



PAYMENT SYSTEM CONSULTATIVE DOCUMENT (PSCD#2012_0701)

Stakeholder consultation on:

The Draft Guidelines for Retail Payment Services

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Making Your Submission

The Bank of Jamaica (Bank) invites all stakeholders to submit comments and written representations regarding the Draft Guidelines for Retail Payment Services, within thirty (30) business days from the date of the publication of this document. The Draft Guidelines are being considered for application by the Bank in discharging responsibility for payment system oversight and particularly in relation to the provision of retail payment services in Jamaica.

Comments and feedback are invited on all aspects of this Consultation. Submissions must clearly provide the name of the respondent as well as the position of the officer and the name of organization being represented where applicable.

Stakeholders will be advised on the conclusion of the process which is expected to be completed by the Bank within sixty (60) days after the close of the consultative period.

Comments and written representations should be sent electronically in word format by email to **'payment.system@boj.org.jm'** on or before the due date.

Livingstone Morrison
Deputy Governor
Bank of Jamaica

1. Background

The purpose of this document is to invite comments and feedback from stakeholders on the draft guidelines for retail payment services, including mobile payments.

- 1.1 By way of background, attention is directed to the fact that in 2005, the Bank of Jamaica (Bank) embarked on a comprehensive plan to reform and modernize the payment and settlement infrastructure in Jamaica. The goals of the reform were to strengthen the legal framework that governs payment and settlement systems, improve the efficiency of the entire system and mitigate potentially serious systemic risks. The major milestones that have been delivered in Phase 1 of the reform and modernization programme are:
 - a. Enactment of the Payment Clearing and Settlement Act, 2010;
 - b. Development and implementation of JamClear-RTGS for settlement of large value payments; and
 - c. Development and implementation of JamClear-CSD to serve as the national register for dematerialized fixed income Bank of Jamaica and Government of Jamaica securities and related investor accounts.
- 1.3 Phase 2 of the payment system reform agenda is in the process of implementation, a significant component of which is the strengthening of the regulatory framework governing retail payment services, and improving the efficiency of the entire system under which retail payment services are offered to consumers. The Bank is mindful of the fact that the rapid pace of development of innovative retail payment products and services demand the establishment of a comprehensive regulatory framework to guide development activities in this area.
- 1.4 The current legal and regulatory environment in Jamaica provides for the issuance and management of e-money only by commercial banks under the Banking (Banking Business)(Electronic Money) Order 2006. To date, this Order has been effective in preventing unauthorized persons from offering innovative retail payment services in a manner that could undermine the safety of the entire system and undermine public confidence in the subsector. The Bank now acknowledges the emergence of several innovative retail payment services and the need to amend its position in relation to the regulation of this important subsector of the financial system.
- 1.5 The Bank is therefore in the process of developing a new regulatory environment that will allow for the orderly development and introduction of new and innovative retail payment services in a manner that will promote the safety and efficiency of

the payment system and by extension the stability of the financial system as a whole.

- 1.6 The Bank is also keen on ensuring the attainment of major public policy objectives that can be facilitated through enhanced access to retail payment services. In this regard, the Bank is, through this paper, seeking to outline its policy position on retail payments as well as the key elements of the proposed regime.
- 1.7.1 The policy positions enunciated in this paper have been reached after extensive consultations and discussions with stakeholders in the payment services sector. Through the National Payments Council, which is chaired by the Bank, representatives from the Ministry of Finance & Planning, Bankers Association, the Securities Dealers Association, Cambio Association as well as representatives from other stakeholders groups were engaged in discussions on the relevant public policy issues. The major telecommunication service providers were also engaged in discussions.
- 1.8 Information on the policy goals as well as the key considerations that informed the development of the draft guidelines are outlined in the following subsection of this note.

2 Policy Positions

- 2.1 The primary policy goal of the Bank in the area of retail payment systems reform is the promotion of safety and efficiency, while enhancing access to payment services and facilitating the introduction of innovative retail payment services.
- 2.2 Globally there have been many innovations in the area of retail payments, most notable of which are:
 - a. Development of various types of prepaid payment instruments;
 - b. Development of payment services that involves leveraging the widespread availability of mobile phones as a channel for initiating and receiving payment instructions; and
 - c. The use of agents in the provision of payment services to consumers.
- 2.3 Innovations in these areas have already been adopted by the industry to some extent in Jamaica. The provision of guidelines will serve the purpose of clearly defining the criteria that must be satisfied by stakeholders who wish to secure authorization to operate in the retail payment sector. It is anticipated that application of the guidelines will:
 - Bring greater levels of transparency to the retail payments services sector;
 - Facilitate the introduction of new payment instruments and services in a more competitive environment; and

- Support improvement in the availability, affordability and ease of use of retail payment instruments by a larger proportion of the population.

Of equal importance is the objective of the Bank to ensure that, with the introduction of new retail payment services, the national payment system will be subjected to appropriate levels of risk management.

- 2.4. In addition to promoting system safety and soundness, application of the guidelines will also serve to promote consumer confidence. In this regard, entities and their agents that will be authorized to provide retail payment services will be required to adhere to a high level of transparency related to the terms and conditions of service. They will also be required to implement appropriate mechanisms to ensure speedy resolution of disputes.

3 Key Considerations

An analysis of the various retail payment services that are available internationally shows that from a legal and regulatory perspective the following are the key areas for considerations:

- a. Institutions that can offer payment products and services;
- b. Types of products to be allowed;
- c. Design parameters;
- d. Consumer protection;
- e. Risk management considerations including AML/CFT; and
- f. Oversight Arrangements.

The considerations that are relevant to the payment services sector in Jamaica and the related policy stance of the Bank are summarized in the following subsections.

3.1 *Institutions that can offer payment products*

- 3.1.1 Retail payment services have traditionally been provided to the Jamaican consumer by deposit taking institutions and other Bank licensees. In addition, bill payment service providers have been operating in the retail payment space for an extended period of time.

3.1.2 The Bank through the application of the Draft Guidelines intends to consider application and grant authorization for the provision of Customer Account Based Retail Payment Services and Custodian Account Based Retail Payment Services. Customer Account Based Retail Payment Services may only be offered by Bank regulated deposit taking institutions. The Bank will also apply the Draft Guidelines in considering and granting authorization for the provision of Custodian Account

Based Payment Services. Authorisation for operating these two payment service categories will be subject to the understanding that:

- i) issuers shall not issue e-money at a discount or premium;
- ii) money collected should only be used in accordance with customers' payment instructions;
- iii) no interest or profits can be paid on e-money balances;
- iv) authorized issuers, agents and merchants shall maintain separate e-money accounts;
- v) products may be subject to transactional limits, such as limits within which the value must be utilized or redeemed.

3.1.3 Institutions intending to offer these services are required to seek **authorization** from the Bank. Authorization will take into consideration the provisions in the Draft Guidelines where such provisions are applicable. Retail payment services that are currently offered by deposit taking institutions, which were previously approved by the Bank, will be brought within the scope of the Draft Guidelines.

3.2 *Types of Products*

3.2.1 Retail Payment Services such as stored value card based products inclusive of prepaid or mobile payment products, which exhibit the following features, will be governed by the Draft Guidelines:

- i) value stored and accessed electronically, including magnetically;
- ii) issued on receipt of funds;
- iii) used for the purposes of making payments;
- iv) accepted as a means of payment by persons other than the issuer.

3.3 *Design Parameters*

3.3.1 In order to satisfy the public policy objectives, as well as the safety and soundness of the retail payment system in general, the issuers of retail payment services will be required to satisfy the Bank in relation to the following;

- a. Fitness and propriety of principals and officers of the entities;
- b. Appropriate trust/segregation measures;
- c. Appropriate capital levels and liquidity management measures;
- d. Requirements for systems inter-operability;
- e. Secure and transparent banking, clearing and settlement arrangements;
- f. Appropriate risk management measures; including anti-money laundering /combating the financing of terrorism features;
- g. Ongoing qualification requirements for agents;
- h. Consumer protection measures, including data security measures;

These parameters are set out in further detail in the attached draft Guidelines.

3.4 Consumer Protection

3.4.1 The Bank recognizes the need for a strong consumer protection framework. As such, stakeholders intending to offer retail payment services will be required to implement measures to address consumer protection, education and privacy. In this regard, consumers must be provided with clear terms and conditions for use of any instrument issued and service providers must obtain acknowledgement from its users and merchants prior to their participation in any Retail Payment Service.

3.5 Risk Management Considerations including AML/CFT

3.5.1 The Bank as overseer of the payment system has the responsibility to ensure the safety and integrity of the payment system. Accordingly, all service providers will be required to establish appropriate risk management infrastructure to mitigate operational and financial risks.

3.5.2 Service providers will be required to comply with all the AML/CFT and POCA procedures as well as all related regulations and guidelines adopted by the Bank. They shall also be required to ensure that all third party providers acting on their behalf are in full compliance with such procedures.

3.6 Oversight Arrangements

3.6.1 The Bank exercises oversight over all payment systems in the country, including retail payment services and innovations as they evolve. To enable effective oversight the following provisions have been included in the attached guidelines:

- a. Requiring all entities to seek approval prior to launching new payment instruments and services;
- b. Reporting requirements to collect statistics of usage trends and operational arrangements;
- c. Right to inspect and call for any information.

3.6.2 The regime for oversight will also detail issues of enforcement to ensure that applicable penalties are proportionate, effective and dissuasive, including revocation of authorizations and resolution mechanisms to be applicable to failed issuers.

4 *The Way Forward*

- 4.1 The Bank recognizes that the dynamic technology environment is continually impacting the emerging payment products which in turn affect the underlying legislative and regulatory framework that must be in place to support the payments landscape. The existing legislative arrangements are being reviewed in tandem with the implementation of these guidelines to ensure these reforms are implemented to support the retail payment system in accordance with international standards and requirements.

APPENDIX 1

DRAFT GUIDELINES REGIME FOR AUTHORISING AND REGULATING THE ISSUANCE AND MANAGEMENT OF RETAIL PAYMENT SERVICES IN JAMAICA

1. Introduction

- 1.1. These Guidelines aim to provide a framework to support the development of the payment services sector in Jamaica by ensuring the safety and soundness of retail payment services, therefore enhancing users' confidence in non-cash payment means and increasing their use while promoting consistency in the treatment all payment services.
- 1.2. Any entity wishing to issue and manage a retail payment service must satisfy the authorization requirements of the Bank of Jamaica ("Bank") under these Guidelines and/or any further standards or guidelines adopted by the Bank.
- 1.3. To the same end, the requirements for the operation of a retail payment service, outsourcing parts of relevant activities and use of agents are hereby outlined.
- 1.4. These Guidelines are issued in accordance the provisions of the Payment Clearing and Settlement Act 2010 under which the Bank holds responsibility for oversight of the national payment system. Through the execution of its oversight function the Bank seeks to promote the prudent and safe management of retail payment services as part of the process of ensuring the safety and soundness of the national payment system and the proper functioning of the financial system in general.
- 1.5. These Guidelines do not confer on any entity the right to conduct deposit taking business, which may only be conducted by authorised deposit taking institutions (DTIs) pursuant to provisions of the Banking Act, the Financial Institutions Act and the Building Societies Acts and their related regulations.

2. Objectives

- 2.1. The objectives of these Guidelines are to:
 - a. outline the standards to be observed by the issuers of payment instruments in relation to the operation of retail payment services;
 - b. define authorization requirements by the Bank; and
 - c. achieve and maintain public trust and confidence in non-cash means of payment.

3. Definitions

- 3.1. *Retail payment instrument* means any tangible or intangible instrument, device or mechanism that enables an individual to obtain money, goods or services or to otherwise make payments or transfer money.

- 3.2. *E-money* means electronically, including magnetically, stored monetary value in any device or instrument or server 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. This includes e-money stored on a device (such as a SIM card) or a server and accessible via mobile telephone, internet or other access devices, cards, and other similar products.
- 3.3. *Retail Payment Service* means the rules, standards and procedures governing the relationship, rights, responsibilities and obligations of all stakeholders involved in the operation and use of the system and the retail payment instrument(s) to which they refer. A Retail Payment Service may be a Custodian Account Based Payment Service or a Customer Account Based Payment Service.
- 3.3.1. Issuers that are authorized to operate Custodian Account Based Payment Services:
- a. may issue e-money by accepting physical money from customer/merchants;
 - b. may convert e-money into physical money for e-money account holders (cash-outs) on their request, directly or through appointed merchants;
 - c. based on the transactions made by customers and merchants, it is mandatory that the e-money accounts are updated on real-time basis;
 - d. shall operate a custodian account/s with a deposit-taking institution/s; and
 - e. shall maintain the cumulative sum collected from all e-money account holders in the custodian account/s at all times.
- 3.3.2 Customer Account Based Payment Services may be operated by licensed deposit-taking institutions for the purpose of offering retail payment services to their account holders only. Under the Customer Account Based Payment Service, three types of payment services may be offered, namely;
- 3.3.2.1 **The Basic Type:** relates to the facility to obtain information on account balance, record of previous transactions, and payment orders which do not relate to fund transfers.
- 3.3.2.2 **The Standard Type:** relates to the facility to make fund transfers and stop payments, in addition to the basic type services. Fund transfers may include utility bill payments, own account fund transfers and third-party fund transfers,

on the basis of instructions transmitted through an electronic device (e.g. mobile phones).

3.3.2.3 **The Extended Type – Operated through Agents**: In addition to the basic and standard type services, this sub-category relates to the facility to deposit/withdraw cash through agents appointed by the respective banks.

3.3.3 No person other than a deposit-taking institution that is authorized by the Bank shall offer Customer Account Based Payment Services.

3.4. *Issuer* means entities authorized, individually or jointly, by the Bank to issue and manage retail payment services. The Issuer receives payment in exchange for value distributed in the retail payment service and is obligated to pay or redeem transactions or balances presented to it. Issuers shall include deposit taking institutions, and any other entity authorized from time to time by the Bank.

3.5. *Outsourcing* means the contracting or sub-contracting of one or more activities relating to issuance and management of a payment instrument to an independent third party. Such third party provides services to the issuer without this giving place to any principal-agent relationship with the issuer.

3.6. *Agent* means a person acting in the name and on behalf of, and so representing one or more issuers of a retail payment instrument *vis-à-vis* users. The issuer is the principal of the agent and both are subject to all relevant laws and rules governing the principal-agent relationship. By virtue of the agency agreement the agent is permitted to conduct the services indicated in the agreement in accordance with the directives received by the issuer.

3.7. *User* means any person to whom e-money has been issued or any person who uses a retail payment instrument.

3.8. *Merchant* means any person that accepts e-money as payment for their goods and services.

4. Authorization

4.1. Persons shall not issue and manage a retail payment service unless previously authorized by the Bank.

4.2. In order to be authorized, an applicant shall submit to the Bank all information and documents that the Bank shall from time to time require for this purpose in accordance with these Guidelines that are issued to facilitate the discharge of oversight responsibilities under the Payment Clearing and Settlement Act (2010).

4.3. The authorization requirements of the Bank shall be in line with these Guidelines.

5. Capital

- 5.1. The Bank shall from time to time determine capital requirements for each category of issuers of retail payment services.

6. Governance

- 6.1. An issuer shall establish adequate governance arrangements, which are effective and transparent, to ensure the continued integrity of its retail payment service, which shall include, but not limited to, the following:
- a. Shareholders, directors, managers and agents shall fulfill the fit and proper criteria as established by the Bank;
 - b. clearly defined and document organizational arrangements, such as ownership and management structure;
 - c. segregation of duties and internal control arrangements to reduce chances of mismanagement and fraud.
- 6.2. The issuer must implement internal policies that are compliant with the Bank requirements, including at a minimum:
- a. risk management;
 - b. capital management;
 - c. liquidity management;
 - d. internal audit;
 - e. business continuity plan;
 - f. security of the network used for communication and transfers;
 - g. complaints, dispute management arrangements and redress mechanisms.

7. Operational requirements

- 7.1. An issuer shall establish adequate operational arrangements for its retail payment service, which shall include:
- a. rules and procedures setting out the contractual rights, responsibilities and liabilities of the issuer, third parties engaged in outsourcing arrangements, agents, merchants, users and any other relevant stakeholder;
 - b. measures to ensure safety, security and operational liability of the retail payment service, including contingency arrangements and disaster control procedures, to be

applied to all relevant systems, whether internal or outsourced, including systems and platforms;

- c. adequate arrangements to ensure interoperability, *i.e.*, that payment instruments belonging to a given retail payment service may be used in other systems installed by other retail payment services;
- d. separate, accurate and complete record of transactions and accounts for activities related to the retail payment service that it provides;
- e. the terms and conditions for the use of the retail payment service should be easily accessible and understood.

8. Imposition of limits

- 8.1. The Bank reserves the right to impose on issuers such conditions and limits as it deems necessary which includes, the extent of their operations, the nature the payment instruments that may be offered, the number of accounts that may be issued over a particular period and limits on the monetary values that may be transferred or funded using the payment instrument.

9. Risk management

- 9.1. An issuer shall establish an appropriate risk management infrastructure to mitigate risk and to ensure the safety and integrity of transfers. Likewise, it shall implement operational and security safeguards in proportion to the scale and complexity of the retail payment service.
- 9.2. An issuer shall ensure that they have the necessary expertise, hardware, software, and other operating capabilities to deliver consistently reliable service. Measures to ensure operational reliability shall include:
 - a. appropriate system(s) which have been designed, developed, and extensively tested, implemented and monitored to establish operating capabilities and reliability;
 - b. strong internal controls for systems and personnel administration;
 - c. comprehensive and well documented operational and technical procedures;
 - d. a system(s) designed with sufficient capacity, which is monitored and upgraded ahead of business changes;

- e. robust clearing and settlement arrangements, where relevant;
- f. robust business continuity, including a reliable back-up system;
- g. timely and accurate audit trail and the capability to provide statistical information and reports;
- h. adequate accounting systems and proper reconciliation processes.

10. Outsourcing

- 10.1 An issuer intending to outsource operational or managerial functions shall require specific authorization from the Bank.
- 10.2 Outsourcing of important operational or managerial functions may not be undertaken in such a way as to impair the quality of the issuer's internal controls and the ability of the Bank to monitor compliance with all obligations laid down in these Guidelines or any further measures that may be adopted by the Bank in discharging its oversight responsibilities.
- 10.3 For the purposes of sub-section 10.2, a function shall be regarded as important if a defect or failure in its performance, in the view of the Bank, would materially impair the continuing compliance of an issuer with the requirements of the applicable laws, these Guidelines and/or the terms of its authorization, or would substantially compromise its financial performance or the soundness or the continuity of its operations.
- 10.4 Once an issuer outsources important functions, it must comply with the following conditions:
 - a. the outsourcing shall not result in the delegation by senior management of its responsibility;
 - b. the relationship and obligations of the issuer towards the users of any relevant retail payment service shall not be altered;
 - c. the conditions with which the issuer is to comply in order to be authorised and remain so in accordance with these Guidelines shall not be undermined; and
 - d. none of the other conditions subject to which the authorization was granted shall be removed or modified.

11. Use of agents

- 11.1 When an issuer intends to offer a retail payment service to users through an agent it shall communicate the following information and documents to the Bank:
 - a. the name, address and other relevant information of the agent as the Bank shall indicate from time to time;

- b. a description of the internal control mechanisms that will be used by agents in order to comply with the obligations in relation to anti-money laundering (AML) and combating terrorist financing (CFT);
 - c. criteria for appointing the agent;
 - d. the identity of directors and persons responsible for the management of the agent and evidence that they are fit and proper persons according to the standards that the Bank shall issue from time to time. Notwithstanding, the fitness and propriety of all agents will be determined by the Bank.
 - e. copy of the agency agreement, containing at a minimum clear indication of tasks of the agent(s) and consequent allocation of liabilities, responsibilities and duties of the agents towards the users, and the applicable liquidity and security standards.
- 11.2 When the Bank receives the information in accordance with sub-section 11.1 it shall list the agent in a register available to the public. No agent shall carry out any activities under the agency prior to being listed in the said register. Before listing the agent arrangement in the register, the Bank may, at its discretion, take further action to verify the information. If, after taking action to verify the information, the Bank is not satisfied that the information provided is correct, it shall refuse to list the agent in the register.
- 11.3 The principal shall ensure that agents acting on its behalf inform customers of their acting as agents of a specific principal.
- 11.4 Any exclusivity agreement shall be duly submitted to the Bank, before their entry into force, to be authorised. Exclusivity agreements shall be prohibited insofar as they retard attainment of the public policy objectives that are agreed by the National Payments Council.

12. Liability

- 12.1. When an issuer relies on third parties for the performance of operational or managerial functions, they shall take reasonable steps to ensure that the requirements of these Guidelines and any further directives by the Bank are complied with.
- 12.2. The issuer shall remain fully liable for any acts of their employees, or any agent, or entity to which activities are outsourced.

13. Consumer protection, education and privacy

- 13.1. Issuers are required to put in place measures to address consumer protection, education and privacy.

- 13.2. Issuers should in particular ensure that:
- a. it adopts general policies on safe operations, privacy of customers information, reliable and quality service, transparency of instruments and services, and prompt response to inquiries, complaints, refund demands and disputes;
 - b. it puts in place rapid dispute resolution mechanisms;
 - c. it provides adequate warning statements to users and merchants on the risk of loss arising from failure or insolvency of the issuer, lost or stolen payment instruments or access devices, or fraudulent transactions.
- 13.3. An issuer shall provide clear terms and conditions for use of the instrument, which should be made publicly available. The issuer must obtain acknowledgement from its users and merchants prior to their participation in the retail payment service.
- 13.4. Details should include at a minimum:
- a. type of payments that can be made;
 - b. applicable fees and charges;
 - c. availability of user's statement;
 - d. procedures for reporting losses or stolen instruments/devices and means to lodge a complaint;
 - e. refund policies;
 - f. rights and responsibilities of users and merchants;
 - g. termination rules;
 - h. redemption procedures, where relevant.

14. Prudent management of funds

- 14.1. An issuer shall ensure the timely refund of balances to users and payment to merchants.
- 14.2. Issuers shall also ensure that they have sufficient liquidity for their daily operations.
- 14.3. Funds collected from or on behalf of users should be deposited and held separately from the issuer's working capital funds.
- 14.4. Money collected from the customer should only be used in accordance with the payment instructions of the customer;
- 14.5. The Bank will from time to time issue instructions and standards under this Section.

15. Operations of the Custodian Account Based Payment Services

- 15.1 Issuers operating custodian account based payment services shall ensure that customers are notified, on a real-time basis, of top-ups made to e-money accounts, cash-outs made from e-money accounts and any other transaction which increases/decreases the value of e-money stored in their accounts.
- 15.2 Issuers of Custodian Account Based Payment Services shall open and maintain separate e-money accounts for each customer and a statement of the e-money account shall be made available to the customer electronically or in printed form periodically or upon request.
- 15.3 The issuers of Custodian Account Based Payment Services shall not:-
- (a) grant any form of credit to e-money account holder;
 - (b) pay interest or profit on the e-money account balances that would add to the monetary value of e-money;
 - (c) issue e-money at a discount, i.e. provide e-money that has a monetary value greater than the sum received.
- 15.4 Stored value limits per account, transaction limits, Merchant's limits and daily limits shall be decided with the approval of the Bank. Any subsequent amendments to such limits shall also be made only with the approval of the Bank.
- 15.5 The issuer of Custodian Account Based Payment Services shall inform e-money account holders wishing to close their account to make a request in writing to redeem the remaining balance on the account. In such events, redemption shall be made no later than three (3) business days from the date the claim is made, without any additional cost other than what is necessary to complete the transaction. The e-money account holder shall be notified with written confirmation by the authorized issuers, after the completion of the process of closing the e-money account.

15.6 The issuer of a custodian account based payment service shall be responsible for the following:

- (a) Ensuring strict adherence to the KYC and CDD procedures in registering customers and maintaining customer accounts;
- (b) Monitoring and supervising the activities of the account holders and merchants to ensure that they are operated for the intended purposes;
- (c) Submitting periodic reports and providing access to the system, as and when requested by the custodian bank, in order to monitor balances and activities of account holders;
- (d) Reporting to the custodian bank any suspicious transactions as per the regulations issued by the authorities.
- (e) Handling disputes of all customers and merchants according to the guidelines applicable to the custodian account based payment service.

16. Arrangements for Maintaining the Custodian Account

16.1 Issuers of custodian account based payment services shall open a custodian account/s at a licensed deposit taking institution and shall deposit funds collected from account holders in exchange of e-money, in this account. An agreement including *inter alia*, the responsibilities outlined in these guidelines, shall be signed by the issuer with the custodian bank to ensure that the movement of funds through the account accords with highest levels of transparency. However, when an issuer opens multiple custodian accounts with more than one deposit taking institution, the issuer shall clearly define the set of accounts related to each custodian account, and such information shall also be provided to the relevant custodian bank.

16.2 The custodian bank shall be responsible for the following:

- (a) Formulating the KYC and CDD procedures to be adopted by the issuer and ensure the compliance by the issuer;

- (b) Ensuring that the issuer effectively discharge responsibility for monitoring and supervising the activities of the appointed merchants to ensure that they will not engage in any unauthorized activities other than the approved payment services;
- (c) Monitoring of all transactions made by the issuer through the custodian account at predefined periods of time and reporting to the Bank as per regulations applicable to a regular bank account;
- (d) Reconciliation of funds held in the custodian account with the cumulative values of all related customer accounts. Any discrepancy between the e-money accounts and the custodian account shall be reconciled and cleared within seven (7) days. Discrepancies that cannot be cleared within this period shall be reported to the Bank for information. However, the custodian bank shall have a mechanism to resolve those discrepancies within a reasonable time;
- (e) Ensuring that the issuer reports suspicious transactions of account holders based on the guidelines issued by the authorities and strictly comply with the relevant reporting requirements for such transactions.
- (f) Carrying out regular audits of all customer accounts with the issuer;
- (g) Monitoring of issuers for compliance with regulations, guidelines of the proposed solution and any other requirements imposed by the Bank at the time of approval or changes made thereafter;
- (h) Adhering to the reporting requirements of the Bank;
- (i) Reporting the deposits in the custodian accounts as part of the deposit liabilities of the bank; and
- (j) Formulating a proper mechanism for customer protection in the event of a disruption/closure of the issuer's operations.

- 16.3 When an application is submitted to obtain authorization to carry out payment services, a letter from the respective custodian bank/s has to be submitted with an undertaking that the custodian bank agrees to fulfill the conditions and discharge all responsibilities given in this schedule.
- 16.4 Notwithstanding anything contrary to these guidelines, the custodian bank may be authorized to invest funds in the custodian account, in an interest-bearing account. However, the issuer shall not have access to funds in the custodian account and shall not use funds in the custodian account as security or collateral at any time.
- 16.5 The custodian bank may open an interest-bearing custodian account for the issuer. However, the interest earned through the custodian account shall be credited to a separate account.
- 16.6 The issuer and the custodian bank shall ensure that credits/debits to the custodian account are made only to effect changes in the cumulative sum of customer account balances.
- 16.7 Issuers shall identify dormant accounts and report the amount to be set aside as the dormant deposit from the custodian account with individual account holder details to the custodian bank. The custodian bank/s shall adhere to the reporting requirements for such deposits.
- 16.8 Custodian banks shall ensure that the funds lying in the custodian account shall be blocked in the case of bankruptcy/close of the business of the issuer.
- 16.9 The issuer operating the custodian account based payment service shall have no claim to the funds lying in the custodian account in the case of bankruptcy/close of business of the issuers.

17. Other prohibitions

17.1 An issuer shall not:

- a. issue e-money at a premium or discount;
- b. use the money collected from or on behalf of users to extend loans;

- c. extend credit to the user, or pay interests or profits on the e-money balances, or anything else that would add to the monetary value of the e-money;
- d. associate, link or use the retail payment service to conduct or facilitate illegal activities.

17.2 Merchants and agents who are also users of e-money shall maintain a separate user account for making payments on their own behalf.

18. Reporting requirements

18.1 An issuer shall submit to the Bank:

- a. its audited financial statements on a regular basis, as the Bank shall from time to time determine.
- b. Monthly transaction reports showing, among others, transactions with agents and between agents, total number of cash in/ cash out, bills paid and any other data the Bank may from time to time consider necessary for its oversight activities.
- c. Monthly reconciliation statement between the custodian account balance and the total e-money in circulation.

19. Respect of AML/CFT legislation

19.1 Issuers shall meet the requirements and comply with AML/CFT procedures, as well as regulations and guidelines adopted by the Bank to this end.

19.2 They shall also ensure that any third party acting on their behalf or agents shall comply with relevant requirements.

19.3 The terms of this section shall not imply by any means that agents are not liable for their actions under existing legislation on AML/CFT and be liable under the Proceeds of Crime Act.

20. Existing Retail Payment Services

20.1 Issuers will be required to structure their organization, administration, and operations relating to pre-existing retail payment services to conform with the requirements of these Guidelines within six months from the effective date of these Guidelines or before the expiration of any extended period as the Bank may determine.

20.2 Deposit taking institutions and other entities jointly providing retail payment services that were not previously authorised, shall take immediate steps to secure authorization from the Bank within six months from the effective date of these

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Guidelines or before the expiration of any extended period as the Bank may determine.

- 20.3 When submitting information and documents entities seeking authorization under these Guidelines, must indicate and provide documentation on existing links between the different payment services, measures in place to mitigate risks and any cases of shared use of infrastructures or operations, including the use of agents.
- 20.4 The Bank shall from time to time indicate what Sections of these Guidelines might not apply to deposit taking institutions or other entities already providing payment services.