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General Notice

BANK OF NAMIBIA

No. 341

2022

DETERMINATION UNDER THE PAYMENT SYSTEM MANAGEMENT ACT, 2003 (ACT NO. 18 OF 2003), AS AMENDED

In my capacity as Governor of the Bank of Namibia (the Bank), and under the powers vested in the Bank under Section 14 of the Payment System Management Act, 2003 (Act No. 18 of 2003), as amended, I hereby issue this **Determination on the Conduct of Card Transactions within the National Payment System (PSD-4)**. This Determination becomes effective on the date of publication in the Government Gazette.

J. !GAWAXAB
GOVERNOR
BANK OF NAMIBIA

Windhoek, 7 July 2022

National Payment System Determination (PSD-4)
DETERMINATION ON THE CONDUCT OF CARD TRANSACTIONS WITHIN
THE NATIONAL PAYMENT SYSTEM

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PART I: PRELIMINARY

1. **Short Title** – The Conduct of Card Transactions.
2. **Application** – This Determination shall apply to persons engaged in the processing of card transactions in Namibia.
3. **Definitions** – In this Determination, unless the context otherwise indicates, the words and expressions used herein shall have the same meaning assigned to them in the Payment System Management Act, 2003 (Act No. 18 of 2003), as amended, and cognate expressions shall have corresponding meanings:
 - 3.1. “**Act**” means the Payment System Management Act, 2003 (Act No. 18 of 2003), as amended.

- 3.2. **“Acquirer”** means a financial institution that processes interoperable payment card transactions and/or contracts with a merchant to accept and process card transactions from other card issuers.
- 3.3. **“ATMs”** means domestic Automated Teller Machines.
- 3.4. **“Card present transaction”** means a transaction whereby the cardholder physically interacts with a payment channel using his or her card. This can include swiping a card with a magnetic stripe, inserting a card with an EMV chip, or tapping a card at a POS device. For a transaction to qualify as a card present transaction, the merchant’s device must capture electronic data stored on the card.
- 3.5. **“Card-not-present” or “CNP transaction”** means a card transaction on a digital payment channel where the cardholder does not or cannot physically present a card to a merchant when making a purchase. All electronic commerce and mobile commerce transactions are card-not-present transactions as they do not require the interaction of a payment card with a physical payment channel at point of sale.
- 3.6. **“Clearing”** means the transfer of financial information between the card issuer and the acquirer through a card scheme or payment switch for the purpose of settlement.
- 3.7. **“Closed loop card system”** means a system designed to only accept payment cards issued by the payment instrument issuer that owns the system.
- 3.8. **“Cross-border acquiring”** means a process where a foreign acquirer accepts or acquires domestic card transactions or provides domestic merchants with acquiring services.
- 3.9. **“Domestic card transaction”** means a transaction performed in Namibia using a payment card issued by a Namibian card issuer and acquired by a domestic acquirer.
- 3.10. **“Digital payment channels”** means online commerce websites, mobile commerce applications and other electronic devices that accept card-not-present transaction. This excludes physical POS devices and ATMs.
- 3.11. **“Interoperable system”** means a system designed to also accept payment card issued by authorised payment instrument issuers other than the institution that owns the acquiring device.
- 3.12. **“Payment card”** means any card authorised by the Bank as a payment instrument in terms of the Act and the Determination on Issuing of a Payment Instrument in Namibia (PSD-1). This includes payment instruments that are associated or linked to payment card including virtual cards, tokens, etc.
- 3.13. **“Payment instrument issuer or card issuer”** means a licensed bank, non-bank financial institution, or e-money issuer authorised by the Bank to issue payment card.
- 3.14. **“Prepaid cards”** means cards issued by payment instrument issuers, which among others have the following characteristics:
- 3.14.1. Prepaid and reloadable with money at the issuer, agents, or contracted merchants; or
- 3.14.2. Allows for cash withdrawals at the issuer, its agents, or contracted merchants; or

- 3.14.3. Can be acquired by a financial institution other than the issuer; or
- 3.14.4. Allows for purchases at retail merchants POS devices or digital channels;
or
- 3.14.5. Linked to electronic money wallets.

- 3.15. **“Processing or Card Processing”** means transmitting payment card information between merchants, issuers, acquirers, and card schemes for authentication, switching, authorization, clearing and settlement.
 - 3.16. **“Point-of-sale (POS) device”** means a domestic brick-and-mortar device used to process payment card transactions at a merchant’s location.
 - 3.17. **“Regional or international card transaction”** means a transaction performed in Namibia using a payment card issued by a foreign payment instrument issuer and acquired by a domestic acquirer.
 - 3.18. **“Switching”** means receiving payment instructions and routing such instructions to designated destinations.
4. **Authorisation** – Authority for the Bank to issue this Determination is provided in section 14 of the Act.

PART II: STATEMENT OF POLICY

- 5. **Purpose** – This Determination provides for the conduct of card and card related transactions within the Namibian National Payment System.
- 6. **Scope** – This Determination applies to payment card as well as payment channels and streams related to payment card in the Namibian National Payment System. This Determination also applies to card issuers, acquirers, payment service providers, card processors and merchants that are party to domestic card transactions.
- 7. **Position of the Bank** – The Bank remains committed to maintaining an efficient National Payment System through the promotion of digital payment methods. PSD-4 has had a positive impact and led to notable transformations within the National Payment System since it was promulgated in 2012. To ensure PSD-4 remains relevant and accommodative of innovative card payment solutions, the Bank has resolved to revise and enhance the Determination thereby keeping abreast with the dynamics in the card environment and facilitating greater competition in the payment card ecosystem.
- 8. **Application of the Act** – Unless expressly stated otherwise, the provisions of the Act, as well as related Determinations and Directives shall apply to the conduct of card transactions in Namibia.

PART III: IMPLEMENTATION AND SPECIFIC REQUIREMENTS

9. Issuance of Payment Card

- 9.1. Only authorised payment instrument issuers or entities shall issue payment cards in Namibia.
- 9.2. An entity that is not authorised as a payment instrument issuer but is desirous of issuing a payment card must obtain authorisation from the Bank as per PSD-1 or issue a payment card in conjunction with an authorised payment instrument issuer, which relationship must be governed by a written agreement, subject to approval from the Bank.

10. Treatment of Domestic Card Transactions

- 10.1.** All domestic intrabank card transactions must be processed through a domestic financial institution.
- 10.2.** All domestic card transactions must be acquired by a domestic acquirer. The cross-border acquiring of merchants or domestic card transactions by foreign acquirers is prohibited.
- 10.3.** Domestic card transactions at POS devices and ATMs must be processed, cleared, and settled domestically. The cross-border card processing, clearing and settlement of domestic transactions emanating from POS devices and ATMs is prohibited.
- 10.4.** Domestic card transactions including card-not-present at point of sale and at digital payment channels may be processed, cleared, or settled internationally subject to approval from the Bank.
- 10.5.** A request by an acquirer or payment service provider to route domestic card transaction through international or cross-border payment systems in line with paragraph 10.4 should be justified and the associated risks should be mitigated to the satisfaction of the Bank.
- 10.6.** Pursuant to paragraphs 10.4 and 10.5, the Bank may approve the proposed card processing approach subject to the applicant fulfilling the following requirements:
 - 10.6.1.** The applicant has proven that the existing domestic clearing and settlement infrastructure are unable to provide the enabling technical specifications and requirements for processing card transactions performed at digital payment channels.
 - 10.6.2.** The applicant has provided the Bank with a comprehensive submission on how domestic transactions will be processed, cleared, or settled through international card switches or financial institutions.
 - 10.6.3.** The applicant has submitted relevant agreements with supporting documentation affirming the intention of switching domestic card transactions through international card associations or financial institutions.
 - 10.6.4.** The applicant has indicated a reasonable period with reason in which such domestic card transactions will be processed, cleared, or settled internationally.
 - 10.6.5.** The applicant has submitted to the Bank a comprehensive risk assessment on the proposed treatment of domestic card transactions performed at digital payment channels including but not limited to exchange control regulations, data protection controls, pricing, exchange rate exposures, combating money laundering (ML), financing of terrorism (FT), and financing of proliferation (FP), among others.
 - 10.6.6.** The applicant has in place fraud and reporting monitoring tools for the cross-border switching or processing of domestic card transactions.
 - 10.6.7.** The proposed treatment of domestic card transactions at digital channels does not introduce undue risks and is in the interest of the National Payment System and users.
 - 10.6.8.** Any other information that the Bank may require.

- 10.7. The Bank may approve a request to route domestic card transactions through international or cross-border payment systems, provided that all the requirements stipulated under section 10.6 have been fulfilled to the satisfaction of the Bank.

11. **Treatment of Payment Cards in Interoperable and Closed Loop Card Systems**

- 11.1. Interoperable payment systems and card related payment instruments in closed loop card systems authorised by the Bank are hereby subjected to applicable provisions of section 10.
- 11.2. Specific-purpose cards such as store cards, gift cards, membership cards, public transport cards, meal voucher cards and other private cards only used at the location of the issuer in a closed loop system, and not authorised by the Bank as a payment instrument, fall outside the scope of this Determination.

12. **Treatment of Regional and International Card Transactions**

- 12.1. Regional and international card transactions on domestic ATMs, POS devices and digital channels may be switched and processed by domestic card switches, subject to the Bank's approval.
- 12.2. Pursuant to paragraph 12.1, the Bank may approve the domestic switching or processing of international card transactions subject to the applicant fulfilling the following requirements:
- 12.2.1. The applicant has demonstrated to the Bank the technical ability to switch or process regional and international card transactions safely and securely.
- 12.2.2. The applicant has obtained the relevant authorisation or approval from international card associations to serve as a switch, or settlement agent for regional or international card transactions.
- 12.2.3. The applicant has relevant and comprehensive agreements in place with payment service providers, merchants, and other relevant parties to effectively process or switch regional and international card transactions.

PART IV: OTHER REGULATORY REQUIREMENTS

13. **Oversight** – The Bank reserves the right to inspect all records, data, or other relevant information related to the conduct of card transactions to ensure compliance with this Determination.
14. **Remedial Measures** – Failure to comply with this Determination, the Bank may pursue any remedial measure/s as provided under the Act, or any relevant legislation in the interest of ensuring a safe and efficient National Payment System.
15. **Repeal of PSD-4** – This Determination repeals and replaces the Determination on the Conduct of Card Transactions within the National Payment System (PSD-4) published under General Notice No. 448, in the Government Gazette No. 5098 issued on 17 December 2012.
16. **General** – This Determination is not exhaustive and may be supplemented and/or amended from time to time.

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17. **Effective Date** – This Determination becomes effective on the date of publication in the Government Gazette.
18. **Enquiries** – All enquiries related to this Determination should be directed to:

The Director
National Payment System Department
Bank of Namibia
P.O. Box 2882
Windhoek
Namibia
