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By Email

CPSS Secretariat
IOSCO Secretariat
Bank for International Settlements
Basel, Switzerland

October 18, 2013

Re: Recovery of financial market infrastructures: Consultative report

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Dear CPSS and IOSCO Secretariats,

The Canadian Payments Association (CPA) welcomes the opportunity to comment on the CPSS-IOSCO consultative report on *Recovery of financial market infrastructures* (August, 2013).

The CPA is a statutory corporation (non-share capital) created by an Act of Parliament and operates as a not-for-profit Association funded entirely by membership dues. 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 system (RTGS) and is designated as systemically important by the Bank of Canada pursuant to the *Payment Clearing and Settlement Act (*PCSA*)*. 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 Bank of Canada has oversight responsibilities for the LVTS, as a designated system, under the PCSA.

Related to the release of the consultative report, the CPA attended, and participated in, the meeting between CPSS-IOSCO and the financial industry on recovery of financial market infrastructures on September 9, 2013. The message that the CPA tried to convey at the meeting is that the CPA is somewhat unique compared to FMIs in other countries given its legislative framework and also given the LVTS is operated by a non-central bank entity.

Based on a review of the consultative report and issues raised during the meeting on September 9th, the CPA has a number of comments and questions for consideration by the CPSS-IOSCO in light of the unique structure and legislative framework of the CPA and the LVTS:

- Discretion/barriers - given the legal framework for the LVTS, the CPA has minimal discretion on determining what recovery tools to use (i.e., the CPA's legislative

framework outlines which recovery tools are available to the CPA). With respect to implementation of a recovery plan, this is something that would be done in coordination with the Bank of Canada. As such, discretion in implementing a plan and which tools to use **should be based on the "nature" of the FMI**.

- Credit and liquidity risk - the CPA itself does not act as a liquidity provider or bear liquidity risk. The extent of application of financial risks (e.g., credit and liquidity) to the CPA is different than for other FMIs. It is therefore important to consider the difference between FMIs and how the applicability of proposed tools will depend upon the nature of the FMI.

- Recovery tools - the main risk that the CPA would be exposed to is general business risk, which the CPA considers to be a low risk given the Association's status as a statutory corporation. The CPA's "recovery plan" necessarily entails government and central bank support, given the legislative framework under which the Association operates. The tools available to the CPA are: (i) a general reserve fund; (ii) a special reserve fund (for PFMI purposes); (iii) the ability of the Board to borrow on credit of the Association, issue/re-issue, sell or pledge debt obligations; (iv) the ability to initiate a special dues assessment against the membership (which would need to be approved by members) if additional funding is required; and (v) a liquidity loan from the Bank of Canada under the PCSA. Apart from these tools, the options outlined in the consultative report are not applicable/available to the CPA.

- Relationship between recovery and resolution - the relationship between recovery and resolution depends upon the nature of the FMI as well as the statutory and regulatory framework of the FMI. The affairs of the CPA may only be wound up by Parliament and therefore the CPA would not know what particular situations would lead to that result. With respect to other forms of restructuring which could happen in a resolution to ensure that the LVTS continued to operate, that would be something that would be developed by the Bank of Canada and the Department of Finance in consultation with the CPA.

- Involvement by Participants - the CPA's operations are funded by the membership dues paid for by the members of the CPA. Accordingly, the CPA would need input and agreement from its Board and in some cases agreement from its Participants (depending on the tool) with respect to any ex-ante agreements.

- Further guidance - How does the proposed guidance apply to payment systems in particular? Given the uniqueness of various FMIs such as the CPA's LVTS, will clarification be provided as to the extent to which the guidance applies?

We look forward to your further guidance with respect to the implementation of recovery plans and applicable recovery tools. Please do not hesitate to contact me (ggaetz@cdnpay.ca) or Ms. Penny-Lynn McPherson, Vice President, General Counsel and Corporate Secretary (plmcpherson@cdnpay.ca) should you have any questions on our submission.

Regards,

Gerry Gaetz
President and CEO