



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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## General Notice

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### BANK OF NAMIBIA

No. 84

2024

#### DETERMINATION UNDER THE PAYMENT SYSTEM MANAGEMENT ACT, 2023

In my capacity as Governor of the Bank of Namibia (the Bank), and under the powers vested in the Bank by virtue of section 45 of the Payment System Management Act, 2023 (Act No. 14 of 2023), I hereby issue the Determination on the Licensing and Authorisation of Payment Service Providers in Namibia (PSD-1), which Determination shall become effective on 15 February 2024.

**J. !GAWAXAB**  
**GOVERNOR**

# **DETERMINATION ON THE LICENSING AND AUTHORISATION OF PAYMENT SERVICE PROVIDERS IN NAMIBIA**

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**PART I: PRELIMINARY**

1. **Short Title** – Determination on licensing and authorisation of payment service providers in Namibia.
2. **Application** – This Determination will apply to all persons that intend to offer any of the payment services listed in the Schedule of the Payment System Management Act, 2023 (Act No. 14 of 2023) in Namibia.
3. **Definitions** – In this Determination, unless the context indicates otherwise, the words and expressions used herein will have the same meaning assigned to them in the Payment System Management Act, 2023 (Act No. 14 of 2023), and in the Banking Institutions Act, 2023 (Act No. 13 of 2023), as amended, and cognate expressions will have corresponding meanings:

“Act” means the Payment System Management Act, 2023 (Act No. 14 of 2023);

“Administrative penalties” means a penalty determined by the Bank under section 40(1) of the Act;

“Bank” means the Bank of Namibia as referred to in section 2 of the Bank of Namibia Act, 2020 (Act No. 1 of 2020);

“Beneficial owner”, in relation to a share, right or an interest held by any natural person or juristic person in a payment service provider or payment system operator, means –

- (a) a natural person who ultimately owns or effectively controls another person, including the natural person on whose behalf the share, right or interest is held;
- (b) a natural person who ultimately owns or exercises effective control over a juristic person, and a natural person is considered to ultimately own or effectively exercise control over a juristic person when that person –
  - (i) owns or controls, directly or indirectly, including through trusts or bearer shareholding for the payment service provider or payment system operator, 25 percent or more of the shares or voting rights of the payment service provider or payment system operator;
  - (ii) owns or controls, directly or indirectly, including through trusts or bearer shareholding for the payment service provider or payment system operator, 25 percent or more

- of the shares or voting rights of the payment service provider or payment system operator;
- (iii) has the right, directly or indirectly, to appoint or remove the majority of the board of directors of the payment service provider or payment system operator;
  - (iv) has the power to materially influence the decision-making or policy of the payment service provider or payment system operator;
  - (v) despite less than 25 percent shareholding or voting rights, derives economic benefits, including dividends, rights to profit, enjoyment of assets of the payment service provider or payment system operator or is able to use significant assets of the payment service provider or payment system operator, even if the person has no other formal link to the payment service provider or payment system operator;
  - (vi) otherwise exercises control over the management of the payment service provider or payment system operator in his or her capacity as the executive officer, independent non-executive director, director, manager or partner;

“Electronic money” means monetary value as represented by a claim on its issuer, which is –

- (a) stored electronically, magnetically or digitally;
- (b) issued on receipt of funds (legal tender) of an amount equivalent to the monetary value issued;
- (c) accepted as a means of payment by persons other than the issuer; and
- (d) redeemable on demand for cash in Namibia Dollar;

“Electronic money issuer” means a payment service provider licensed or authorised to issue electronic money;

“Payment facilitation services” means the act of holding onto funds when offering payment services which includes switching, transmitting or processing payment instructions (including the delivery to and/or receipt of payment instructions) between system participants and merchants or customers and/or communicating transaction information between merchants, issuing banks, and the acquiring bank, as well as providing infrastructure and platform which allows other payment service providers to offer payment services;

“Payment facilitator” means a payment service provider that offers payment facilitation services;

“Payment instruction” means an order to make a payment or transfer funds;

“Payment instrument” means any device, procedure or a process licensed or authorised by the Bank by which a payment instruction is issued for the purpose of obtaining money, making payments or transferring funds;

“Payment services” means services relating to the facilitation of payment instructions, the issuance and acquiring of payment instruments or electronic money and any other services incidental to

executing payments or transferring of funds, as specified under the Schedule of the Act;  
“Payment service provider” means a person, including a banking institution, licensed under the Act to provide payment services as specified under the Schedule of the Act;

“Regulations” means the Regulations Relating to Fees Payable to the Bank of Namibia: Payment System Management Act, 2023, as published in *Government Gazette* No. 8171, General Notice No. 252 dated 8 August 2023;

“Schedule” means the Schedule in the Act;

“Sponsoring bank” means a banking institution licensed in terms of the Banking Institutions Act, 2023, as amended, which the payment service provider has entered into an agreement with to offer payment services;

“Third-party payment service providers” means a payment service provider that offers payment services which includes the provision of technological services to facilitate switching, routing, acquiring of payment instructions, payment transaction processing and the provision of gateway services at merchant point of sale, electronic commerce platforms including mobile applications and websites, without holding funds;

“user” means any person that uses a payment service in their capacity as a payer or a payee or both; and

“virtual asset” means a digital representation of value –

- (a) that can be digitally transferred, stored or traded;
- (b) that uses a distribution ledger technology or similar technology; and
- (c) can be used for payment or investment purposes,

but does not include digital representations of fiat currencies, and securities or other financial assets regulated under the securities or financial assets law of Namibia.

4. **Authorisation** – Authority for the Bank to issue this Determination is provided for under section 45 read with section 10(2) of the Act.

## PART II: STATEMENT OF POLICY

5. **Purpose** – The purpose of this Determination is to provide the requirements for the licensing and authorisation of payment service providers in Namibia.

6. **The Position of the Bank** – In line with international best practices, the Payment System Management Act, 2023 introduced provisions whereby the National Payment System will be overseen and regulated by a single regulator. The Act further introduces the concept of a single term (payment service providers) in reference to all persons including banking institutions that will be licensed or authorised by the Bank to offer payment services as defined in the Act. Section 10 of the Act provides that a person that intends to offer any of the payment services as set out in the Schedule of the Act must apply to the Bank to be licensed as a payment service provider. It is the Bank’s position that this Determination aims to provide the general and specific requirements for the licensing and authorisation of payment service providers in the National Payment System.

**PART III: IMPLEMENTATION****7. Authorisation to offer payment services by banking institutions**

- 7.1.** A banking institution that has been granted a banking license or a provisional banking license in terms of the Banking Institutions Act, 2023 (Act No. 13 of 2023), as amended, may request for authorisation to offer one or more of the payment services listed in the Schedule.
- 7.2.** A banking institution that is currently not authorised to offer payment services and intends to offer payment services must formally request for authorisation from the Bank.
- 7.3.** Pursuant to 7.2, the formal request must be submitted at least three (3) months in advance to the Bank and must be done in accordance with the Act and the specific requirements of the payment services, as set out in this Determination and/or in any other relevant laws.
- 7.4.** Subject to 7.3, a banking institution who intends to offer a payment service is required to send a letter of intent to the Bank directed to the Director: National Payment System, which states the intention to offer the payment service, accompanied by a business plan/model and schematics of the envisaged payment service.
- 7.5.** Once the request for authorisation has been assessed successfully, the applicant will be granted provisional authorisation accompanied by conditions that should be met within the three (3) months period to obtain full authorisation.
- 7.6.** The Bank may conduct an onsite pre-opening inspection, once the applicant has communicated that it has successfully fulfilled the provisional authorisation conditions, to test the applicant's readiness to offer payment services.
- 7.7.** Once all the conditions have been met, the applicant will be granted full authorisation to offer payment services.
- 7.8.** For purposes of this Determination and as defined in the Act, a banking institution authorised to offer payment services will be referred to as a payment service provider and is required to comply with all general requirements applicable to payment service providers.

**8. Licensing process to offer payment services by non-bank financial institutions**

- 8.1.** A person that intends to offer a payment service as a non-bank financial institution must formally apply to the Bank to be licensed as a payment service provider.
- 8.2.** The application must comply with the relevant requirements to issue that specific payment service as stipulated in the Act, this Determination and/or any other relevant laws.
- 8.3.** The application must specify the category of payment service provider license the applicant intends to obtain.
- 8.4.** A non-bank financial institution may offer payment services listed in the Schedule of the Act, under the following categories:
- (a)** a payment instrument issuer; and/or
  - (b)** a payment facilitator; and/or

- (c) a third-party payment service providers; and/or
  - (d) a virtual assest service provider.
- 8.5.** In pursuant to section 8.4, a non-bank financial institution may only submit one (1) application at a time to the Bank to be licensed as a payment service provider, which application may include the intention to offer one or more payment services.
- 8.6.** An additional application by a non-bank financial institution to be authorised under any of the categories stipulated under section 8.4 should be done after three (3) months from obtaining full authorisation as a payment service provider.
- 8.7.** Subject to 8.1, a person who intends to offer a payment service is required to send a letter of intent to the Bank directed to the Director: National Payment System, which states the intention to offer the payment service, accompanied by a business plan/model and schematics of the envisaged payment service. The business plan should include the following:
  - (a) Name of payment service product;
  - (b) Nature of the business;
  - (c) Features of the scheme, diagrammatic illustration of the system and transaction flows;
  - (d) Security features that will be put in place;
  - (e) Project deployment plan (launching date and location etc.);
  - (f) 3-year financial projection for the company;
  - (g) Transactional charges and other fees that will be borne by the user; and
  - (h) Target market and market penetration strategies.
- 8.8.** The Bank will peruse the submission and respond by either affording a meeting to the applicant to discuss the intention and the way forward or provide guidance on how to submit an application for assessment.
- 8.9.** An initial application to be licensed as a non-banking financial institution must be accompanied by the non-refundable application fee as prescribed in the Regulations.
- 8.10.** Once the application has been assessed successfully, the applicant will be granted provisional approval accompanied by conditions that should be met within a period of six (6) months in order to be licensed as a payment service provider.
- 8.11.** The Bank must conduct an onsite pre-opening inspection, once the applicant has communicated that it has successfully fulfilled the provisional authorisation conditions, to test the applicant's readiness to offer the payment service.
- 8.12.** Once all the conditions have been met and the onsite pre-opening inspection has been successfully finalised, the applicant will be required to pay the license fee as provided by the Bank in the Payment System Notice and then subsequently be licensed as a payment service provider.
- 8.13.** Pursuant to section 8.1 and section 8.4 and in accordance with section 10(4) of the Act, the Bank will specify the category of payment services such a person is licensed to offer and further stipulate the terms and conditions accompanying the license.

**8.14** The Bank will conduct due diligence before renewing the license of a payment service provider.

**9. Authorisation to offer payment services under an additional category**

**9.1.** A payment service provider authorised or licensed to offer payment services in accordance with the categories provided under section 8.4, and who intends to offer payment services under an additional category under that section, must formally request for authorisation from the Bank.

**9.2.** Pursuant to section 9.1, the formal request must be submitted at least three (3) months in advance to the Bank and must be done in accordance with the Act and the specific requirements to offer payment services under that specific category, as set out in this Determination and/or in any other relevant laws.

**9.3.** Subject to section 9.1, a payment service provider who intends to offer a payment service under an additional category is required to send a letter of intent to the Bank directed to the Director: National Payment System, which states the intention to offer a payment service under an additional category, accompanied by a business plan/model and schematics of the envisaged payment service.

**9.4.** An application fee is not required for a request to offer payment services under that additional category.

**PART IV: GENERAL REQUIREMENTS**

**10.** Pursuant to section 8.1, non-bank financial institutions that intend to offer payment services must submit to the Bank the following documents in terms of the General Requirements –

**10.1. Governance requirements**

<b>Governance Requirements</b>	<b>10.1.1</b> A certified true copy of the memorandum and articles of association and/or certificate of incorporation or business registration in Namibia, including the contents of registration of directors, auditors, and officers (CM29), company's profile, organisation structure, organogram, and contact details
	<b>10.1.2</b> Beneficial ownership information of all substantial shareholders in the business including holding companies and subsidiaries of the business in accordance with the definition of the beneficial owner
	<b>10.1.3</b> Certified copies of latest audited financial statements in respect of existing companies whereas newly formed companies must submit a 3-year pro forma financial statement and
	<b>10.1.4</b> Any approval, authorisation, license or permit from other regulatory authorities.

**10.2. Appointment of board of directors and executives**

	<b>10.2.1</b> The names, addresses and identity documentation or passport numbers, and contact details of the chief executive officer, executive management, board of directors and substantial shareholders
	<b>10.2.2</b> Completed fitness and probity forms of all shareholders or those with effective control of the company, and board of director comprising of:

<b>Requirements for appointment of Executives and Board of Directors</b>	(a) PSF-001
	(b) PSF-002-1
	(c) PSF-002-1
	(d) a declaration form;
	(e) a police clearance or certificate of conduct from Namibia and/or the country of present residence, which is not older than 6-months; and
(f) a tax good standing certificate.	
	<b>10.2.3</b> Comprehensive CV of the chief executive officer, executive management and the board of directors clearly outlining the qualifications, expertise and competence to administer the affairs of the payment service provider
	<b>10.2.4</b> The Bank may interview board of directors and executives as part of the fitness and probity assessment; and
	<b>10.2.5</b> Any document or information the Bank may deem necessary from time-to-time.

### 10.3. Risk management and mitigation requirements

<b>Risk Management and Mitigation Requirements</b>	<b>10.3.1</b> A draft or final Risk Management Framework that includes the systems, and controls explaining how the payment service provider will identify, monitor, manage and report risks to which it can reasonably expect to be exposed. These risks include:
	(a) operational risk;
	(b) outsourcing risk;
	(c) fraud risk;
	(d) money laundering, terrorism financing and financial crime risk;
(e) cyber security risk;	
(f) reputational and legal risk;	
(g) liquidity risk;	
(h) credit risk;	
(i) counterparty risk; and	
(j) data protection and privacy risk	
	<b>10.3.2</b> An assessment report showing the penetration security test results to attest the robustness and safety of the payment service provider's applications, systems and IT infrastructure. The tests should be conducted by an independent security expert
	<b>10.3.3</b> A structured vulnerability management plan to identify, prioritize, mitigate, and track security vulnerabilities in the payment service provider's applications, systems, and IT infrastructure
	<b>10.3.4</b> Any document or information the Bank may deem necessary from time-to-time.

#### 10.4 Consumer protection requirements

<b>Requirements to ensure Consumer Protection</b>	<p><b>10.4.1</b> A draft or final consumer protection policy explaining how the payment service provider will reduce the risk of fraud or other forms of user abuse, including the following:</p> <ul style="list-style-type: none"> <li>(a) clarification of the roles and responsibilities of the payment service provider, agents, and users;</li> <li>(b) sufficient and accessible information to users on their rights and responsibilities; and</li> <li>(c) a clear description of available payment services and the fees or charges for using these services;</li> </ul>
	<p><b>10.4.2</b> The draft written or electronic agreement entered into, with every user for whom the payment service provider intends to offer payment services to. The agreement should at minimum:</p> <ul style="list-style-type: none"> <li>(a) include the identity of the user;</li> <li>(b) provide clear guidance on the user's right to redemption, including conditions and fees for redemption; and</li> <li>(c) include information on available redress procedures for complaints together with the address and contact information of the payment service provider; and</li> </ul>
	<p><b>10.4.3</b> Any document or information the Bank may deem necessary from time-to-time.</p>

#### 10.5 Contractual requirements

<b>Contractual Requirements</b>	<p><b>10.5.1</b> The draft or final agreements with third parties (technical partners, banking institutions, service providers, merchants, mobile network operators (MNO's) and any other parties) that include the following:</p> <ul style="list-style-type: none"> <li>(a) provisions that ensures compliance with section 14 of the Act;</li> <li>(b) clarification of the roles, responsibilities, and contractual liabilities of the parties to the contract;</li> <li>(c) responsibilities of parties for providing and receiving information regarding the payment service;</li> <li>(d) materiality thresholds and procedures for notifying the users of service disruptions, security threats, or other issues that create material risks;</li> <li>(e) ownership and protection of user and transactional data;</li> <li>(f) whether agents or service providers are required to obtain insurance and/or provide guarantees;</li> <li>(g) termination or expiration of contracts, including circumstances leading to intervention by the payment service provider;</li> <li>(h) business continuity measures;</li> <li>(i) confidentiality clause such as non-disclosure agreements or confidential agreements; and</li> </ul>
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**10.5 Contractual requirements**

	(j) the payment service provider's right to monitor and audit operations of agents, service providers, or third parties, security policies and procedures, internal controls, and business continuity and contingency plans; and
	<b>10.5.2</b> Any document or information the Bank may deem necessary from time-to-time.

**10.6 Capital requirements**

<b>Capital Adequacy Requirements</b>	<b>10.6.1</b> At the time of licensing, a non-banking financial institution is required to hold an initial capital amount as determined by the Bank in the <u>Payment System Notice</u> .
	<b>10.6.2</b> The Bank reserves the right to waive this condition or impose such further conditions as it deems necessary.

**PART V: SPECIFIC REQUIREMENTS FOR PAYMENT SERVICES****11. Specific requirements for payment instrument issuers:**

**11.1** In addition to the general requirements in section 10, an application to be licensed or authorised as a payment service provider to offer a payment instrument must include:

- 11.1.1** the name, functionality and a detailed description of the designated payment instrument, including payment flows and settlement arrangements;
- 11.1.2** rules and procedures setting out the rights and liabilities of the payment service provider issuing the payment instrument and the user and the risks that the user may incur, including the terms and conditions of use;
- 11.1.3** measures that ensure the safety, security and operational reliability of the designated payment instrument including contingency arrangements;
- 11.1.4** evidence of the provision of payment settlement not more than 24 (twenty-four) hours during business days after a payment instruction has been cleared;
- 11.1.5** evidence of whether the payment instrument will facilitate domestic or cross border payments or both must be provided;
- 11.1.6** a technical plan on how the payment instrument will be interoperable in the National Payment System;
- 11.1.7** evidence of whether the payment instrument will accommodate both on and off-line services to its users; and
- 11.1.8** a complete audit trail or transaction processing cycle, including initiation, clearing, settlement and payment finality.

**12. Specific requirements for payment facilitators for purposes of facilitating payments or transfers:**

**12.1** In addition to the general requirements in section 10 in this Determination, an application to be licensed or authorised as a payment service provider to offer payment facilitation services must include proof of the opening of a merchant bank account with one or more Namibian

licensed banking institutions to pool funds for the purpose of providing payment facilitation services.

**12.2** A merchant bank account maintained for the purpose of offering payment facilitation services is subject to the following conditions:

**12.2.1** Funds held in a merchant bank account for the purpose of offering payment facilitation services must not form part of the payment service provider's assets or commingled with the payment service provider's own funds.

**12.2.2** Funds held in the merchant bank account for the purpose of offering payment facilitation services must not be commingled with funds held in a trust account for the issuance of electronic money as provided in section 22 of the Act.

**12.2.3** Funds intermediated through a pool account must be paid over to a recipient to whom the funds are due within two (2) business days from the date when the funds were received by the payment service provider.

**12.2.4** At all times, the aggregate value of the pooled funds must equal at least 100% of the value of all outstanding liabilities. These funds must be reconciled on a daily basis, with any deficiencies addressed within one (1) business day.

**12.3** After the license or authorisation is granted, a payment facilitation service provider is further required to maintain, at all times, an ongoing capital amount that is either in the form of cash or other liquid assets equal to the average funds held in the merchant bank account.

**12.2** A payment facilitator licensed or authorised by the Bank must satisfy the Bank that it has implemented measures, controls, and procedures to safeguard the funds in the merchant bank accounts as prescribed in subsection 12.2.

**12.5** A payment facilitator must not give any other person access to the merchant bank accounts through which payments or transfers to third persons are facilitated.

**13. Specific requirements for third-party payment service providers:**

**13.1** In addition to the general requirements in section 10, an application to be licensed or authorised as a third-party payment service provider must include, where applicable:

**13.1.2** information in respect to user and/or merchants and the written mandate of the user and/or merchant providing the payment instruction;

**13.1.3** policies and procedures that ensure that the payment service which allow the offsetting of mutual obligations by trading partners or persons for whom they are processing payment instructions are prohibited;

**13.1.4** evidence that the third-party payment service provider's systems are operationally and technically capable of offering the payment service;

**13.1.5** evidence that the third-party payment service provider's systems are interoperable with the relevant banks and/or system operators;

**13.1.6** attestation by the sponsoring bank(s) and/or system operator that the third-party payment service provider has the capability to offer payment services through the systems of the sponsoring bank(s) or system operator;

- 13.1.7** attestation from the relevant card associations that the third-party payment service provider has the necessary approval to facilitate payment instructions emanating from payment instruments or payment systems of that card association;
- 13.1.8** attestation that the third-party payment service provider has obtained the relevant certification to process payment instructions as well as to hold, store, and process customer and transactional data; and
- 1.1.8** submit any other documents that the Bank may require to complete the application assessment.
- 13.2** Banking institutions must not unreasonably and unduly deny sponsoring arrangements to payment service providers, including access to their systems and payment channels, for purposes of providing payment services.
- 14. Specific requirements for the issuance of virtual assets:**
- 14.1** A person may not issue virtual assets for purposes of facilitating payments or transfers unless such a person is duly licensed or authorised as a virtual assets service provider in accordance with the Virtual Assets Act, 2023 (Act No. 10 of 2023).
- 14.2** A virtual assets service provider that intends to offer payment services must comply with the provisions of the Act and the requirements set out in this Determination.
- 14.3** Subject to 14.2, the Bank may request for such additional information and documentation necessary to ensure that the facilitation of payments or transfers using virtual assets is conducted in accordance with the Act and the requirements in any other relevant laws.

## **PART VI: COMPLIANCE REQUIREMENTS FOR PAYMENT SERVICE PROVIDERS**

### **15. Compliance requirements for non-banking financial institutions**

- 15.1** A non-bank financial institution must, three (3) months after its financial year end, submit to the Bank annual audited financial statements prepared and signed off by a reputable independent auditor.
- 15.2** A non-bank financial institution (already engaged in other business interests) that intends to submit an application to offer payment services in addition to other services (not related to payment services) must establish a separate entity whose activities will be limited to the offering of payment services.
- 15.3** Pursuant to section 15.2 in this Determination, the Bank may consider a request for a waiver from compliance with section 15.2, in exceptional circumstances. For the Bank to consider such waiver, a non-bank financial institution must prove that:
- (a)** compliance with such a requirement would be unduly burdensome;
  - (b)** the protection of user funds is not compromised; and
  - (c)** granting a waiver would not compromise the Bank's ability to effectively regulate and supervise the non-bank financial institution.
- 15.4** The board of a payment service provider must be established in accordance with the corporate governance principles as outlined in the relevant national laws.

- 15.5 A payment service provider's board of directors must comprise of independent non-executive directors, executive directors (including the principal officer/CEO/MD) and a chairperson of the board who should be an independent non-executive director.
- 15.6 The composition of a payment service provider's board of directors must have an equal number of independent non-executive directors and executive directors, in addition to the independent non-executive chairperson.
- 15.7 The principal officer/CEO/MD who serves as an executive director on the board of a payment service provider, must be a Namibian citizen or a person residing in Namibia and must be directly accessible to the Bank for consultation on matters of policy and day-to-day operations of the payment service provider or controlling company.
- 15.8 A non-bank financial institution may not appoint or remove a board of director or CEO/MD principal officer without written approval from the Bank.
- 15.9 At the time of licensing and any other time thereafter as the Bank may determine, a payment service provider is required to submit to the Bank information relating to the beneficial owners of the payment service provider as required by section 10(3) of the Act.
- 15.10 Beneficial ownership information of a payment service provider must satisfy the definition of beneficial owner as provided in the Act.
- 15.11 A payment service provider may not commence operations until the Bank has finalised its fitness and probity assessment and deemed the beneficial owners to be fit and proper.
- 15.12 A payment service provider may not appoint a board member official until the Bank has finalised its fitness and probity assessment and deemed the board member official to be fit and proper.
- 15.13 In pursuant to section 15.11 and 15.12, the Bank, within two (2) months of receiving the fitness and probity application for approval, will conduct and finalise the assessment to ensure that the beneficial owner or board member is fit and proper.
- 15.14 Each beneficial owner and person undertaking a key control function is required to comply with the Bank's fit and proper requirements.
- 15.15 A payment service provider must submit documentation demonstrating compliance with these requirements and notify the Bank of any change or event that could reasonably be considered to impact the state of such compliance.
- 16. General compliance requirements for all payment service providers**
- 16.1 A payment service provider must put in place risk management policies, systems, and controls for payment services.
- 16.2 A payment service provider must ensure that its risk management policies, systems, and controls are kept up-to-date and ensure that copies of the updated policies and procedures are submitted to the Bank for approval.
- 16.3 The policies, systems, and controls must take into account the types of activities performed by the payment service provider, the nature, scale and complexity of its business model, any operational challenges and the degree of risk associated with its operations.

- 16.4** A payment service provider must ensure that the payment services offered, and systems being used are sufficiently sound and resilient so as not to bring risk to the National Payment System.
- 16.5** A payment service provider is required to provide the Bank with information management procedures that ensure confidentiality of transactional and user data.
- 16.6** A payment service provider should, within six (6) months after commencing business, establish a user care system to address the complaints of users.
- 16.7** A payment service provider should, prior to the establishment of a user care system provide adequate means for users to file complaints which must be addressed within a period of fifteen (15) days from receipt of the complaint.
- 16.8** Pursuant to section 16.7, complaints may be lodged in writing, but in each case must be lodged within a period of ninety (90) days from the date of occurrence.
- 16.9** A payment service provider should acknowledge all complaints filed with them to the complainant.
- 16.10** Where a complainant is not satisfied with a decision reached pursuant to a complaint, the payment service provider should provide the complainant the option of pursuing an identified escalation process by which the decision may be examined by a suitably qualified person in the payment service provider's organization.
- 16.11** Where a user raises a complaint in relation to an allegedly fraudulent payment transaction, the payment service provider must handle such complaint in accordance with section 10.4 of this Determination.
- 16.12** If the complaint contemplated in section 16.7 is submitted to the Bank, the payment service provider must, if required by the Bank, provide evidence that the payment service provider's instructions or guidelines are in accordance with section 31 of the Act.
- 16.13** A payment service provider is liable for any fraudulent payment transaction, whether before or after the user informs the payment service provider of any potential or suspected fraud, except where:
- (a)** the user acts fraudulently; or
  - (b)** the user acted negligently and did not take reasonable steps to keep safe its personalised security credentials.
- 16.14** A payment service provider that intends to appoint an agent must, at least sixty (60) days prior to conducting the business of the payment service provider through an agency agreement, submit:
- (a)** a copy of the standard agency agreement to the Bank in compliance with section 13 of the Act;
  - (b)** the name, business registration documents and the contact information of the agent to the Bank;
  - (c)** a description of the services and technology to be used by the agent;

- (d) evidence of measures adopted to control money laundering and terrorist financing through agents, including security measures to be adopted at the agent's premises;
- (e) a risk assessment report of the provision of payment services through the agents including control measures that will be applied to mitigate the risks;
- (f) a statement that the payment service provider has conducted appropriate due diligence and has determined that the proposed agent:
  - (i) is fully compliant with all licensing requirements and all other relevant legal and regulatory requirements;
  - (ii) is legally permitted to act as an agent;
  - (iii) has sufficient financial resources to effectively carry out the duties of an agent;
  - (iv) has the technical knowledge to competently offer payment services and comply with all legal requirements;
  - (v) is willing and able to meet all User Due Diligence requirements and comply with the Financial Intelligence Act, 2012 (Act No.13 of 2012), as amended, and its accompanying regulations;
  - (vi) possesses good moral character; and
- (g) such other information or evidence as the Bank may request.

**16.15** A payment service provider must, if applicable, on an annual basis within thirty (30) days of the next calendar year (end of January of each year), submit to the Bank the following completed table:

**Table 1: Return: List of Agents**

Number of Agents	Name of Agents	Location of Agent (City or Town, and Region)	Type of payment services offered on behalf of payment service provider	Status (Active / Not active)	Pool account balances (if any)	Values and Volumes
1.						
2.						
3.						

**16.16** Payment service providers and their agents, on a regular basis, must conduct anti-money laundering and financing of terrorism activities risk assessments and demonstrate compliance with section 24 and 39 of the Financial Intelligence Act, 2012 (Act No.13 of 2012), as amended, as well as other relevant accompanying regulations.

## **PART VII: ADDITIONAL REGULATORY REQUIREMENTS**

### **17. Request for approval of significant changes to payment services**

**17.1** A payment service provider is required to request approval from the Bank at least thirty (30) days prior to proposed changes on the following aspects:

- 17.1.1 A non-banking financial institutions' intention to make any changes to the board of directors.
- 17.1.2 A payment service provider's intention to modify the terms and conditions of its agreements with users.
- 17.1.3 A payment service provider's intention to make changes to its fees and charges.

## **18. Notifications of significant changes to payment services**

- 18.1 A payment service provider is required to notify the Bank on its intention to make any significant changes to the scope or nature of its business model in terms of the licensed held by the payment service provider.

## **19. Interoperability**

- 19.1 A payment service provider may use systems capable of becoming interoperable with other payment systems in the country and internationally.
- 19.2 A payment service provider is required to provide the Bank with a roadmap or technical plan on how the systems used to provide payment services will become interoperable as guided by the Bank's Position Paper on Interoperability in the NPS, dated 2 August 2018.

## **20. Surrender of the licensing or authorisation to offer payment services**

- 20.1 A payment service provider may surrender the license or authorisation to offer payment services by formally notifying the Bank least three (3) months in advance of its intention to surrender its license or authorisation to offer payment services and voluntarily cease operation.
- 20.2 Where a payment service provider surrenders the license or authorisation to offer payment services in terms of this Determination, the payment service provider must:
  - 20.2.1 notify its users at least two (2) months prior to the surrender to allow users to retrieve funds held;
  - 20.2.2 provide the Bank with the entire database in a readable format and other relevant information on the processing of payments to users;
  - 20.2.3 submit a report on the distribution of funds held in the trust account, where applicable; and
  - 20.2.4 ensure that all due diligence processes are followed upon ceasing operation.

## **21. Suspension of the license or authorisation to offer payment services**

- 21.1 The Bank may, by notice to a licensed or authorised payment service provider, suspend an authorisation or license for such period as the Bank may specify, under the following circumstances:
  - 21.1.1 The payment service provider conducts business in a manner which is detrimental to the stability of the National Payment System;
  - 21.1.2 The payment service provider contravenes any of the provisions of the Act, this Determination and other laws and regulations issued by the Bank;

- 21.1.3** The payment service provider fails to offer payments services for a period of at least twelve (12) consecutive months;
- 21.1.4** The payment service provider notifies the Bank that it intends to cease offering payment services for which it is licensed or authorised;
- 21.15** The payment service provider no longer meets or, in the opinion of the Bank, is unlikely to meet any of the requirements of the Act, this Determination and/or any other relevant laws;
- 21.1.6** The payment service provider fails to inform the Bank, in accordance with section 17.1, of a change in circumstances which the Bank considers to be materially relevant to its compliance with any of the requirements of this Determination (including capital requirements);
- 21.1.7** The Bank considers that suspension is otherwise desirable in order to protect the interests of users or is in the public interest; and
- 21.1.8** Any other circumstances that the Bank considers material to warrant suspension.
- 21.2** The Bank must follow the procedure below when suspending a payment service provider:
- 21.2.1** Before suspending the license or authorisation to offer payment services, the Bank will notify the payment service provider of the reason for the suspension.
- 21.2.2** A payment service provider may, within thirty (30) business days from the date of receipt of a notice referred in subsection 21.1, make written representations to the Bank.
- 21.2.3** On receipt of the written representations, the Bank must consider the representations made by the payment service provider, if any, before making a decision.
- 21.2.4** Once the Bank has made a decision as contemplated in subsection 21.2.3, the Bank must –
- (a)** in writing, inform the payment service provider of its decision and the reasons for such decision; and
  - (b)** publish the suspension of the license or authorisation to offer payment services in the manner determined by the Bank.
- 21.2.5** If the payment service provider does not make written representations within the thirty (30) business days from the date of receipt of the written notice, the Bank must, by written notice inform the payment service provider of the suspension of the license or authorisation to offer payment services and publish such suspension in the manner determined by the Bank.
- 21.2.6** The Bank must ensure that it has followed all due diligence processes before suspending the license or authorisation to offer payment services of a payment service provider.
- 22. Revocation of the license or authorisation to offer payment services**
- 22.1** The Bank may, in accordance with section 10(5) of the Act, by notice to a payment service provider, revoke a license or authorisation, under the following circumstances:

- 22.1.1** The payment service provider has contravened the provisions of the Act or any other law issued by the Bank;
- 22.1.2** The payment service provider fails to comply with this Determination and remedial measures required by the Bank following an inspection of the affairs of the payment service provider;
- 22.1.3** It is determined that a license or authorisation was obtained on the strength of misrepresented, inaccurate or misleading information furnished to the Bank at the time of application;
- 22.1.4** The scheme is considered not to be conducive to the national interest of Namibia;
- 22.1.5** The payment service provider ceases to operate for a period of twelve (12) months or becomes insolvent; and/or
- 22.1.6** Any other circumstances that the Bank considers material to warrant revocation.
- 22.2** The Bank will follow the procedure below when revoking a license or authorisation of a payment service provider:
- 22.2.1** Before revoking the license or authorisation to offer payment services, the Bank will notify the payment service provider of the reason for the revocation.
- 22.2.2** A payment service provider may, within thirty (30) business days from the date of receipt of a notice referred in subsection 22.1, make written representations to the Bank.
- 22.2.3** On receipt of the written representations, the Bank must consider the representations made by the payment service provider, if any, before making a decision.
- 22.2.4** Once the Bank has made a decision as contemplated in subsection 22.2.3, the Bank must –
- (a)** in writing, inform the payment service provider of its decision and the reasons for such decision; and
  - (b)** publish the revocation of the license or authorisation to offer payment services in the manner determined by the Bank.
- 22.2.5** If the payment service provider does not make written representations within the thirty (30) business days from the date of receipt of the written notice, the Bank must, by written notice inform the payment service provider of the revocation of the license or authorisation to offer payment services and publish such revocation in the manner determined by the Bank.
- 22.2.6** The Bank must ensure that it has followed all due diligence processes before the revocation of the license or authorisation to offer payment services of a payment service provider.
- 23. Reporting**
- 23.1** Payment service providers are required to submit monthly statistics to the Bank using the Payment Service Provider Returns as provided by the Bank.

**23.2** The statistics for the reporting month must reach the Bank within ten (10) days of the following month. For example, statistics for October must reach the Bank before or on the 10<sup>th</sup> of November.

**23.3** In order to ensure effective oversight of payment service providers, the Bank reserves the right to inspect all records, data and other relevant information, whether in the possession of the payment service provider or its agent, in compliance with section 33 of the Act.

**24. Administrative penalties**

**24.1** Any person that contravenes or otherwise fails to comply with this Determination will be subject to administrative penalties as provided under section 40 of the Act, and its relevant laws.

**25. Repeals**

**25.1** This Determination repeals and replaces the Determination on Issuing of a Payment Instrument in Namibia (PSD-1) No.184 published on 29 June 2007, the Guidelines for Electronic Money Issuers in Namibia, the Guidelines for Payment Intermediation Service Providers in the National Payment System of Namibia, and the PAN Entry and Participation Criteria for Authorisation to Act as a Service Provider in the National Payment System on the effective date.

**26. Effective date**

**26.1** This Determination will come into effect on the date of publication in the *Gazette*.

**27. Enquiries**

**27.1** All enquiries related to this Determination may be forwarded to:

The Director  
National Payment System Department  
Bank of Namibia  
P.O. Box 2882, Windhoek  
Namibia  
Email: [assessments.npsd@bon.com.na](mailto:assessments.npsd@bon.com.na)

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