



PAYMENT SYSTEMS LEGISLATION

The following pieces of legislation, together with the Central Bank of The Bahamas Act, 2020, provide the legal framework for the Central Bank's supervision of payment, clearing or settlement system systems in The Bahamas, the operation of those systems and the regulation of payment instruments, including the provision of electronic money:

- Payment Systems Act 2012
- Payment Systems (Oversight) Regulations 2012
- Payment Systems (National Payments Committee) Byelaws 2012
- Payment Instruments (Oversight) Regulations 2017

Payment Systems Act 2012

Pursuant to the Payment Systems Act, 2012 (“the PSA”), the Central Bank is responsible for formulating, adopting and monitoring the implementation of a National Payment System Policy for The Bahamas and for overseeing payment systems and payment instruments. The PSA formally establishes the National Payments Committee to act as an advisory body to the Central Bank on the implementation of the national payment system policy for The Bahamas. The Central Bank serves as the Secretariat for the NPC.

Under the PSA, the Central Bank's approval is required to organise, establish, operate or participate in any domestic payment system. However, where the Central Bank designates a payment system as a “systemically important payment system” or a “SIP”, the PSA requires the participants, operators, clearing houses and settlement institutions of the designated system to adhere to enhanced regulatory requirements. Furthermore, the PSA empowers the Bank to suspend the operation of any system or terminate the participation of any member in an approved system, and allows the Central Bank to have access to the accounts, records, books and documents of any clearing house or participant of a designated system.

The PSA also empowers the Central Bank to regulate issuers of electronic money products (other than banks or trust companies) that may be accessed by the general public and which provide a multipurpose means of payment, that is, which can be used to purchase goods and services from third party merchants other than the issuer. The

PSA reduces systemic risk and enhances the safety of designated systems by providing for the finality of payments cleared through those systems and ensuring that payments entered into these systems, are protected from being unwound in the event of the insolvency of a system participant. The PSA also provides for the electronic presentment of cheques and limits the application of the Bills of Exchange Act in this regard.

Payment Systems (Oversight) Regulations 2012

The Payment Systems (Oversight) Regulations, 2012 (“the Regulations”) provide for all matters which are necessary or expedient to give effect to the PSA, including:

- enabling the Central Bank to require that audits and inspections of the systems and operations of a clearing house of a designated system be conducted;
- giving the Central Bank the right of access at all reasonable times to inter alia the books, records and systems of the clearing house of a designated system;
- establishing the penalties and fines which the Central Bank may impose on any person or clearing house of a designated system which fails to comply with the Regulations;
- requiring a designated payment system to obtain the Central Bank's approval for the appointment of its chief executive officer or directors in The Bahamas, who are entrusted with the management of the operator, and
- empowering the Central Bank to take certain actions in relation to a designated payment system in an emergency situation.

Payment Systems (National Payments Committee) Byelaws 2012

The Payment Systems (National Payments Committee) Byelaws (the Byelaws), provide for the continued operation of the National Payments Council¹ as a body to be known as the National Payments Committee (NPC). The Byelaws formally constitute the NPC to act as a vehicle for the Central Bank and the clearing banks to consult with, and act in collaboration with the Government and public corporations as important stakeholders in the payments system of The Bahamas.

Payment Instruments (Oversight) Regulations, 2017

The Payment Instruments (Oversight) Regulations outline the Central Bank’s mandatory requirements for an institution to qualify to hold a non-bank Payment Service Provider’s licence in The Bahamas. Under these Regulations the Central Bank also has oversight of payment service providers with regard to the issuance of payment instruments and the related payment services they provide to individuals and businesses.

¹ The National Payments Council was established in May 2003, with the objective of facilitating the development and maintenance of the national payments strategy for The Bahamas.