



canadian payments association
association canadienne des paiements

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CPSS Secretariat
IOSCO Secretariat
Bank for International Settlements
Basel, Switzerland

25 September 2012

Re: Recovery and resolution of financial market infrastructures: Consultative report

Dear CPSS and IOSCO Secretariats,

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The Canadian Payments Association (CPA) welcomes the opportunity to comment on the CPSS-IOSCO consultative report on *Recovery and Resolution of financial market infrastructures* (July, 2012).

The CPA has reviewed the consultative report in conjunction with the final report of the *Principles for financial market infrastructures*, and has a number of questions and items for consideration by the CPSS-IOSCO in light of the unique Canadian payments environment. Those questions and considerations echo many of those the CPA identified in its review of the draft *Principles* in July, 2011.

The CPA plays a key role in the Canadian economy as the owner and operator of Canada's Large Value Transfer System (LVTS), which is the Canadian equivalent of a real-time gross settlement (RTGS) system and is designated as systemically important by the Bank of Canada. Canada is unique compared to other countries since the LVTS is operated by a non-central bank entity (the CPA); and the roles and responsibilities to ensure the safety and soundness of the LVTS are shared between the CPA and the Bank of Canada pursuant to a comprehensive set of By-laws and Rules established under legislated authority (the *Canadian Payments Act*). In addition, the CPA is established by the *Canadian Payments Act* and, as such, its activities as an organization are subject to a statutory regime which has implications for recovery and resolution. For example, the *Canadian Payments Act* states that the affairs of the Canadian Payments Association may only be wound up by Parliament. Further, the LVTS is subject to oversight by the Bank of Canada pursuant to the *Payment Clearing and Settlement Act*, which has provisions with potential recovery and resolution application (e.g., directive powers and the availability of liquidity support from the central bank).

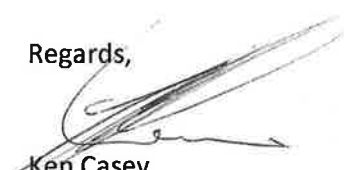
The questions the CPA pose with respect to this document, therefore, relate to the application of the recovery and resolution regime outlined in the consultative document relative to the Canadian payments environment:

- How does the proposed regime take into account the uniqueness of various FMI's such as the CPA?
 - For example - 3.6 states "Even in the case of FMIs that do not take on credit risk as an integral part of their operations and services, tools appropriate for these tasks **will** include the use of transfer powers to transfer some or all of the FMI's operations to one or more third parties" (emphasis added). In the Canadian context, this would likely necessitate significant legislative changes and wholesale changes to the current payments landscape rather than contemplating creative solutions which may exist in the current Canadian statutory regime.
- Is a separate recovery and resolution regime as articulated in the consultative document necessary in a jurisdiction with a strong statutory regime already in place? (eg. *Canadian Payments Act*, *Payment Clearing and Settlement Act* and *Bankruptcy and Insolvency Act* in Canada). And what implications would the proposed regime have for the respective roles of the relevant parties (eg. in Canada: Bank of Canada and CPA) with regard to implementation?
- Given that the CPA does not take on credit risk, will some flexibility be provided in terms of the type of recovery plan that is required?
- As the CPA cannot be wound up, other than by an Act of Parliament, is a wind down plan necessary for the CPA?
- Are the Key Attributes for Financial Institutions the right model for FMIs given the difference in business and levels of risk exposure?

We look forward to your further guidance with respect to the application and implementation of recovery and resolution regimes in Canada and their relationship with the assessment of FMIs against the *Principles* in the future.

Please do not hesitate to contact me or Ms. Penny-Lynn McPherson (Vice President, General Counsel and Corporate Secretary) should you have any questions on our submission.

Regards,



Ken Casey
President and CEO