

A hand holding a smartphone over a payment terminal. The background is dark and blurred, showing what appears to be a shop or office setting. The text is white and bold, with yellow horizontal lines above and below it.

**Technological  
advancements  
continue to take  
the world by storm**

## **An Overview of the National Payment Systems Act, 2020**



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## National Payment Systems in Uganda

A payment system is one used to support financial transactions through the transfer of monetary value, and includes financial institutions, instruments, and technologies that enable the exchange.

Until the early 2000s, Uganda maintained an economy largely based on a cash payment system. The introduction of the Automated Clearing House and Real Time Gross Settlement systems saw the first revolution in the financial market take place. Other payments innovations such as credit cards and agency banking soon followed, sweeping the financial sector into the era of digital financing.

Since 2009, when Mobile Money services were launched in Uganda through a partnership between Stanbic Bank Uganda and MTN Uganda, the digital financial services market has largely been dominated by mobile money service providers such as MTN Uganda Limited. The network of mobile money services is comprised of mobile network operators, commercial banks, non-bank financial institutions, Bank of Uganda, third-party operators and technology providers. The services are offered by mobile network operators in partnership with supervised financial institutions.

The previous Mobile Money regulatory framework however did not cover non-financial institutions providing payment systems thereby locking out these emerging payment infrastructures such as SafeBoda Cashless, Pesapal and Xente, all of which are payment systems operated by private players.

### Technological advancements

continue to take the world by storm at an alarming pace, compared to the last century. These advancements are geared towards the betterment of service delivery and as a consequence have brought the creation of new industries and services. Payment systems over the years have morphed from the traditional brick and mortar of over the counter cash transactions to online peer to peer transactions, and regulators have been left with the uphill task of providing an enabling environment for existing and yet to exist payment systems.

Payment systems are a vital part of the economic and financial infrastructure. Their safe and efficient functioning, allowing transactions to be completed safely and on time, makes a key contribution to overall economic performance. But payment systems can also involve significant exposures and risks for users and participants, and can be a channel for the transmission of disturbances from one part of the economy or financial system to another.



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## The National Payment Systems Act, 2020

Payment solutions such as mobile money were previously regulated by guidelines such as the Mobile Money Guidelines, 2013 which provided that Bank of Uganda was in charge of approval and supervision of mobile money services. Bank of Uganda was given the mandate to issue directives regarding mobile money operations whereas, Uganda Communications Commission was responsible for licensing and supervision of mobile network operators; ensuring that telecommunications networks were effective.

Oversight of payment systems entails reporting from the payment system and payment service providers to the authorized authority and monitoring, analysis, on-site inspection and licensing of payment systems by the recognized authority. The absence of a comprehensive payment system law that supports the National Payment System had created an environment where there was a significant level of risk associated with the operation of the current systems.

The hitherto inadequate oversight had a major impact on the safety of payment systems in Uganda as there was no definitive legal basis for ensuring that operators and service providers are in compliance with operating norms and regulations. International best practice puts significant emphasis on the need for fulfilment of these functions as they are the basis for ensuring safety in payment systems. This responsibility is typically given to the central bank of the country.

Informed by the above regulatory lacuna, Parliament passed the National Payments Systems (NPS) Act, 2020 in May 2020 and assented to by the President on the 29th day of July 2020. The Act has now been gazetted and is the law effectively regulating payment systems in Uganda.

The Act is aimed at regulating payment systems beyond the traditional systems, providing safety and efficiency of payment systems, providing the functions of the Central Bank in relation to payment systems and providing for the establishment of the national payment systems council, among others.

The Act aims at applying to a set category;

- a. An operator of a payment system
- b. A payment service provider (PSP)
- c. An issuer of a payment instrument

## Oversight of Payment Systems

Payment Systems under the NPS Act refers to a system used to effect a transaction through the transfer of monetary value, and includes the institutions, payment instruments, person, rules, procedures, standards, and technologies that make such a transfer possible.

The payment instrument under the Act refers to any device or set of procedures by which a payment instruction is issued for purposes of making payments or transferring money and includes cheques, promissory notes, electronic money, credit transfers and debit cards or any other instrument through which a person may make payments, with the exception of banknotes and coins. Operators of payment systems are specifically provided for under the Act, with an operator being an entity in charge of the operating of a payment system and this may include a participant to a payment system, a settlement agent, a central counterparty or a clearing house.

The eligibility of a payment system for licensing is provided under Section 9; if that system has, inter alia, any of the following objects –

- a) Clearing of payment instructions between financial and non-bank
- b) Settling of obligations arising from the clearing of payment instructions
- c) Transfer of funds from one account to another using an electronic device
- d) Transfer of electronic money from one electronic device to another

The Act provides for the Central Bank's power to, among other things, oversee the operations of qualified systems and thereby ensure the safety of participants' funds and the efficiency of payment systems.

Section 25 of the National Payment Systems Act makes payment instructions or settlements valid and enforceable, and final and irrevocable from the time the payment or settlement is determined under the payment system's rules to be final.

Section 26 of the Act requires payment systems to keep settlement accounts on the books of the central bank or authorized settlement agent.

Section 30 requires a payment system to inform the central bank in no more than two hours if insolvency proceedings have been brought against the payment system.

## Powers of the Central Bank

The Central Bank's powers as provided under the Act focus on the oversight and regulation of payment systems. In implementing its mandate, Section 5 of the National Payment Systems Act empowers Bank of Uganda to, inter alia; monitor cross border payments, provide settlement services to payment systems and co-ordinate payment systems activities with relevant stakeholders.

In addition, Section 12 of the National Payment Systems Act empowers Bank of Uganda to make any directives to the payment service providers to correct any conduct the Bank believes is detrimental.

In doing so, the Central Bank may issue various directives on the application of the provisions of the Act in respect of payment systems or payment instrument. For example, a directive may be issued to cease or refrain from engaging in the act, omission or course of conduct. A person may also be directed to perform an act necessary to remedy the situation, or to comply with a directive. Thirdly, a directive may be issued requiring the recipient to provide the Central Bank with specified information and documents about the matter concerned.

In addition, the Central Bank may require a service provider or payment system operator to furnish information and data on its operations. This must be made available at such times and in such form as the Central Bank may prescribe for the proper discharge of its functions. Failing to do so makes the service provider or operator liable to a fine.

## Licensing

The National Payment Systems Act applies to three (3) categories, as per Section 3, that are required to obtain licenses from the Central Bank, before offering to operate payment systems offer payment services or issue payment instruments.

The central bank shall grant licences to applicants, if satisfied that requirements, set out thereunder, have been met. The requirement for a licence to offer or operate a payment service, or issue paying instruments is not to be extended to payment services or payment instruments operated by the Central Bank.

Payment Service Providers under Sections 8 and 10 of the Act will only be granted licenses to offer payment services establish or operate payment systems and issue payment instruments.

A Payment service provider refers to a person licensed under Section 10 of the Act to provide a payment service; a payment service being –

- a) Services enabling cash deposits or withdrawals
- b) Execution of payment transactions
- c) Issuance and acquisition of payment instruments
- d) Any other service incidental to the transfer of funds.

Bank of Uganda may also regulate the conduct of participants, operators and service providers, issue directives regarding payment orders and cease or suspend the whole or part of the operation of a payment system.

Section 20 of the National Payment Systems Act, on the other hand gives the Central Bank (Bank of Uganda) powers to issue directives to licensees, which could require the licensees to cease or refrain from engaging in any acts or omissions or course of conduct. Any licensees that fail to follow these directives within 30 days must then show cause as to why their license should not be revoked.

The Act further gives the Central Bank the mandate to order external auditors to examine the service providers, operators of payment systems and participants in these systems. The Central Bank has the authority to specify when and what matters the auditors must examine. However, the entity being scrutinised shall be expected to carry the costs of auditing.

The Central Bank also has the authority to inspect the operations of a service provider or an operator of a payment system to ensure the safety and efficiency of the system. Failure of a director to provide any requested information or document concerning the affairs of the operator or service provider will render the director an unfit and improper person, who shall cease to be a director.

The Act mandates the Central Bank to make regulations, including those relating to prescribed forms, licensing requirements, fees payable, consumer protection requirements, regulation of trust accounts and retention periods for payment system transactions.



Whereas payment service providers wishing to issue electronic money will be further licensed as under Section 47. Operators, such as MTN Uganda Limited will therefore require additional licensing before participating in the issue of electronic money.

The Central Bank will enact licensing regulations providing eligibility and procedure of application, under the Licensing Regulations and the Electronic Money Regulations.

## Issuance and Circulation of Electronic Money

Part IV of the Act provides for electronic money, its issuance, transfer and circulation. The Central Bank is empowered to make regulations that shall govern the issuance, providing specifically for liquidity requirements, fair competition and compliance with the Anti-Money Laundering Act, 2013, among other things.

Section 55 of the Act prohibits a non-financial institution electronic money issuer, from counting or issuing airtime as electronic money. The Act also states that payment service providers, other than those established for the purpose of issuing electronic money, financial institutions or microfinance deposit taking institutions, shall be required to establish subsidiary legal entities for the purpose of issuance and circulation of electronic money.

This means, that PSP's such as MTN Uganda Limited shall be required to establish separate legal entities manage mobile money systems as an issuer of electronic money.

The Act further requires all service providers except financial institutions to hold a trust account where the electronic money issued shall equal the cash deposit held in a trust account. Such accounts must be opened in a financial institution or microfinance deposit-taking institution to facilitate the issuance of electronic money. Similarly, financial institutions that intend to issue electronic money shall also be required open and maintain a special account by submitting a notice to the Central Bank in a prescribed form.

Section 57 of the Act provides for a dormant account, which is any registered mobile money account that does not carry on any transaction in nine consecutive months. In such circumstances, an electronic money issuer must notify the customer at least one month before the nine months lapse that his or her account is going to be suspended unless there is a transaction on it. At the expiry of the notice, the electronic money issuer shall block the account and not permit any transactions on it, unless it is reactivated by the customer. If the account is not reactivated within six months after it has been blocked, the electronic money issuer shall close the account.

Upon closure, the trustees shall transfer the balance of the account and identifying information to the Central Bank, which shall refund any unclaimed balances to the account holder.

Where an account holder has passed on, his or her legal representative may make a request for the funds to the Central Bank, within seven years of the transfer of the funds to the Central Bank. Upon expiry of that time frame, unclaimed balances are to be transferred to the Consolidated Fund.



## Consumer Protection under the Act

The various electronic payment systems have been susceptible to fraudsters, cyber-hacking and other related insecurity. The Act, therefore, seeks to provide for safeguards to the interests of consumers. The Central Bank is mandated to ensure payment service providers promote transparency, accountability and confidentiality in provision of their services.

The Act requires protection of the privacy of participants and non-disclosure of their information unless such disclosure is in accordance with the law, an order of court or consent of the participant or customer as per Section 59. This requirement is in tandem with the recently passed Data Protection Act, 2019.

## Regulatory Sandbox Framework

The National Payment Systems Act provides a regulatory sandbox framework. The purpose of the sandbox is to govern the manner in which a person or institution can obtain a limited access level to a payments system's ecosystem for purposes of testing.

A person who wishes to operate a sandbox, within the provisions and objectives of the National Payment Systems Act will be required to make an application to the Central Bank specifying the location, whether physical or virtual, that is adequately accessible to the Central Bank from which experiments will be developed and where all required records and data will be maintained.

The Central bank may from time to time inspect the manner in which the sandbox is to be conducted and make such decisions as regards the approval to operate as it sees fit, in efforts to maintain the payment system industry.

## Conclusion

The National Payment System Act, 2020 will provide clear authority to develop and define regulations for the operation of payment systems in Uganda. This will help to ensure safety and efficiency in operations and standards for the delivery of payment services.



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