

STATUTORY INSTRUMENT

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NATIONAL PAYMENT SYSTEM OVERSIGHT REGULATIONS, 2022

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NATIONAL PAYMENT SYSTEMS OVERSIGHT
REGULATIONS, 2022

Short title

IN EXERCISE of the powers conferred upon it by section 40 of the National Payment Systems Act, 2022 the Bank of Sierra Leone hereby makes these Regulations

Commencement

PART I—PRELIMINARY

(1) These Regulations are issued with the purpose of ensuring the safety, reliability and efficiency of the National Payments System of the country, and the protection of users of Payment Services and Payment Instruments.

Scope

(2) This shall define:

- (i) the conditions, requirements and procedures under which: a) Providers of Payment Services, b) Operators of Payment Systems, and c) Providers of Electronic Money instruments are licensed,
- (ii) the terms and standards under which Payment Services may be provided and Payment Systems may be operated, once licensed, and

- (iii) the means and procedures under which the Central Bank shall exercise its oversight powers, in particular when performing control and audit procedures.

Definition of
Terms

2. (1) In these Regulations, unless the context otherwise requires, definitions as provided in the National Payment Systems Act, 2022 shall apply.

(2) In addition:

- (a) "Account servicing Payment Service Provider" means a Payment Service Provider providing and maintaining a Payment Account for a Payer;
- (b) "Merchant" means an individual or entity that contracts with an Acquirer for accepting payment for goods and services by means of Payment Instruments;
- (c) "Payment Account" means an account held in the name of one or more Payment Service Users which is used for the execution of Payment Transactions;
- (d) "Payment Service User" means a person making use of a Payment Service in the capacity of Payer, Payee, or both;
- (e) "Payer" means a person who holds a Payment Account and allows a payment order from that Payment Account, or, where there is no Payment Account, a person who gives a payment order;

- (f) "Payee" means a person who is the intended recipient of funds which have been the subject of a Payment Transaction;
- (g) "Person" means a natural or legal person;
- (h) "Personalized security credentials" means personalized features provided by the Payment Service Provider to a Payment Service User for the purposes of authentication;
- (i) "Scheme" means the agreement concerning a Payment Instrument to which the Acquirer adheres to permit the Merchant to accept such Payment Instrument for payment of goods and/or services, containing legal obligations of stakeholders, as well as operational and organizational rules;
- (j) "Sensitive payment data" means data, including personalized security credentials which can be used to carry out fraud. For the activities of PIS Providers and Account information service providers, the name of the account owner and the account number do not constitute sensitive payment data.

PART II - LICENSING

CHAPTER II - OPERATION OF SYSTEMS

3. (1) No person shall operate a Payment System, also partially operating in Sierra Leone, without having obtained a prior licence by the Central Bank under the conditions set forth by the National Payment System Act, 2022 and these Regulations. Principle of licensing

(2) In order to operate a System, the following conditions shall be satisfied:

- (a) The Operator of the System is registered as a joint stock company in Sierra Leone.
- (b) The Operator of the System has a paid in capital as may be determined by the Central Bank, this minimum sum to consist of financial deposits. These amounts are subject to change with appropriate notification from the Central Bank.
- (c) The Operator of the System has suitable and sufficient technical as well as organizational skills to operate the System, including the proper mechanisms to achieve internal control and risk management as related to the operation of the System.
- (d) The Operator of the System has a valid strategy and business plan supported by realistic estimations for the budget's elements and the income list for five years.
- (e) The persons proposed as members of the management body and the Operator are professionally qualified and persons of probity.
- (f) Access criteria are safe and non discriminatory.
- (g) The liquidity of the settlement of orders accepted by the System is guaranteed, and this is protected from credit risk;
- (h) The System has satisfactory means of protection from technical breakdowns, and
- (i) Any other conditions deemed as necessary by the Central Bank.

- (a) Description of the organization of the System and its business rationale.
- (b) Signed memorandum of agreement and articles of association for the company formed to operate the System and details on the ownership and governance of such company.
- (c) Business Plan for the following five years.
- (d) Description of policies and/or procedures of the System, including: i) the criteria established for direct and indirect participation in the System, ii) the principle of operation of the System (real time, net, etc.), iii) the draft rules or rules of the System and service levels to be provided to the Participants, iv) an analysis of the risk and measures to limit risks in the System arising from illiquidity or insolvency of Participants in such Systems including capacity to manage risk, v) the measures employed to safeguard technical operations, including a contingency plan in the event of any operational disruption should the ordinary system fail to function, vi) the measures taken to secure the protection of electronic processing and the storage of data relating to the system of payments against disclosure, misuse, damage, destruction, loss or theft.
- (e) Details of the internal audit function including structure, scope, reporting lines and the regularity of reporting.
- (f) Overview of the information technology functions, including scope, structure and reporting lines with an attached organizational chart.

- (g) Human resources plan to ensure adequate resources to the operation of the System.

Licensing
Procedure

5. (1) Unless otherwise provided in any implementing measure of these Regulations, the licensing procedures shall be as follows:

- (a) An application for the granting of a licence or the change of a licence shall be submitted in writing to the Central Bank.
- (b) Upon submission, the applicant shall be required to pay a fee set by the Central Bank with the completed application. The said fee is not refundable should the application not be approved.
- (c) The Central Bank shall have the opportunity to make requests for clarification and supplementary information as necessary in the process of evaluation within ninety (90) days from reception.
- (d) The Central Bank shall provide a response in writing to the applicant either granting approval or rejection within ninety (90) [working] days of receipt of a completed application. However, if an application is submitted that is not complete, the applicant shall have a period of ninety (90) days to make it complete or the application will be dismissed.
- (e) In the event of a decision to deny granting an applicant a licence, the applicant shall be informed in writing by the Central Bank of the reasons for the rejection. The applicant shall be able to appeal and resubmit the application.

- (f) In issuing an approval, the Central Bank can make it conditional upon a number of requirements and conditions.
- (g) A licence shall be granted for an [unlimited] period of time and shall not be transferred to any other person, or assigned to a legal successor.

6. (1) The Central Bank may decide to withdraw the licence granted to an Operator at any time if: Withdrawal of the Licence

- (a) the Operator has not commenced to operate the System within 12 months of the date on which the licence was granted to them,
- (b) the Operator has ceased operating the System for a period of more than [one] week, without having informed the Central Bank;
- (c) the Operator has obtained the approval of the Central Bank through incorrect statements or any other irregular means,
- (d) the applicable licensing criteria are no longer met,
- (e) the operation of the System endangers the stability of the payment or financial system in Sierra Leone,
- (f) the company owning or operating the System enters into insolvency proceedings,
- (g) the operator of the system is required to suspend service under any other law;
- (h) if in the opinion of the Central Bank, the System is no longer in public interest or the System no longer represents the interest of the Participants.

(2) The Central Bank may decide to previously suspend instead of immediately withdrawing a licence, if it considers proper to do so.

(3) The Central Bank shall, immediately after its decision on the withdrawal or suspension of the licence, notify its decision to the Operator.

(4) The Central Bank shall, immediately after the withdrawal or suspension of the license, publish a notice in such manner as it deems appropriate.

Licence
expiry

7. (1) A licence shall expire as of the date:

- (a) on which it is withdrawn,
- (b) on which the Operator is dissolved, for a reason other than the withdrawal of a licence.

Authority to
Impose
Conditions

8. (1) The Central Bank shall, by notice in writing, impose on a Participant, an Operator or a Settlement Agent such conditions or restrictions as the Central Bank may see fit, in respect of any of one or more of the following:

- (a) the conditions to be met by any person in order to have access or to become a Participant of the Payment System;
- (b) the operation of the System, including the clearing and settlement arrangements to be followed;
- (c) the interaction of the System with other Systems;
- (d) the relationship of the System with its Participants;

- (e) the appropriate actions to be taken by the Participant or class of Participants, or the Operator or the Settlement Agent, in relation to its business;
- (f) the appointment of a person approved by the Bank to advise the Participant or class of Participants, or the Operator or the Settlement Agent, on the proper conduct of its business;
- (g) netting arrangements;
- (h) risk sharing and risk control mechanisms;
- (i) certainty of settlement and finality of payment;
- (j) the nature of financial arrangements among Participants;
- (k) the operational systems and financial soundness of the Clearing House; such other matters that in the view of the Central Bank pertain to a risk to the financial system;
- (l) the conditions that will apply if any function of the Operator or the Settlement Agent is outsourced; and
- (m) such other matters as the Central Bank may consider necessary or expedient or in the interests of the public or a sector of the public.

(2) The Central Bank shall, at any time, by notice* in writing to a Participant, an Operator or a Settlement Agent, vary any condition or restriction as the Central Bank may see fit.

(3) The Central Bank shall, prior to issuing any written direction under this Section, consult the person to whom it is directed [, and shall also consult any interested persons with respect to the content and the effect of such measure].

(4) The Central Bank shall by a written direction specify that the Operator of a System or a Participant in such a System shall, within such time as the Central Bank considers necessary

- (a) cease or refrain from engaging in an act or course of conduct;
- (b) perform such acts as in the opinion of the Central Bank are necessary in the public interest; or
- (c) make, amend or repeal a payment system rule.

(5) Every direction issued under this Section shall be communicated to the person to whom it is directed and shall come into operation from the date of its issue. A direction is binding on the person to whom it is directed.

(6) As soon as is practicable after implementing a direction and completing any actions required to be taken in connection with it, the person to whom it is given shall notify the Central Bank that the direction has been implemented and the action completed.

9. (1) The Central Bank has the authority to approve the chief executive officer and directors of a Payment System Operator prior to the granting of the licence to operate a system in Sierra Leone.

(2) The Central Bank has the authority to reject a proposal for a chief executive officer or director for a System Operator based on a determination of insufficient or inappropriate experience, personal bankruptcy, conviction of an offense involving fraud or dishonesty or imprisonment of more than 3 months.

(3) The Central Bank shall request the removal of a chief executive or director where such chief executive or director has without reasonable justification failed to uphold regulations issued by the Central Bank, experienced a personal bankruptcy, has been convicted of an offense involving dishonesty or fraud or imprisonment of more than three months. The Central Bank shall submit this in writing to the operator and allow the individual to be heard.

CHAPTER III - PROVISION OF PAYMENT SERVICES

10. (1) No person other than a duly licensed Bank or Financial Institution authorized to do so, shall provide Payment Services without having obtained a prior licence by the Central Bank under the conditions set forth by the National Payment Systems Act, 2022 and these Regulations. Principle of licensing

(2) In order to provide a Payment Service, the following conditions shall be satisfied:

- (a) To dispose on an initial capital as may be determined by the Central Bank.
- (b) To safeguard funds which have been received from Payment Service users or through another Payment Service Provider for the execution of payment transactions, by not making them commingled at any time with the funds of third parties and making them insulated against the claims of other creditors of the service provider, in particular in the event of insolvency.
- (c) To have robust governance arrangements for its payment services business, which include a clear organizational structure with well-defined, transparent and consistent lines of responsibility, effective procedure to identify, manage, monitor and report the risks to which

it is or might be exposed, and adequate internal control mechanisms, including sound administrative and accounting procedures; those arrangements, procedures and mechanisms shall be comprehensive and proportionate to the nature, scale and complexity of the payment services provided.

Application
for a licence

11. (1) The Applicant for a licence shall provide the following information:

- (a) A program of operations, setting out in particular the type of Payment Services envisaged.
- (b) A business plan including a forecast budget calculation for the first three financial years which demonstrates that the applicant is able to employ the appropriate and proportionate systems, resources and procedures to operate soundly.
- (c) A description of the measures taken for safeguarding Payment Service users' funds.
- (d) A description of the applicant's governance arrangements and internal control mechanisms, including administrative, risk management and accounting procedures, which demonstrates that these governance arrangements, control mechanisms and procedures are proportionate, sound and adequate.
- (e) A description of the internal control mechanisms which the applicant has established in order to comply with obligations in relation to money laundering and terrorist financing.

- (f) A description of the applicant's structural organization, including, where applicable, a description of the intended use of agents and branches and a description of outsourcing arrangements, and of its participation in a national or international Payment System.
- (g) The identity of persons holding in the applicant, directly or indirectly, qualifying holdings.
- (h) The identity of directors and persons responsible for the management of the entity providing services, and, where relevant, persons responsible for the management of the specific payment service activities
- (i) The applicant's legal status and articles of association.

12. (1) Unless otherwise provided in any implementing measure of these Regulations, the licensing procedures shall be as follows:

Licensing Procedure

- (a) An application for the granting of a licence or the change of a licence shall be submitted in writing to the Central Bank.
- (b) Upon submission, the applicant shall be required to pay a fee set by the Central Bank with the completed application. The said fee is not refundable should the application not be approved.
- (c) The Central Bank shall have the opportunity to make requests for clarification and supplementary information as necessary in the process of evaluation within ninety (90) days from reception.

- (d) The Central Bank shall provide a response in writing to the applicant either granting approval or rejection within ninety (90) working days of receipt of a completed application. However, if an application is submitted that is not complete, the applicant shall have a period of ninety (90) days to make it complete or the application will be dismissed.
- (e) In the event of a decision to deny granting an applicant a licence, the applicant will be informed in writing by the Central Bank of the reasons for the rejection. The applicant shall be able to appeal and resubmit the application.
- (f) In issuing an approval, the Central Bank can make it conditional upon a number of requirements and conditions.
- (g) A licence shall be granted for an [unlimited] period of time and shall not be transferred to any other person, or assigned to a legal successor.

Licence
revocation

13. (1) The Central Bank shall have the authority to withdraw a licence when:

- (a) The licence was issued on the basis of false or forged information.
- (b) The service is not operational within [a year/ six months] from the date of obtainment of the licence.
- (c) Bankruptcy, liquidation, or change of activity for the provider of the service.

- (d) Impediment to two (2) consecutive supervision and oversight inspections.
- (e) Non-compliance with the laws preventing monopoly and protecting competition in Sierra Leone.
- (f) Major deficiencies are found in the provision of the services.

(2) The reason(s) for the decision to withdraw a licence and the date of the withdrawal shall be delivered by the Central Bank to the provider of the service before its entry into force.

(3) The Central Bank shall announce the withdrawal of the licence by means of circular and by posting it into its website.

(4) The Central Bank may decide to previously suspend instead of immediately withdrawing a licence, if it considers proper to do so.

14. (1) A licence shall expire as of the date:

Licence
expiry

- (a) on which it is withdrawn,
- (b) on which the service provider is dissolved, for a reason other than the withdrawal of a licence.

15. (1) The Central Bank shall, by notice in writing, impose on a services provider such conditions or restrictions as the Central Bank may see fit, in respect of any of one or more of the following:

Authority to
impose
conditions

- (a) Protection of funds received from users;
- (b) Use of agents;
- (c) Outsourcing of activities;

- (d) Issuance and management of specific Payment Instruments;
- (e) such other matters as the Central Bank may consider necessary or expedient or in the interests of the public or a section of the public.

Standards for
Payment
Initiation
Services and
Account
Information
Services

16. (1) The Central Bank shall set specific standards for Payment Service Providers not directly providing financial services, and in particular not holding customers' funds, such as PIS Providers and Account Information Service Providers.

(2) In particular, such providers shall not be required to hold initial capital, unless deemed necessary by the Central Bank for any specific reason linked to the kind of activity performed.

(3) In the light of the activities provided, such providers are also not subject to AML/CFT legislation, nor to the duty to undertake measures for safeguarding payment service users' funds.

(4) Such providers shall on the opposite be submitted at a minimum to all measures as for management of IT risk and guarantee of business continuity, as well as the respect of data protection legislation.

CHAPTER IV - PROVISION OF ELECTRONIC MONEY

Principle of
licensing

17. (1) No person, other than a Bank may issue Electronic Money without having obtained a licence from the Central Bank.

(2) Applicants for a licence shall provide the information and follow procedures as specified in Sections 11 and 12 respectively, of these Regulations.

18. (1) Notwithstanding what is established in Section 17, the Central Bank may at any time:

Authority to impose further conditions and requirements

- (a) impose such terms and conditions as it sees fit on any person licensed to provide Electronic Money;
- (b) issue directions, to persons licensed to provide Electronic Money as the Central Bank sees fit;
- (c) revoke a licence to provide Electronic Money if the person (i) fails to meet the prescribed requirements or criteria; or (ii) is in breach of any terms and conditions imposed or directions including compliance directions issued by the Central Bank.

(2) The provision of Electronic Money shall not include the provision of credit.

(3) Electronic Money shall be issued in exchange for the equivalent of Central Bank money.

(4) Electronic Money providers shall be required to submit statistics on Electronic Money loaded and redeemed values in their periodic financial statements. The scheme shall also provide sufficient and reliable information to monitor and control the quantity and velocity of Electronic Money supply in the economy.

(5) The scheme shall facilitate provision of final settlement not more than twenty-four hours after a payment instruction has been initiated in the banking system.

(6) Issuers shall be obliged to redeem Electronic Money value in central bank money, at par, upon request. The management of the underlying float and redemption of Electronic Money value by the issuer to the holder shall be clearly defined.

PART III - OVERSIGHT CHAPTER V - OVERSIGHT

General
Provisions on
execution of
Oversight

19. (1) The Payment Services provided and the Systems operated pursuant to these Regulations, including the Operators of Systems and Participants therein, as well as any third parties to which part of services have been outsourced, shall be subject to oversight by the Central Bank.

(2) Persons undertaking oversight on behalf of the Central Bank shall not be liable toward third persons for the consequences of the performance of their functions.

(3) The Provider of Payment Services, the Operator of a System, Participants and other persons who are subject to oversight shall be obligated to permit it, to refrain from acts that could inhibit its conduct and to provide all information and co-operation stipulated by these Regulations or required for the conduct of the oversight by the Central Bank or persons authorized by this to oversee Payment Services and/or Systems.

(4) The Central Bank shall co-operate with bodies in other countries for oversight of Payment Systems and Payment Services. The Central Bank shall have the right to exchange information with such bodies and persons and to notify them regarding deficiencies found during their oversight activities.

(5) If the Central Bank discovers facts during its oversight indicating that criminal acts have been committed it shall notify the relevant body regarding criminal proceedings of this fact without unreasonable delay.

Access to
Information

20. (1) The Central Bank shall request that Payment Services Providers, any Participant, Operator or other person acting on behalf of the Service Provider or Operator or Settlement Agent to provide the Central Bank within the period specified in a notice, all such information as may be required by the Central Bank.

(2) Obligations for period reporting and other information requirements to be provided on a regular basis shall be established by the Central Bank and made public.

(3) The Central Bank shall prepare and publish consolidated statements aggregating any information provided under these Regulations for statistical purposes, statements that relate to or are derived from any information provided under these Regulations.

21. (1) The Central Bank shall have the authority to inspect the premises of a Payment System Operator or a Service Provider as part of the licensing process and on a periodic basis as part of an inspection regime. This may be performed with or without a written request.

Authority to
Perform
Inspection

(2) At such time, the Central Bank has the authority to inspect and retain any books, premises, equipment, (or interview staff) or other items as deemed necessary for the purpose of ensuring its compliance with the Central Bank regulations.

22. (1) Persons authorized to oversee Payment Services and Systems shall be obligated to respect professional confidentiality regarding facts acquired during such functions. On the basis of information acquired by oversight activities, the Central Bank may provide information summaries to a third person, in which the specific Payment System or Service and the specific person shall not be identified.

Obligation of
Confidentiality
of
Information

(2) Information acquired during oversight shall only be used by authorized persons in the fulfillment of their job responsibilities and in legal proceedings regarding an action against a decision issued by the Central Bank as regards Payment Services and/or Systems oversight or in a similar proceeding before a Court.

(3) The Central Bank shall be authorized to provide to an oversight body of another country information acquired during the oversight process. Other bodies and persons may only be provided with information under the condition that such bodies and persons

have an obligation to protect the information and to respect confidentiality. Information provided shall only be used for the specific purpose or for the proceeding for which this information was made available. Information supplied to another country shall only be in summary or aggregate form. No transaction details shall be disclosed unless the affected participants and operator have been notified.

(4) The Central Bank shall be equally authorized to request all relevant information it might need for its oversight activities from oversight bodies of other countries, according to any cooperation agreement or the like as established under Section 18(4) of these Regulations.

CHAPTER VI - USE AND MANAGEMENT OF PAYMENT INSTRUMENTS

Obligations of the Payment Service Provider in relation to Payment Instruments

23. (1) The Payment Service Provider issuing a Payment Instrument shall:

- (a) ensure that the Personalized security credentials are not accessible to parties other than the Payment Service User that is entitled to use the Payment Instrument;
- (b) refrain from sending an unsolicited Payment Instrument, except where a Payment Instrument already given to the Payment Service User is to be replaced;
- (c) ensure that appropriate means are available at all times to enable the Payment Service User to make a notification pursuant to Section 25 or to request unblocking of the Payment Instrument; on request, the Payment Service Provider shall provide the Payment Service User with the means to prove, for 18 months after notification, that the Payment Service User made such a notification;

- (d) prevent all use of the Payment Instrument once notification pursuant to point (b) of Section 25 has been made.

(2) The Payment Service Provider shall bear the risk of sending a Payment Instrument or any Personalized security credentials relating to it to the Payment Service User.

24. (1) The Payment Service User entitled to use a Payment Instrument shall:

- (a) use the Payment Instrument in accordance with the terms governing the issue and use of the Payment Instrument, which shall be objective, non-discriminatory and proportionate;
- (b) notify the Payment Service Provider, without undue delay on becoming aware of the loss, theft, misappropriation or unauthorized use of the Payment Instrument.

(2) For the purposes of point (a) of sub-section 1, the Payment Service User shall, in particular, as soon as in receipt of a Payment Instrument, take all reasonable steps to keep its Personalized security credentials safe.

25. (1) The Payment Service User shall obtain rectification of an unauthorized or incorrectly executed Payment Transaction from the Payment Service Provider only if the Payment Service User notifies the Payment Service Provider without undue delay on becoming aware of any such transaction giving rise to a claim, and no later than [3 months] after the debit date.

(2) Where a PIS Provider is involved, the Payment Service User shall obtain rectification from the Account servicing payment service provider pursuant to sub-section 1 of this Section.

Obligations of the Payment Service User in relation to Payment Instruments and Personalized security credentials

Notification and rectification of unauthorized or incorrectly executed Payment Transactions

Evidence on authentication and execution of payment transactions

26. (1) Where a Payment Service User denies having authorized an executed Payment Transaction or claims that the Payment Transaction was not correctly executed, it is for the Payment Service Provider to prove that the Payment Transaction was authenticated, accurately recorded, entered in the accounts and not affected by a technical breakdown or some other deficiency of the service provided by the Payment Service Provider.

(2) If the Payment Transaction is initiated through a PIS Provider, the burden shall be on the PIS Provider to prove that within its sphere of competence, the Payment Transaction was authenticated, accurately recorded and not affected by a technical breakdown or other deficiency linked to the payment service of which it is in charge.

Dispute resolution

27. (1) Payment Service Providers shall put in place and apply adequate and effective complaint resolution procedures for the settlement of complaints of Payment Service Users concerning the rights and obligations arising in the provision of their services and shall monitor their performance in that regard.

(2) Payment Service Providers shall make every possible effort to reply, on paper or, if agreed between Payment Service Provider and Payment Service User, on another durable medium, to the Payment Service Users' complaints. Such a reply shall address all points raised, within an adequate timeframe and at the latest within 15 business days of receipt of the complaint. In exceptional situations, if the answer cannot be given within 15 business days for reasons beyond the control of the Payment Service Provider, it shall be required to send a holding reply, clearly indicating the reasons for a delay in answering to the complaint and specifying the deadline by which the Payment Service User will receive the final reply. In any event, the deadline for receiving the final reply shall not exceed 35 business days.

CHAPTER VII - MARKET BEHAVIOUR

28. (1) In conformity with Section 12 of the National Payment Systems Act, 2022 and in order to ensure consistency of behaviors with provisions thereby established, the Central Bank may impose an access regime in respect of a Payment System on the person who determines access to the System, regardless of whether this is a Participant, an Operator or a Settlement Agent, on such terms and conditions as the Central Bank may consider appropriate.

Access
Regime to
Systems

(2) In considering whether to impose an access regime under sub-section (1), the Central Bank shall take into consideration the following:

- (a) whether the imposition of the access regime in respect of the System would be in the public interest
- (b) the interests of the current Participants, Operator and Settlement Agent;
- (c) the interests of persons who, in the future, may require or desire access to the System; and
- (d) such other matters as the Central Bank may consider to be relevant.

(3) The Central Bank, in imposing an access regime under sub-section (1), shall ensure that the access regime is fair and not discriminatory.

(4) The Central Bank shall have the authority to make variations to the access regime based on assessment of the aforementioned items as stated in sub-section (2).

(5) The Central Bank shall have the authority to revoke an access regime based on assessment of the aforementioned items as stated in sub-section (2)

Access to
Payment
Accounts
maintained
with a Bank

29. (1) Payment Service Providers shall have access to Banks' payment accounts services on an objective, non-discriminatory and proportionate basis. Such access shall be sufficiently extensive as to allow Payment Service Providers to provide Payment Services in an unhindered and efficient manner.

(2) The Bank shall provide the Central Bank with duly motivated reasons for any rejection.

Access to
payment
account in
the case of
Payment
Initiation
Services

30. (1) A Payer shall have the right to make use of a PIS Provider to obtain Payment Services. The right to make use of a PIS Provider shall not apply where the Payment Account is not accessible online.

(2) When the Payer gives its explicit consent for a payment to be executed, the Account servicing Payment Service Provider shall perform the actions specified in sub-section 4 of this Section in order to ensure the Payer's right to use the Payment Initiation Service (PIS).

(3) The PIS provider shall:

- (a) not hold at any time the Payer's funds in connection with the provision of the Payment Initiation Service;
- (b) ensure that the personalized security credentials of the Payment Service User are not, with the exception of the user and the issuer of the personalized security credentials, accessible to other parties and that they are transmitted by the PIS Provider through safe and efficient channels;
- (c) ensure that any other information about the Payment Service User, obtained when providing Payment Initiation Services, is only provided to the Payee and only with the Payment Service User's explicit consent;

- (d) every time a payment is initiated, identify itself towards the Account servicing Payment Service Provider of the Payer and communicate with the Account servicing Payment Service Provider, the Payer and the Payee in a secure way;
- (e) not store sensitive payment data of the Payment Service User;
- (f) not request from the Payment Service User any data other than those necessary to provide the Payment Initiation Service;
- (g) not use, access or store any data for purposes other than for the provision of the PIS as explicitly requested by the Payer;
- (h) not modify the amount, the Payee or any other feature of the transaction.

- (4) The Account servicing Payment Service Provider shall:
- (a) communicate securely with PIS Providers;
 - (b) immediately after receipt of the payment order from a PIS Provider, provide or make available all information on the initiation of the Payment Transaction and all information accessible to the Account servicing Payment Service Provider regarding the execution of the Payment Transaction to the PIS Provider;
 - (c) treat payment orders transmitted through the services of a PIS Provider without any discrimination other than for objective reasons, in particular in terms of timing, priority or charges vis-à-vis payment orders transmitted directly by the Payer.

(5) The provision of Payment Initiation Services shall not be dependent on the existence of a contractual relationship between the PIS Providers and the Account servicing Payment Service Providers for that purpose.

Rules on access to and use of Payment Account information in the case of Account information services

31. (1) A Payment Service User shall have the right to make use of services enabling access to account information. That right shall not apply where the Payment Account is not accessible online.

(2) The Account information service provider shall:

- (a) provide services only where based on the Payment Service User's explicit consent;
- (b) ensure that the personalized security credentials of the Payment Service User are not, with the exception of the user and the issuer of the personalized security credentials, accessible to other parties and that when they are transmitted by the Account information service provider, this is done through safe and efficient channels;
- (c) for each communication session, identify itself towards the Account servicing payment service provider(s) of the Payment Service User and securely communicate with the Account servicing payment service provider(s) and the Payment Service User;
- (d) access only the information from designated Payment Accounts and associated Payment Transactions;
- (e) not request sensitive payment data linked to the Payment Accounts;

- (f) not use, access or store any data for purposes other than for performing the Account information service explicitly requested by the Payment Service User, in accordance with data protection rules.

(3) In relation to Payment Accounts, the Account servicing payment service provider shall:

- (a) communicate securely with the Account information service providers; and
- (b) treat data requests transmitted through the services of an Account information service provider without any discrimination for other than objective reasons.

(4) The provision of account information services shall not be dependent on the existence of a contractual relationship between the Account information service providers and the Account servicing payment service providers for that purpose.

PART IV - FINAL PROVISIONS

CHAPTER VII - FINAL PROVISIONS AND IMPLEMENTING MEASURES

32. (1) The Central Bank may, where it has reasonable grounds to believe that a System or arrangement exists for the clearing and settlement of payment obligations or settlement of securities, request a person who is a party to the System or arrangement to provide it with further information, records and documents relating to the system or arrangement as the Central Bank may require, in order to make a determination on the existence of a System covered by these Regulations.

Central Bank
Role and
Authority to
Determine
Actual
Existence of a
System or
Service

(2) The Central Bank may, where it has reasonable grounds to believe that a Payment Service is provided, request a person who is allegedly providing such service to provide it with further information, records and documents relating to the performed activities as the Central Bank may require, in order to make a determination on the existence of a service covered by these Regulations.

(3) Every person who is required under sub-sections (1) and (2) to provide information, records and documents shall comply with such requests.

Remedies

33. (1) Any person who:

- (a) Exercises one of the activities covered by these Regulations without having a licence by the Central Bank;
- (b) continues to do so after his licence is revoked; or
- (c) is in breach of any terms and conditions imposed by the Central Bank,

is subject to remedies as regulated by the National Payment Systems Act, 2022.

Implementing measures

34. (1) The Central Bank shall issue all relevant circulars, instructions or other available measures to implement these Regulations.

Settlement

35. (1) Settlement of transactions executed in the country shall occur in Central Bank money.

(2) The Central Bank shall ensure access to its RTGS to any payment system in the country under adequate conditions for risk mitigation to permit Central Bank money's settlement.

Issue of cheques against insufficient funds

36. (1) Any person who knowingly draws or issues a cheque or other payment instrument against which there are insufficient funds in his account at a financial institution on which the cheque or other payment instrument is drawn commits an offence and shall on conviction be liable to a fine pursuant to section 37(1) of the National Payment Systems Act 2022.

(2) The fact that the cheque or other payment instrument is returned unpaid with the words "insufficient funds" or other words to that effect shall be prima facie evidence that the drawer had insufficient funds in the account against which the cheque or other payment instrument was drawn.

Effective date

37. (1) These Regulations shall become effective on the date of its publication in the Gazette.