoption of consumer-driven banking.

ETA also believes that the technical standard adopted by Canada should be interoperable with the technical standards being considered by Canada's major trading partners like the United States. We believe interoperability is crucial for the payments systems infrastructure that span borders. Shared technical standards ensure that these critical systems can operate seamlessly, supporting efficient and reliable cross-border services. In a world where data and information flow across borders rapidly, interoperability is also key for efficient information exchange between Canada and its partners for data security or fraud prevention. Finally, interoperability in technical standards helps ensure that products and services available to consumers meet consistent and high-quality standards.

## The role of AI in payments

The payments industry is at the forefront of deploying new technologies in a safe manner to improve the consumers' experience by making payments more secure and frictionless. Over the past decades, the payments industry has developed and deployed artificial intelligence and machine learning (AI) tools that have made payments faster, more secure, and has unlocked numerous benefits for the payment industry and consumers alike.

While recent attention and scrutiny of emerging AI tools, like Large Language Models and transformer-based image generators, have raised important policy questions, ETA encourages policymakers to review how the payments industry uses AI to better understand the scope, scale, and impact that they have in fostering a stronger and more secure financial system. The payments industry is subject to robust oversight. To the extent there may be a need for new laws and regulations, they should be complimentary, not duplicative, to existing rules that the payment industry adheres to. This requires recognizing how AI is currently being utilized in payments today and acknowledging the role existing regulations play, regardless of the technological advancements that have taken place in the payments industry over the last 20 years.

To encourage innovation and continue national economic competitiveness, it is crucial for policymakers to avoid implementing inflexible regulations that solely rely on current AI mechanisms. Instead, policies put forward should be technology agnostic, principles-based and industry-led standards that strike a balance in promoting innovation, protecting consumers, advancing Canadian economic and national security interests, and ensuring the continued development of secure and inclusive financial services. Additionally, ETA believes it is crucial for policymakers to work with industry experts and stakeholders to establish common definitions and understanding of key AI terms to ensure clarity and consistency of AI technologies.

For years, payment companies have integrated AI tools for consumer benefits, such as:

- **Protecting consumers from fraud:** AI and tools are integral to maintaining the safety and security of payments systems, which include consumer information and resources. AI's ability to work faster, identify more patterns, and respond more quickly than possible for humans, is an asset to protecting consumers from fraud. For example, payments companies use their technological capabilities and unique industry insights to track and stem the flow of fraud schemes. As the volume and complexity of fraud in transactions has risen, the importance of identifying, preventing, and deterring fraud in payments has likewise increased.
- **Streamline payments:** AI enhances the speed and efficiency of the payment. For instance, paying a simple invoice, AI facilitates a straight-through processing of payments by automating workflows, providing decision support, and applying image recognition to documents.
- **Assisting with regulatory compliance:** The integration of AI in payments compliance has allowed companies to enhance their compliance practices. AI-powered tools enable financial entities to more efficiently review their transaction screening/review processes to identify suspicious transactions and potential risks in real-time, eliminating the false alerts and mitigating risks while saving time and resources. These tools allow compliance officers to be alerted real-time and enable them to react swiftly to potential compliance violations.

- **Improving customer service:** AI is deployed to create chatbots and virtual assistants that provide basic customer service features to customers. AI improves customer service by enhancing the human element of customer service, not replace or frustrate it. While some inquiries can be handled with AI technologies, others can only be resolved by an experienced person who can connect with the consumer. For example, AI-powered virtual assistants are best empowered to handle simple inquiries about account balances and transactions, while also being able to validate and activate new or replacement cards. Additionally, the use of virtual assistants at the start of a customer service interaction can aid in expediting the appropriate routing of more complex queries and issues to live representatives.

The integration of AI technologies in the payments industry has brought about numerous benefits and possibilities for both the industry and consumers. While recent attention has focused on specific AI applications, policymakers must approach AI regulation with caution, considering potential unintended consequences and acknowledging the rapid advancements in this field. Rather than relying on current AI mechanisms alone, a principles-based, industry led approach that fosters innovation, consumer protection, and the development of secure and inclusive financial services is necessary. Flexibility and a forward-looking perspective are vital to navigate the continuous evolution of AI technology in the payments industry.

### **Effectively regulating Crypto Assets**

As policymakers consider new laws and regulations for cryptoassets, they should carefully consider the following principles and ensure that any proposal best serves the needs of consumers and businesses, furthers financial inclusion, preserves and strengthens the financial system, minimizes fraud and money laundering, and ensures that consumers and businesses continue to have access to a robust and innovative array of secure banking and payment options.

**1. Properly Defining Cryptoassets:** Developing appropriate and functional definitions of cryptoassets is a critical first step in ensuring clarity about the regulatory requirements that are applicable to the technology. Given that new technologies can be deployed in many different ways, and that new use cases are constantly being developed, cryptoassets should be defined and regulated based on the underlying activity or use case. Adopting tailored definitions for specific activities and use cases will balance the need to appropriately regulate activity against the harms that might arise from sweeping definitions that inadvertently regulate other activities and use cases, while encouraging innovation that benefits consumers, businesses, and the economy.

**2. Tailoring Regulations to the Risk Profile of the Participant/Activity:** Appropriate regulation of cryptoassets is key to unlocking their potential while ensuring the safety and soundness of the payments ecosystem. Entities engaging with cryptoassets should be subject to regulation that is tailored to the risks that they or the activity in which they are engaged poses to the payments ecosystem. Appropriate regulation of cryptoassets should consider potential harm to consumers as well as safety, soundness, and financial stability risks.

**3. Ensuring Consumer Protection:** The public policy governing cryptoassets should include a framework of standards and rules that appropriately safeguard the privacy and security of every transaction, protect consumers' interests, and give consumers confidence to use the technology for in-person and online transactions. Policymakers should also ensure that consumers understand those protections and how they may differ from those offered by other payment methods. The ability to identify and reduce fraud is critical and should be part of the regulatory framework.

**4. Harmonizing with Existing Regulatory Frameworks:** The payments industry is thoroughly regulated, and the adoption of any new laws or regulations governing cryptoassets should be designed to fit within this established, robust, regulatory framework. This framework includes legislation relevant to anti-money laundering, economic sanctions, and other anti-fraud and consumer protection requirements. New public policies for cryptoassets should complement, and not conflict with, existing laws and regulations as well as private sector rules and practices.

**5. Encouraging Responsible Innovation:** Continual investment in innovation is at the heart of past, present, and future improvements to the financial ecosystem. Our financial system has benefited greatly from the development of new technologies and capabilities, which serve to strengthen cybersecurity and consumer protection, increase efficiencies, and expand access to financial services. As a technology, cryptoassets have the potential to further many of these developments and promote new innovation and developments. Accordingly, any regulation of cryptoassets should consider the technology's promise to improve existing capabilities while serving as a catalyst and platform for continued innovation.

ETA thanks Finance Canada for the opportunity to participate in this consultation and contribute to the discussion on modernizing's Canada's regulatory approach on financial services. We would be more than happy to offer our insights to you as required.

Yours respectfully,



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