

# **Bangladesh Payment and Settlement System Regulation, 2013**

With a view to promote, regulate and ensure a secure and efficient payment system in Bangladesh in terms of Article 7 A (e) of the Bangladesh Bank Order, 1972 [and in conformity with Article 38 of the National Payment System Act], the Board of Directors of the Bangladesh Bank is pleased to make the following regulation, in exercise of the powers conferred by Article 82(1) and 82(2) (k) of the Bangladesh Bank Order 1972.

## **1 Short Title and Commencement**

- 1) This Regulation shall be called Bangladesh Payment and Settlement System Regulation, 2013.
- 2) This Regulation shall come into force with immediate effect and supersede Bangladesh Payment and Settlement System Regulation, 2009.

## **2 The Objectives of the Regulations**

The objectives of these regulations shall be:

- (a) to regulate, and supervise payment systems that operate in Bangladesh, including cross border transactional activities in Bangladesh that affect its currency;
- (b) to regulate the transfer and movement of funds in Bangladesh Taka within Bangladesh and cross-border transfers which are also subject to the Foreign Exchange Regulation Act 1947;
- (c) to establish effective regulation and supervision on the issuance and use of payment instruments, mechanisms, and channels;
- (d) to regulate the establishment and operations of payment systems and payment services in Bangladesh, setting forth the rights and obligations of participants in such systems;
- (e) to ensure secure and efficient arrangements for settlement on a gross basis, as well as on a bilateral or multilateral netting basis;
- (f) to define the terms conditions, requirements and procedures under which Payment Services Providers and Payment System Operators are licensed; (Amendment 2013);
- (g) to define the standards under which Payment Services may be provided and Systems operated; and (Amendment 2013);
- (h) to define the means and procedures under which the Bangladesh Bank shall exercise its oversight powers. (Amendment 2013).

## **3 Definitions**

For these regulations the following definitions shall apply:

- (1) “Automated Teller Machine” (ATM): is an electromechanical device that permits authorized users, typically using machine-readable plastic cards, to withdraw cash from their accounts and/or access other services, such as balance enquiries, transfer of funds or acceptance of deposits, etc.;
- (2) “Bank Company”: means a bank company established under the Bank Company Act of 1991;

- (3) “Cash”: means notes and coins that are legal tender in Bangladesh;
- (4) “Cheque”: A “cheque” is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand, as defined in NI Act 1881;
- (5) “Cheque Image” means a digital representation of the front and back of a cheque.;
- (6) "Cheque in the electronic form" means a cheque which contains digital representation of the front and back of a paper cheque (cheque image), and is generated, written and signed in a secure system ensuring the minimum safety standards prescribed by Bangladesh Computer Council for the use of digital signature;(Amendment 2013);
- (7) “Clearing”: means the process of transmitting, reconciling and/or confirming funds or securities transfer instructions prior to settlement and includes the netting of instructions and the establishment of final positions for settlement;(Amendment 2013);
- (8) “Close-out netting” means a netting arrangement under which, following the occurrence of certain events specified by the parties to the arrangement, all or any of the transactions referred to in the netting arrangement may be terminated, and where so terminated the termination value becomes due and payable; (Amendment 2013);
- (9) “Credit card” means a card that authorizes the person named on it to charge goods or services to the account of an account holder on credit basis subject to repayment over a period of time; (Amendment 2013);
- (10) “Credit transfer” means the series of transfers, beginning with the payer’s payment order, made for the purpose of making payment to the payee. The term includes any payment order issued by the payer’s bank or payment service provider, or an intermediary intended to carry out the payer’s payment order; (Amendment 2013);
- (11) “Central Counter-Party” (CCP) means an entity that is the buyer to every seller and the seller to every buyer in a Settlement System; (Amendment 2013);
- (12) “Central Securities Depository” (CSD) means an entity in whose register securities are immobilized, and enabling securities transactions to be finally processed by book-entry. Securities can be held at the CSD either in dematerialized (that is, as electronic records) or physical form. A CSD also provides custodial and asset services; (Amendment 2013);
- (13) “Clearing House” means any entity that provides Clearing services and generates net Settlement position for settlement services for a System, including Bangladesh Bank; (Amendment 2013);
- (14) “Clearing System” means a set of procedures whereby participants present and exchange information relating to the transfer of funds or securities to other participants through a centralized System or at a single location and includes mechanisms for the calculation of participants’ positions on a bilateral or multilateral basis with a view to facilitating the settlement of their obligations; (Amendment 2013);
- (15) “Debit card” means a card or an access method by which money is automatically deducted from an account to pay for goods or services purchased; (Amendment 2013);
- (16) “Debit transfer” means the series of transfers, initiated by the payee, on the basis of the payer’s consent given to the payee, to the payee payment service provider or to the payer own payment service provider. The term includes any payment order issued by the payee’s bank or payment service provider, or an intermediary intended to carry out the payee’s order; (Amendment 2013);

- (17) “Designated Payment System”: refers to any payment system that operates in Bangladesh with license from the Bangladesh Bank;
- (18) “Electronic Fund Transfer”: means any transfer of funds which is initiated by a person by way of instruction, authorization or order to a bank to debit or credit an account maintained with that bank through electronic means and includes point of sale transfers, automated teller machine transactions, direct deposits or withdrawal of funds, transfer initiated by telephone, internet and card or other devices;
- (19) “Electronic Money” means electronically, including magnetically, stored monetary value as represented by a claim on the issuer, which is issued on receipt of funds for the purpose of making payment transactions and which is accepted as a means of payment by persons other than the issuer; (Amendment 2013);
- (20) “Electronic presentment of cheques” means the electronic transmission, by an institution authorized to draw a cheque, of an image and payment information of the cheque, to the payee institution on whom it is drawn; (Amendment 2013);
- (21) “Financial Institution”: means such non-banking financial institutions, as are defined in Section 2 (kha) of the Financial Institutions Act, 1993;
- (22) “Gross Settlement”: means the settlement of funds or securities transfer instructions that occurs individually on an instruction by instruction basis;
- (23) “Legal Tender”: means bank notes and coins issued by the Bangladesh Bank and/or Government as legally accepted instrument of payment for goods, services and debts;
- (24) “Money Remittance” means a service where funds are received from an originator without any accounts being created in the name of the originator or the beneficiary, for the sole purpose of transferring a corresponding amount to a beneficiary or to another payment services provider acting on beneficiary’s behalf, and/or such funds are received on behalf of and made available to the beneficiary; (Amendment 2013);
- (25) “Multilateral Netting” means an arrangement among three or more parties to net their obligations; (Amendment 2013);
- (26) “National Payment System” means the whole of the services that are associated to sending, receiving and processing of orders of payment or transfers of money in domestic or foreign currencies, issuance and management of Payment Instruments, Payment, Clearing and Settlement Systems, including those processing securities, arrangements and procedures associated to those Systems and Services, and Payment Service Providers, including System Operators, Participants, and any third party acting on behalf of them, either as an agent or by way of outsourcing agreements, whether entirely or partially operating inside Bangladesh; (Amendment 2013);
- (27) “Netting” means the determination of the net payment obligations or the determination of the net termination value of settlement obligations between two or more System Participants within a System; (Amendment 2013);
- (28) “Net Settlement”: means a settlement procedure in which final settlement of transfer instructions occurs on a net basis at one or more discrete, pre-specified time during the processing day;
- (29) “Net termination value” means the net amount obtained after setting off or otherwise netting the obligations between the parties in accordance with settlement rules issued by Bangladesh Bank or a netting agreement entered into between the parties; (Amendment 2013);

(30) “Netting arrangement” means an arrangement in writing to convert several claims or obligations into one net claim or one net obligation and includes bilateral netting, multilateral netting, netting by novation, close-out netting, payments netting or a combination of any of these; (Amendment 2013);

(31) “Netting by novation” means a netting arrangement between the parties to a series of transactions where an account of amounts due is kept and the rights and obligations of the parties in respect of the account are continuously extinguished and replaced by a new single amount payable by one party to the other; (Amendment 2013);

(32) “Oversight” of payment and settlement systems and payment services is a Bangladesh Bank function whereby the objectives of safety and efficiency are promoted by monitoring existing and planned systems and services, assessing them against these objectives and, where necessary, inducing change; (Amendment 2013);

(33) “Participant”: means an entity that is authorized by the Bangladesh Bank to participate in a payment system;

(34) “Payment Instruction”: means any instrument, authorization or order in any form, including electronic means, to effect a payment,-

- (i) by a person to a system participant; or
- (ii) by a system participant to another system participant;

(35) “Payment Instrument” means any instrument, whether tangible or intangible, that enables a person to obtain money, goods or services or to otherwise make payment or transfer money. These include, but are not limited to, cheques, drafts, funds transfers initiated by any paper or paperless device (such as automated teller machines, points of sale, internet, telephone, mobile), payment cards, including those involving storage of Electronic Money; (Amendment on 2013);

(36) "Payment card" means any card, coupon book, or other device, including a code or any other means of access to an account, that may be used from time to time to obtain money or to make payment, and includes a debit, credit and stored-value card; (Amendment 2013);

(37) “Payment System” means any mechanism or arrangement for the processing, Clearing and/or Settlement of funds, but excludes: (Amendment 2013)

- (a) a clearing house recognized under any other law;
- (b) an in-house system operated by a person solely for his own administrative purposes that does not transfer, clear or settle funds for third parties;
- (c) such other systems or arrangements as may be prescribed by law.

(38) “Payment System Operator” refers to an entity licensed by the Bangladesh Bank for operating a settlement system for payment activities between participants of which the principal participant must be a scheduled bank or financial institution maintaining accounts with the Bangladesh Bank for meeting Cash Reserve Requirement;

(39) “Payment System Participant”: a party that is recognized in the rules of a payment system as eligible to exchange and settle payments through the system with other participants either directly or indirectly.

(40) “Payment Service Provider” refers to an entity licensed and approved by the Bangladesh Bank that provides payment service(s) to its participants or to a payment system for the purpose of facilitating payment(s) or payment processes and settling their transactions through a scheduled bank or financial institution maintaining accounts with the Bangladesh Bank for meeting Cash Reserve Requirements;

(41) "Point of Sale Transfer": A method of electronic payment which allows money to be transferred from the account of the buyer to the merchant in close-to real-time;

(42) "Payment Service" means a service enabling cash deposits and withdrawals, execution of payment transactions, issuing and/or acquisition of Payment Instruments, Money Remittances and any other services functional to the transfer of money. This shall also include the issuance of Electronic Money and Electronic Money Payment Instruments. The term does not include the provision of solely online or telecommunication services or network access. (Amendment 2013);

(43) "Person" unless the context otherwise requires, includes any natural or legal person or firm or cooperative society or society as also an association of persons. (Amendment 2013);

(44) "Positive Pay" means banks compare a personal or company's record of cheque issued with cheque presented for payment;

(45) "Real Time Gross Settlement" means a settlement that effects final settlement of funds, payment obligations and book entry of securities and instruments on a real-time transaction-by-transaction basis as these occur during operating hours in a processing day;

(46) "Settlement" is an act that discharges obligations in respect of funds or securities transfers between two or more parties;

(47) "Settlement Agent" means a company providing accounts for the Participants of a System to hold funds and to settle transactions between Participants in the System; (Amendment 2013);

(48) "Settlement System" means a System established and operated by Bangladesh Bank or any other System for the discharge of payment obligations as well as of settlement of obligations in relation to securities; (Amendment 2013);

(49) "System" includes a Payment, Clearing and Settlement system. (Amendment 2013);

(50) "Settlement rules" means the rules, however established, that provide the basis upon which payment obligations are calculated, netted or settled and includes rules for the taking of action in the event that a participant is unable or likely to become unable to meet its obligations to a payments system, clearing house, central counter-party or other participants. This also covers settlement of obligations from securities; (Amendment 2013);

(51) "Systemic risk" means the risk that relates to the inability of a participant to meet its obligations in a system as they become due or a disruption to the system that could, for whatever reason, cause other participants in the system to be unable to meet their obligations as they become due; (Amendment 2013);

(52) "Truncated cheque" means a cheque which is truncated during the course of a clearing cycle, either by the clearing house or by the bank whether paying or receiving payment, immediately on generation of an electronic image for transmission, substituting the further physical movement of the cheque in writing. (Amendment 2013);

(53) "Truncation" means a settlement process in which the physical transfer of a paper based payment instrument is substituted by the exchange and storage of its image and the corresponding electronic information.

#### **4 Cooperation with other authorities (Amendment 2013)**

- a) The Bangladesh Bank shall cooperate with other public authorities engaged in the regulation and supervision of other entities directly or indirectly involved in payment

services and their operation in Bangladesh. In that regard, the Bangladesh Bank shall have the power to conclude memorandum of understanding.

- b) The Bangladesh Bank shall have the power to cooperate with other monetary authorities and international organizations dealing with regulation and oversight of payments. This shall also include the power to conclude memorandum of understanding.

## **5 Licensing**

The Bangladesh Bank shall have jurisdiction to grant, Payment System Operator (PSO) and Payment Service Provider (PSP) licenses for the operation of payment systems and payment services in Bangladesh. The Bangladesh Bank shall have jurisdiction to authorize certain cross-border payment system activities whose operations affect payment systems in Bangladesh.

- (1) No person shall provide Payment Services, including the issuance and management of Payment Instruments, or operate a System unless such person is duly licensed by the Bangladesh Bank. (Amended 2013);
- (2) Any person or entity desirous of providing a Payment Service or operate a Payment System, shall apply to the Bangladesh Bank for a license by submitting documents and information as prescribed by this Regulation and other applicable guidelines of that particular services relating to payments system issued by Bangladesh Bank. The Bangladesh Bank may impose fees for submission of an application. (Amended 2013);
- (3) In order to obtain a license from the Bangladesh Bank, an applicant may be required to maintain capital adequacy at levels as specified by the Bangladesh Bank from time to time. Capital level will be determined by the type of service, average value of payments, aggregate value and other factors as the Bangladesh Bank deems necessary. (Amended 2013);
- (4) Bank Companies and Financial Institutions maintaining accounts with Bangladesh Bank for meeting Cash Reserve Requirement are not required to obtain a new license to operate as a payment service provider but they are required to comply with instructions and reporting requirements set by Bangladesh Bank, and shall be subject to oversight requirements for licensed entities of this Regulation. They shall in any event be required to obtain a license for the operation of Payment Systems and the provision of Payment Services (Amended 2013);
- (5) If an entity fails to meet the requirements set forth in these regulations the Bangladesh Bank shall determine whether to permit the operations to continue until the requirements can be met together with a remedial program or shall implement a timeline and process for the unwinding of such payment system activities;
- (6) The Bangladesh Bank shall reserve the right to approve or disapprove any application to act as Payment Service or Payment Systems provider;
- (7) The Bangladesh Bank may review any Payment System Provider's license or any Payment Service Provider's license to determine whether its operations are appropriate and relevant for secure and efficient delivery of payment services. If after review it determines that these ends are not best served by the payment system or service, it may withdraw the license and cause the system's operations or service operations to cease;
- (8) In licensing a payment system, the Bangladesh Bank shall designate the type of system it is, together with its approved/authorized characteristics and attributes and level of regulation required by it.

- (9) Licensed Payment System Operator and Payment Service Provider must meet the requirements of all relevant laws, compliance with Anti-Money Laundering/Counter Financing of Terrorism (AML/CFT) procedures, as well as regulations and guidelines prescribed for them by the Bangladesh Bank;
- (10) Bangladesh Bank shall reserve all rights to accept or reject any license application as well as cancel/revoke any issued license. (Amended 2013).

### **5.1 Conditions to obtain a license (Amendment 2013)**

1. In order to provide a Payment Service in the country the Payment System or Payment Service Provider should satisfy the following minimum conditions:
  - a) Have sound financial background and solvency 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.
  - b) 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 to the Bangladesh Bank and to any organisation for which it provides Payment Services 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.
  - c) To have clear rules to solve disputes associated with Payment Services and to publish those rules to the Bangladesh Bank and to any organisation for which it provides Payment Services.
  - d) To have safe IT systems and adequate interfaces to ensure interoperability, access and data protection, as well as robust contingency and disaster control procedures in accordance with the relevant international standards and best practices.
2. In case of operation of a Payment System or Payment Service, and in addition to proof of robust governance arrangements and any further requirements that the Bangladesh Bank may decide to apply for the operation of the Payment System or Payment Service, the following minimum conditions shall be satisfied:
  - a) To have policies, practices and procedures for evaluating financial soundness of Operators and Participants and for identifying, monitoring and controlling any risks associated to the working of the Payment System and Payment Service
  - b) To ensure finality of payment and settlement, to have clear netting, loss allocation and apportionment procedures, and dispose of adequate collateral in all its forms, nature, effectiveness and means of realization;
  - c) To have a safe IT system and adequate interfaces to ensure interoperability and access, as well as robust business continuity and disaster control procedures;
  - d) To have membership rules adequate to the operation of the Payment System or Payment Service and clear, fair and non-discriminatory access procedures.

### **5.2 Documents to be submitted (Amendment 2013)**

- 1) In order to comply with the conditions set forth in Article 5.1, an applicant for a license shall provide the Bangladesh Bank with the following information:

a) Description of the nature and scope of the Services to be offered and how these Services fit in with its overall business strategy, together with a business plan including a forecast budget calculation for the first three financial years which demonstrate that the applicant is able to employ the appropriate and proportionate systems, resources and procedures to operate soundly;

b) List of products and services to be provided with a breakdown of commissions/ prices to be charged to the customer;

c) Description of legal structure of the scheme to provide the service, including legal definition of relationship with any bank for deposit taking from which it clearly emerges how liabilities are shared and risks avoided or reduced;

d) Criteria for the selection of agents and/or the outsourcing of parts of the activities, where applicable, and copy of any agency or outsourcing agreement, as appropriate, either individual or standard;

e) Proof of having an adequate number of well trained, competent and trustworthy staff and management adequately trained in respect of business requirements, operational needs and risk management in both normal and abnormal situations;

f) A signed document detailing the features and operational modalities of all IT systems used, including the operating systems, software and interfaces explaining at a minimum the following:

i. description (including diagrams) of the configuration of any institution's payment system and its capabilities showing (a) how such system is linked to other host systems or the network infrastructure in the institution; (b) how transactions and data flow through the network, settlement process and timing; (c) what types of telecommunication channels and remote access capabilities (e.g. direct modem dial-in, internet access, or both) exist; and (d) what security controls/measures are installed;

ii. A list of software and hardware components indicating the purpose of the software and hardware in the infrastructure;

iii. How data security and data integrity is ensured;

iv. How the system is interoperable with other existing payment systems;

v. How relevant international, national and industry level standards, guidelines and recommendations are applied wherever possible;

g) Proof of ability to comply with all applicable Anti-Money Laundering and Combating of Financing of Terrorism (AML/CFT) laws, standards and measures;

h) Details of the customer protection measures, including out-of-court dispute resolution mechanisms, consumer recourse mechanisms and consumer awareness program;

i) Details of data protection policy;

j) The identity of persons holding in the applicant, directly or indirectly, qualifying holdings, 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;

k) The applicant's legal status and articles of association;

l) The identity of statutory auditors and audit firms;

m) Any further requirements defined by the Bangladesh Bank associated to the Service;



2) In case of operation of a Payment System, in order to obtain a license under Article 5(2) the following shall be provided:

- a) Description of the organization of the Payment System and its business rationale;
- b) Signed memorandum of agreement and articles of association for the company formed to operate the Payment 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 Payment System, including:
  - i) the criteria established for direct and indirect Participation in the System;
  - ii) the principle of operation of the Payment System (real time, net, etc.);
  - iii) the draft rules or rules of the Payment System and service levels to be provided to the Participants;
  - iv) an analysis of the risk and measures to limit risks in the Payment System arising from illiquidity or insolvency of Participants in such Payment Systems including capacity to manage risk;
  - v) rules on management of liquidity, credit and settlement risk, including rules determining the time when a payment instruction and a Settlement is final;
  - vi) 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;
  - vii) 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 frequency 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 Payment System;
- h) A signed document of the relevant portion(s) of the security policies and procedures manual containing at a minimum:
  - i) a description of the institution's security organization;
  - ii) definition of responsibilities for designing, implementing, monitoring and updating information security measures; and
  - iii) established procedures for evaluating policy compliance, enforcing disciplinary measures and reporting security violations;
- i) A signed document describing the business continuity and disaster recovery plans for payment facilities and event scenario/problem management plan/program to resolve or address problems, such as complaints, errors and intrusions and the availability of back-up facilities;

### **5.3 Licensing procedure (Amendment 2013)**

1) After receipt of an application, the Bangladesh Bank may make a preliminary investigation on the genuineness of the particulars furnished by the applicant and completion of the information provided;

2) The Bangladesh Bank shall either open a full procedure under paragraph (3) of this Article or request the applicant to provide additional information. The Bangladesh Bank shall indicate to the applicant any deadlines to provide such information and the Applicant will make all reasonable efforts to comply;

3) The Bangladesh Bank, if satisfied after the investigation under paragraph (1) of this Article that the application is complete in all respects, shall open a main procedure to evaluate whether it conforms to the provisions of this Regulation or related measures issued by the Bangladesh Bank;

4) The Bangladesh Bank shall respond within ninety (90) days of submission of a complete application. Where the Bangladesh Bank considers that the application should be refused, it shall give the applicant a written notice to that effect stating the reasons for the refusal. However, no such application shall be refused unless the applicant is given opportunity of being heard;

The concession of an individual license can be subject to specific conditions imposed by the Bangladesh Bank following exchange of opinions with the applicant on the most appropriate ways to correct shortcoming identified by the Bangladesh Bank.

## **6 Penalties for violation of conditions of license**

(a) For violation of conditions of a license, the Bangladesh Bank may direct a licensed Payment System Operator or Payment Service Provider to compensate an aggrieved party or may impose financial penalty as it deems necessary, after due process with opportunity for the Payment System Operator or Payment Service Provider concerned to explain its position.

(b) The Bangladesh Bank may also suspend or revoke the license of a Payment Service Provider or a Payment System Operator, if upon review it determines that:

(i) the designated payment system operator or payment service provider has ceased to function ;

(ii) the payment system operator or payment service provider knowingly furnishes incomplete, misleading or false information or documents to the Bangladesh Bank regarding its operations and its designation;

(iii) the payment system operator or the payment service provider is in the process of winding up or dissolution in Bangladesh or elsewhere;

(iv) one or more of the terms and conditions for authorization to operate have been violated or contravened;

(v) the operation of a particular payment system operator or payment service provider must be terminated, as it is jeopardizing the safety and soundness of other payment systems in Bangladesh. The payment system operator/service provider will be given reasonable opportunity to remediate the conditions that are causing the safety and soundness concerns. The timeframe for bringing the system into compliance will be determined by the Bangladesh Bank based on the relevant facts for each situation.

## **7 General requirements to provide Payments services or to operate a system (Amendment 2013)**

- 1) Payment Service Providers and Operators of Systems shall ensure that their activities and instruments always comply with relevant regulations and other either general or individual measures adopted by the Bangladesh Bank to ensure a secure and efficient payment system in the country;
- 2) No Operator of a System shall cause any change in the System which would affect the structure, operation or administration of the System without:
  - a. the approval of the Bangladesh Bank; and
  - b. giving notice of not less than thirty (30) days to the Participants of the System after the approval of the Bangladesh Bank.

## **8 Bangladesh Bank as Owner and Operator of Clearing House Operations**

The Bangladesh Bank may choose to own and/or operate clearing house operations and payment systems as it deems necessary or appropriate, including a real-time gross settlement system. To ensure efficient, safe, secure operation of payments systems and for safeguarding the public interest, The Bangladesh Bank will issue rules, procedures, guidelines, operating directives or specific instructions as it deems necessary. The Bangladesh Bank will own and operate Automated Cheque Processing and Electronic Fund Transfer under the umbrella of the Bangladesh Automated Clearing House (BACH).

## **9 Cheque Truncation and Electronic Cheque Image Presentment**

The Bangladesh Bank shall issue rules, procedures, guidelines and operating directives under these regulations that will govern paper-based payment items and other instruments that are eligible for truncation and electronic cheque image presentment. The purpose of imaging, image exchange and the transmission of electronic information between and among banking companies is to improve the efficiency of cheque clearing in Bangladesh.

- (i). a cheque image will be recognized as the equivalent of the paper cheque that it represents;
- (ii). once the transfer of funds takes place the original cheque will no longer be negotiable;
- (iii). if the transfer of funds does not take place for any reason using the image, the original physical item may be presented for payment.

## **10 Designation of new Payment Instruments**

- (1) Where the Bangladesh Bank is of the opinion that:
  - (i) a new Payment Instrument as a means of making payment which may assume a significant role in the payment system of Bangladesh; and
  - (ii) it is necessary to protect the interest of the public by ensuring the integrity, security and reliability of the Payment Instrument; the Bangladesh Bank may recognize the new Payment Instrument as a Designated Payment Instrument;
- (2) Where a Payment Instrument is recognized as a Designated Payment Instrument, the issuers of such Designated Payment Instrument shall be subject to the provisions of Clauses 12 and 13 below.

## **11 Issuing of Designated Payment Instruments**

- (1) No Designated Payment Instrument shall be issued to a person unless the issuer has:
  - (i) complied with the requirements of these Regulations;
  - (ii) submitted to the Bangladesh Bank the documents and information as may be called for; and
  - (iii) obtained a written approval from the Bangladesh Bank to issue a Designated Payment Instrument;
- (2) The Bangladesh Bank may in giving its approval:
  - (i) require all or any of the documents submitted to be modified and altered as it may deem necessary; and
  - (ii) impose such restrictions, limitations or conditions as it may deem fit;
- (3) Any Payment Instrument so issued should have the necessary security features to make its usage secure as per the current international standards.

## **12 Prohibition of Issuance of Payment Instruments**

- (1) The Bangladesh Bank may, by a written order, prohibit the issuing or using any Payment Instrument if, in its opinion:
  - (i) the issuing or use of the Payment Instrument is detrimental to the reliable, safe, efficient and smooth operation of the Payment Systems of Bangladesh or monetary policy of the Bangladesh Bank;
  - (ii) the prohibition is in the interest of the public; or
  - (iii) the Payment Instrument has been issued with an intent of defrauding the public;
  - (iv) the person has, in the opinion of the Bangladesh Bank, failed to comply with the requirements of these Regulations.

## **13 Settlement**

- (1) The Payment Systems participants are bound by the settlement rules and procedures established by the Bangladesh Bank. Settlement takes place with the actual transfer of value based on payment instructions, whether gross or net, final or provisional in the books of the Bangladesh Bank;
- (2) The Bangladesh Bank may make settlement rules to provide the basis on which payment obligations are calculated, netted or settled including rules for taking action in the event that a participant is unable or likely to become unable to meet its obligations to the clearing house or to the other participants;
- (3) The settlement of a payment obligation through an entry to or a payment out of an account of a participant of a clearing house at the Bangladesh Bank shall be final and irrevocable after all returned items from the return clearing held on the same day have been discharged; the entry or payment shall not be reversed, repaid or set aside after such final settlement;
- (4) Encashment of collateral on deposit may be used to satisfy a settlement obligation;
- (5) Intraday facilities may be provided by the Bangladesh Bank to the Payment System Participant for meeting their payment obligations. Such facilities should be subject to appropriate collateral and rate of interest decided by the Bangladesh Bank;
- (6) Participating banks must ensure positive pay cheques amounting Taka 3.00 lac and above.

## **14 Oversight & Supervision (Amendment 2013)**

The Bangladesh Bank shall provide oversight and supervision of payment systems, payment system operators, payment service providers and payment system participants as it deems necessary to ensure the safety and soundness of such systems. The Bangladesh Bank shall conduct onsite and offsite supervision of the operations of licensed payment service providers, payment system participants, payment system operators and prescribe such reporting requirement as deems necessary from time to time.

- 1) The Payment Services provided and the Payment Systems operated pursuant to this Regulation, 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 Bangladesh Bank;
- 2) Persons undertaking monitoring on behalf of the Bangladesh Bank shall not be liable toward third persons for the consequences of the performance of their functions;
- 3) Persons subject to payment oversight shall provide the Bangladesh Bank, for the purposes of payment oversight and for statistical purposes, with information and reports on their activities, according to a procedure and with content and frequency established by the Bangladesh Bank;
- 4) The provider of Payment Services, the Operator of a Payment 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 this Regulation or required for the conduct of the oversight by the Bangladesh Bank or persons authorized by this to oversee Payment Services and/or Payment Systems;
- 5) The Bangladesh Bank shall cooperate with other public authorities engaged in the regulation and supervision of financial institutions and other entities directly or indirectly involved in Payment Services and their operation in Bangladesh, The Bangladesh Bank shall have the right to exchange information with such bodies and persons and to notify them regarding deficiencies found during their oversight activities;
- 6) The Bangladesh Bank shall co-operate with bodies in other countries for oversight of Payment Systems and Payment Services. The Bangladesh Bank shall have the right to exchange information with such bodies and persons and to notify them regarding deficiencies found during their oversight activities;
- 7) If the Bangladesh Bank discovers facts during its monitoring indicating that criminal acts have been committed it shall notify the relevant body regarding criminal proceedings of this fact without unreasonable delay.

### ***14.1 Authority to Perform Inspection (Amendment 2013)***

The Bangladesh Bank shall have the authority to inspect the premises of a System Operator or a Payment 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.

- 1) At such time, the Bangladesh 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 Bangladesh Bank measures;
- 2) The Bangladesh Bank can appoint external independent experts and can attend, through authorized officers, the meetings of the governing and supervisory bodies of the persons subject to payment oversight. Such authorized officers may give opinions and recommendations which shall be recorded in the minutes of the meetings;

- 3) When applied to Banks and other Financial Institutions, performance of such authority shall be in compliance with banking supervision laws and procedures and Bangladesh Bank shall undertake memoranda of understanding with relevant authorities to coordinate their reciprocal activities.

#### **14.2 Oversight Measures to Payment Systems (Amendment 2013)**

- 1) In case the Bangladesh Bank establishes regulatory breaches in the activity of a Payment System, depending on the nature and gravity of the breach, it may:
  - a. issue a written warning and/or issue mandatory instructions to the Payment System or Payment Service Operator and/or Participant in the Payment System;
  - b. oblige the Operator and/or Participant in the Payment System or Payment Service to discontinue and rectify the breaches within a given time-limit;
  - c. order the Payment System Operator or the Payment Service Provider to exclude a certain Participant from the Payment System, if the Participant fails to observe the requirements or rules of the System stipulated herein;
  - d. order the Participants and the Operator of the Payment System or Payment Service Provider to change its rules;
  - e. oblige the Payment System Operator or Payment Service Provider to carry out, at its own expense, internal or external audit of the System or its Participants;
  - f. impose a financial penalty;
  - g. impose on the Payment System Operator or Payment Service Provider a temporary or permanent prohibition to engage in the activity of the payment system;
  - h. revoke the license of the Operator of a Payment System or Payment Service subject to licensing.

#### **15 Collateral for Payment Obligation**

Any asset of a system participant, which the participant prior to any winding up order, judicial management order, or appointment of a conservator, has provided:

- (i) to the Bangladesh Bank as collateral security in respect of a payment obligation, may be used by the Bank to the extent required for the discharge of the payment obligation;
- (ii) to a Payment Service Provider as collateral security in respect of its written payment obligation with the Payment Service Provider, may be used

#### **16 Public Disclosure for Payments System Operators and Payment Service Providers**

A Payment System Operator or Payment Service Provider licensed by the Bangladesh Bank shall be required to publish annual reports with its audited financial statements, information on its operations, its risk management and IT practices including opinion of external audit on effectiveness of the risk management practices; the annual report to be publicly available (e.g. by uploading to its website) within three months from the close of its accounting year. In addition to annual reports, a Payment System Operator or Payment Service Provider may be directed to disclose such other information or data as deemed necessary in the public interest.

## **17 Obligation of Confidentiality of Information (Amendment 2013)**

- 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 Bangladesh Bank may provide information summaries to a third person, in which the specific System or Service and the specific person must not be identified;
- 2) Information acquired during oversight may only be used by authorized persons in the fulfilment of their job responsibilities and in legal proceedings regarding an action against a decision issued by the Bangladesh Bank as regards Payment Services and/or Systems oversight or in a similar proceeding before a Court;
- 3) The Bangladesh Bank shall be authorized to provide a body to oversee National 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 should only be in summary or aggregate form. No transaction details should be disclosed unless the affected Participants, Payment Service Provider and Payment System Operator have been notified;
- 4) The Bangladesh 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.

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