



The Financial Services Regulatory Report

Canadian Payments Association discusses its Truncation and Electronic Cheque Presentment (TECP) Project at its 20th Plenary Meeting

At the Canadian Payment Association's (CPA) 20th Plenary Meeting in Toronto, in May, 2004, the CPA announced that it is leading a national, industry-wide initiative to adopt a new clearing process based on cheque images. Targeted for full national implementation by the end of 2006, this project is referred to as Truncation and Electronic Cheque Presentment (TECP).

A CPA publication entitled "Cheque Imaging in Canada – A Change Whose Time Has Come" (available at http://www.cdnpay.ca/publications/pdfs_publications/imaging.pdf) describes, in general terms, the way in which cheques are processed today, how cheques will be processed using imaging, and the road ahead in Canada.

Some of the key features of this shift to image-based processing of cheques are:

- ✓ At each financial institution's regional data centre, images will be captured along with the MICR codeline data.
- ✓ Financial institutions will exchange electronic files instead of exchanging actual cheques.
- ✓ Financial institution in possession of the physical cheque will see to its destruction after the images have been confirmed to be satisfactory.
- ✓ Images will be archived by the receiving financial institution.
- ✓ Images will be available online to branch staff and clients, likely the next business day.

Currently, cheque imaging and other standards are being drafted and the necessary legislative changes (federal and provincial) are being considered. Industry consultations are also underway.

A similar initiative currently underway in the U.S. (known as the "Check 21 Act") is scheduled for full implementation by October, 2004. While there are substantial differences in the legislative framework and banking systems in Canada and the U.S., the American literature provides some insight into the considerable complexity and implications of this transition to digital imaging of paper items, not to mention the opportunities created thereby.

Implications of TECP for financial institutions and other stakeholders: a preliminary checklist

The impacts on all users of the payment system – from financial institutions to consumers and merchants to cheque printers and processors- must be fully assessed and understood. Each interested stakeholder needs to determine what implications the TECP initiative will have for it. There are a plethora of issues to be considered.

- ✓ What are the resulting branch, service and corporate back office issues?
- ✓ What are the legal, regulatory and payment system changes that will be implemented and what is their impact?

- ✓ What technical standards are being developed and what is their impact?
- ✓ What additional costs will be incurred? (e.g. imaging-capture/archiving software, telecommunications)
- ✓ What functions should be outsourced and which should continue to be performed in-house? Who are the potential third party service providers?
- ✓ What cost-saving opportunities are available as a result? (e.g. transportation, streamlined exception processing, client self-serve, electronic storage)
- ✓ What are the float implications?
- ✓ What fraud detection opportunities are created and how can they be utilized?
- ✓ What staff training will be required?
- ✓ What customer communication and education will be necessary to advise customers of the legal and other implications of this initiative?
- ✓ How will TECP impact cash management clients? What business processes need to be adapted to take advantage of the benefits the technology enables?
- ✓ What new verification processes and software does the image environment enable?
- ✓ What new financial institution product opportunities are created?
- ✓ What are the impacts on cheque retention and destruction practices?
- ✓ What image archive strategy should be adopted?

If you would require assistance on how the CPA's TECP Project will affect your organization, please call Libby Gillman at 416.418.7204 or contact her at libbyg@lawgill.com

CPA Invites Comments on Online Payment Framework

The CPA has developed a detailed online payment framework setting out the criteria that online payments services must meet in order for their payments to be eligible for clearing through the CPA's systems.

Some of the key elements include:

- ✓ It will be up to individual financial institutions members of the CPA and/or third parties to develop the actual payment services.
- ✓ Once the consumer makes a purchase at an online merchant's website, the consumer will be asked to identify his/her financial institution and will be securely transferred to that financial institution's website.
- ✓ The consumer's financial institution will authenticate the consumer and obtain authorization for the transaction. The financial institution then notifies the merchant and the consumer, via the CPA service, that the transaction was approved or declined, as the case may be.
- ✓ If authorized, the financial institution will send the funds to the merchant's financial institution who would then credit the merchant. (A merchant may use a third party acquirer to process payments, but this would be outside of the framework).
- ✓ Online payments must be in electronic form only.
- ✓ The framework also allocates responsibilities in the online payment transaction as between the parties thereto.
- ✓ Acquirers will be required to register their merchants with the online payments service and to ensure that they meet the requirements of the service, including security and audit requirements.

Interested parties may obtain the CPA's Online Payment Framework at www.cdnpay.ca. Comments must be submitted by August 6, 2004.

If you would require assistance on how the CPA's Online Payment Framework will affect your organization, please call Libby Gillman at 416.418.7204 or contact her at libbyg@lawgill.com

OSFI and FINTRAC Join Forces to Combat Money Laundering and Terrorist Financing

The Office of the Superintendent of Financial Institutions (OSFI) and the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) have signed a memorandum of understanding (MOU) for exchanging information.

Pursuant to *The Public Safety Act, 2002*, as amended, OSFI and FINTRAC may exchange information relating to the compliance by federally regulated financial institutions with the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA). OSFI is the primary regulator of federally chartered financial institutions and federally administered pension plans. OSFI's mission is to protect the rights and interests of stakeholders, including depositors and policyholders, and to advance and administer a regulatory framework that contributes to public confidence in the financial services system.

FINTRAC is an independent agency responsible for the collection, analysis, and disclosure of financial intelligence in order to assist in the detection, prevention, and deterrence of money laundering and terrorist financing in Canada and abroad.

FINTRAC will provide a broad range of information to OSFI that will help facilitate its risk assessment of financial institutions subject to PCMLTFA. OSFI will provide FINTRAC with the results of its assessments of financial institutions' compliance with anti-money laundering and anti-terrorist financing measures.

Revised Draft OSFI *Guideline B-8* on Deterring and Detecting Money Laundering and Terrorist Financing

Revised *Draft Guideline B-8*, released by OSFI in July, 2004, identifies some of the steps that federally regulated financial institutions should take to assist them to comply with the various legal requirements relating to deterring and detecting money laundering and terrorist financing activities.

This Guideline underlines the importance of reducing the risk that facilitating money laundering and terrorist financing activities poses to a financial institution's reputation and operations. It makes clear that a financial institution's management and Board of Directors are responsible for deterring and detecting money laundering and terrorist financing activities and for ensuring that effective policies and procedures are in place and are being adhered to, as intended. Financial institutions should be able to demonstrate, on request, that they have developed and implemented policies and procedures consistent with this Guideline.

If you would require assistance on how the Revised Draft Guideline B-8 will affect your organization, please call Libby Gillman at 416.418.7204 or contact her at libbyg@lawgill.com

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