

Government Notice No. 118 of 2021

THE NATIONAL PAYMENT SYSTEMS ACT 2018

**Regulations made by the Bank of Mauritius under sections 8, 9,
26 and 51 of the National Payment Systems Act 2018**

1. These regulations may be cited as the National Payment Systems (Authorisation and Licensing) Regulations 2021.

2. In these regulations –

“Act” means the National Payment Systems Act 2018;

“applicant” means a body corporate which applies for –

(a) an authorisation to operate a payment system, clearing system or settlement system; or

(b) a licence to act as a payment service provider;

“body corporate” means an incorporated body wherever incorporated;

“independent director” means a director having no relationship with, or interest in, whether past or present, the licensee or its affiliates, which could, or could reasonably, be perceived to materially affect the exercise of his judgment in the best interest of the licensee;

“physical presence” –

(a) means the management and staff located in the country in which the licensee is incorporated and licensed; but

(b) does not include the presence, in Mauritius, of a local agent or staff below management level;

“related party”, in relation to a licensee, means –

- (a) a person –
 - (i) having significant interest in the licensee;
 - (ii) controlling the licensee;
 - (iii) in which the licensee has significant interest; or
 - (iv) that the licensee controls;
- (b) a director or senior officer of –
 - (i) the licensee;
 - (ii) a body corporate that controls the licensee; or
 - (iii) a body corporate that the licensee controls;
- (c) the spouse, a child, a parent or an ascendant or a descendant, of a natural person referred to in paragraph (a) or (b);
- (d) an entity that is controlled by a person referred to in paragraph (a), (b) or (c); or
- (e) a person or class of persons that is designated by the central bank as a related party because of its past or present interest in, or relationship with, the licensee being such that it might be reasonably expected to affect the exercise of best judgment of the licensee in respect of a transaction;

“senior officer”, in respect of a licensee, means –

- (a) the chief executive officer, deputy chief executive officer, chief operating officer, chief financial officer, secretary, treasurer, chief internal auditor, money laundering reporting officer, compliance officer or manager of a significant business unit of the licensee; or

- (b) a person with similar position or responsibility as a person referred to in paragraph (a);

“significant interest” means –

- (a) owning, directly or indirectly, alone or together with a related party, or otherwise having a beneficial interest amounting to, 20 per cent or more of the capital or of the voting rights of a licensee;
- (b) having the ability, directly or indirectly, alone or together with a related party, or the power, to appoint 20 per cent or more of the members of the board of a licensee; or
- (c) directly or indirectly exercising a significant influence over the management of a licensee, as the central bank may determine;

“small e-money issuer” means an electronic money issuer whose yearly turnover does not exceed 25 million rupees or the equivalent amount in any freely convertible currency;

“system” means a payment system, clearing system or settlement system;

“working day” means any day on which the central bank is open for business.

3. (1) Any body corporate may apply to the central bank for –
 - (a) an authorisation to operate a payment system, clearing system or settlement system in Mauritius; or
 - (b) a licence to act as a payment service provider in Mauritius.
- (2) A bank may only operate a payment system, clearing system or settlement system in Mauritius through a subsidiary.

4. (1) An application under regulation 3 shall be made in such form and manner and accompanied by such documents and information as the central bank may determine together with the payment of the appropriate non-refundable fee specified in the First Schedule.

(2) The documents referred to in paragraph (1) shall –

- (a) be authenticated hard copies or electronically signed soft copies; and
- (b) where the originals are not in the English language, be accompanied by certified translations in English.

(3) The central bank shall, within 30 days from the receipt of an application under paragraph (1) –

- (a) notify the applicant, in writing, of whether the application is complete or not; and
- (b) where the application is not complete, request the applicant to submit such supplementary information and documents as it may require for the purpose of determining the application.

(4) The central bank shall, within 60 working days from receipt of a complete application or the submission of any supplementary information and documents required by the central bank, determine an application and give written notice thereof to the applicant.

(5) The central bank may, in determining an application under paragraph (4), grant or refuse the application.

(6) The central bank shall not grant an authorisation or a licence unless it is satisfied –

- (a) that the applicant has –

-
- (i) demonstrated that its directors and senior officers –
 - (A) have the required technical knowledge and experience; and
 - (B) are fit and proper persons to operate the system or act as a payment service provider;
 - (ii) sufficient financial resources and an adequate capital structure to serve as a continuing source of financial support for the proposed activity;
 - (iii) demonstrated the soundness and feasibility of its plans for the future conduct and development of its activity, including accounting and internal control systems;
 - (iv) the ability and willingness to comply with such other conditions as the central bank may impose under the Act;
- (b) of the history and character of the business and management of the applicant;
 - (c) of the convenience and needs of the community or market to be served;
 - (d) of the fitness and suitability of the applicant's shareholders, particularly shareholders holding a significant interest.
- (7) The central bank may refuse to grant an authorisation or a licence where the applicant intends to operate under a name which –
- (a) so resembles that of an existing institution in Mauritius or elsewhere as to be likely to mislead the public;

- (b) may falsely suggest a connection with a person or authority outside Mauritius;
- (c) may falsely suggest a special status in relation to, or connection with, the Government of Mauritius, any foreign Government or any public body in or outside Mauritius, or that the applicant enjoys the support or patronage thereof.

(8) Without prejudice to paragraph (4), where the central bank grants an authorisation or a licence, it shall –

- (a) within 7 days from its decision, notify the applicant in writing; and
- (b) on payment by the applicant of the appropriate fee specified in the First Schedule, on a pro-rated basis calculated from the date of the issue of the authorisation or licence to 30 June of the following year, issue the authorisation or licence to the applicant.

(9) An authorisation or a licence granted under paragraph (8) shall –

- (a) specify the name of the licensee; and
- (b) be subject to such terms and conditions as the central bank may determine.

(10) The central bank shall cause the name and activities of a licensee to be published on its website.

5. (1) A licensee shall pay the appropriate fee specified in the First Schedule on 1 July of every year and the authorisation or licence shall, on payment of the appropriate fee, be deemed to have been automatically renewed by the central bank without the need for any other formality.

(2) Where –

- (a) an operator operates more than one system; or
- (b) a payment service provider provides more than one payment service,

specified in the First Schedule, the fee shall be a cumulative of the fee applicable for each system being operated or payment service being provided.

(3) Where, in any year, a licensee effects payment of the appropriate fee after 10 July, it shall pay a surcharge of 25 per cent of the appropriate fee at the time of payment of the fee.

(4) (a) A licensee shall, at all times, display in a conspicuous place accessible to the public –

- (i) at its principal place of business, the authorisation or licence granted to it by the central bank;
- (ii) in each of its branches or offices, an authenticated copy of its authorisation or licence.

(b) Notwithstanding subparagraph (a)(i), a licensee may, with the approval of the central bank and in such form and manner as the central bank may approve, display an authenticated copy of its authorisation or licence at its principal place of business.

(5) An operator shall –

- (a) operate only the system for which it has been granted an authorisation by the central bank; and
- (b) not operate any other system without the express written authorisation of the central bank.

(6) Where an operator intends to operate a system other than the one for which it has been granted an authorisation, it shall obtain

the prior written authorisation of the central bank before operating that system.

(7) A payment service provider shall not provide any payment service other than the payment service for which it has been granted a licence by the central bank.

(8) Where a payment service provider intends to provide a payment service other than the payment service for which it has been granted a licence by the central bank, it shall seek the written approval of the central bank before providing that payment service and where the central bank gives its approval, the licence of the payment service provider shall be amended to include that payment service.

6. (1) A licensee shall have a principal place of business in Mauritius and its staffing requirement and estimated operating costs shall be commensurate with the size and complexity of its business.

(2) A licensee shall have an adequate number of suitably qualified full-time officers, including a chief executive officer and other senior officers, and shall have in place –

- (a) an anti-money laundering and combatting the financing of terrorism and proliferation transaction monitoring system; and
- (b) such other monitoring system commensurate with identified risks and the size and complexity of its business.

7. (1) A licensee incorporated in Mauritius shall be managed by its board of directors or, subject to applicable laws and the written approval of the central bank, such other person as the board of directors may appoint.

(2) Where a licensee is a branch of an operator or a payment service provider incorporated abroad, it shall, subject to applicable laws and the written approval of the central bank, be managed by such person as the parent company may appoint.

(3) Subject to paragraph (4) and the Banking Act, the board of directors of a licensee incorporated in Mauritius shall comprise not less than 3 natural persons, of which at least one shall be an independent director.

(4) The central bank may, having regard to –

- (a) the scope of the activities of a licensee, require that its board of directors comprises such additional number of directors as it may determine and the appointment of the additional directors shall be subject to the prior written approval of the central bank;
- (b) the size, complexity and ownership of a licensee, determine the number of its independent directors.

8. (1) Subject to any other enactment, a licensee shall, after deducting its accumulated losses, maintain at all times in Mauritius –

- (a) the appropriate minimum capital specified in the Second Schedule;
- (b) the equivalent amount of the appropriate minimum capital specified in the Second Schedule in any freely convertible currency held in assets in or outside Mauritius, as may be approved by the central bank; or
- (c) such higher amount than the minimum capital, as the central bank may determine.

(2) The central bank may, from time to time, review the minimum capital requirement of a licensee.

(3) A licensee shall not, without the written approval of the central bank, cause or permit any change in its shareholding structure which may, directly or indirectly, cause any shareholder or other person to acquire a significant interest in the licensee.

9. (1) The central bank may, at any time, amend, vary or cancel any condition attached to, or impose new conditions in relation to, an authorisation or a licence.

(2) Where the central bank intends to take any action under paragraph (1), it shall give at least 7 days' notice thereof to the licensee.

(3) The licensee may, within 7 days from receipt of a notice under paragraph (2), make written representations to the central bank.

(4) The central bank shall, after considering any representations made under paragraph (3), take a decision and, within 7 days, notify the licensee in writing of its decision.

10. (1) (a) Subject to this regulation, the central bank may revoke an authorisation or a licence where the licensee –

- (i) fails to commence business within a period of 6 months from the date of the grant of the authorisation or licence;
- (ii) fails to comply with any guideline, directive or instruction issued by the central bank under the Act;
- (iii) fails to comply with the terms and conditions of the licence or authorisation or any other applicable enactment;

-
- (iv) is carrying on business in a manner which is not in the interest, or is detrimental to the interests, of its participants, customers or the public;
 - (v) goes into receivership or liquidation, is wound up or otherwise dissolved;
 - (vi) has insufficient assets to cover its liabilities;
 - (vii) ceases to carry on the business for which it was granted an authorisation or a licence;
 - (viii) engages in activities other than those for which it has been granted an authorisation or a licence;
 - (ix) is convicted by a court in Mauritius or a court of any other country, of an offence, under any enactment, relating to anti-money laundering or prevention of terrorism or proliferation, or the use, laundering in any manner, of proceeds or funding of terrorist or proliferation activities or other illegal activities or is the affiliate or subsidiary or parent company of a licensee which has been so convicted, provided that the conviction is a final conviction;
 - (x) has obtained the authorisation or licence by fraudulent means, including but not limited to, forged documents, incorrect statements, anti-competitive practices and misleading information;
 - (xi) is a branch of an operator or a payment service provider incorporated abroad, which no longer has any licence, authorisation, approval or registration in the jurisdiction where it was incorporated; or

- (xii) no longer has a physical presence in Mauritius or, where the licensee is a branch of an operator or a payment service provider incorporated abroad, which no longer has a physical presence in the country in which it is incorporated.

(b) (i) Subject to subparagraph (c), where the central bank decides to revoke an authorisation or a licence, it shall serve on the licensee a notice of its decision, specifying a date on which the revocation shall take effect.

(ii) The revocation under sub subparagraph (i) shall take effect not earlier than 30 days from the date of the notice.

(c) The central bank may, where paragraph (1)(a)(v) applies, forthwith revoke an authorisation or a licence without serving the notice referred to in subparagraph (b).

(d) The licensee may, within 14 days from receipt of a notice under subparagraph (b), make written representations to the central bank.

(e) The central bank shall, after considering any representations made under subparagraph (d), take a decision and notify the licensee accordingly in writing.

(f) Where an authorisation or a licence is revoked, the central bank may issue such direction as it may consider necessary to protect and safeguard the interests of persons affected by the revocation.

(2) (a) Notwithstanding paragraph (1), the central bank may, in cases of urgency and in the public interest –

- (i) amend, vary or cancel any condition attached to an authorisation or a licence or impose conditions in relation thereto;

(ii) suspend or revoke an authorisation or a licence.

(b) Any amendment, variation, cancellation or imposition of any condition relating to an authorisation or a licence or any suspension or revocation of an authorisation or a licence under sub paragraph (a) shall be notified to the licensee and shall have immediate effect and bind the licensee accordingly.

(c) The licensee may, within 7 days from receipt of the notice under sub paragraph (b), make written representations to the central bank.

(d) The central bank shall, within 14 days from receipt of any representations made under sub paragraph (c), notify the licensee of its decision, which shall be final.

(3) (a) (i) Without prejudice to paragraph (1), where a licensee fails to comply with the Act or any condition attached to its authorisation or licence, the central bank may, by notice in writing to the licensee, suspend its authorisation or licence, as the case may be, for such period and subject to such terms and conditions as it may determine.

(ii) The central bank may, in the notice referred to in sub paragraph (i), require the licensee to take such remedial action within such time as it may determine.

(b) The central bank shall, in the notice referred to in sub paragraph (a), specify the reason for the suspension.

(c) Before suspending an authorisation or a licence under this paragraph, the central bank shall –

(i) give the licensee not less than 14 days' notice in writing and inform the licensee that it may make written representations within 14 days from receipt of the notice;

- (ii) where the licensee makes written representations to it, take a decision on the suspension of the authorisation or licence, as the case may be, and notify the licensee in writing accordingly.

(d) The suspension of an authorisation or a licence under this paragraph shall not otherwise suspend the application of the Act or these regulations to the licensee.

(e) Where a licensee fails to take any remedial action required under subparagraph (a)(ii), the central bank may revoke the authorisation or licence, as the case may be.

(4) A licensee may, at any time, with the prior written permission of the central bank and subject to such conditions as the central bank may specify, surrender its authorisation or licence.

(5) The central bank may, before or after the revocation or surrender of an authorisation or a licence, as the case may be, make such enquiry and give such directions as it considers appropriate so as to ensure that the interests of participants and the public are preserved.

(6) Where an authorisation or a licence is suspended, revoked or surrendered, the central bank shall –

- (a) give public notice thereof on its website, in the Gazette and in at least 3 daily newspapers of wide circulation in Mauritius;
- (b) notify any institution holding a trust account related to the business of the licensee to forthwith cease further dealing with the funds held in the trust account until the central bank issues directives to it in respect thereof; and

- (c) where applicable, notify any relevant regulator of the suspension, revocation or surrender.

(7) The suspension, revocation or surrender of an authorisation or a licence shall become effective on such date as the central bank may specify and the licensee shall –

- (a) be prohibited from operating a system or providing payment services, as the case may be, as from that date;
- (b) hand over the entire database, books, records, in a readable electronic format, and any other relevant information to the central bank to facilitate the processing of payments to customers; and
- (c) where the authorisation or licence has been revoked, forthwith surrender the authorisation or licence, as the case may be, to the central bank.

11. Where –

- (a) an application for a licence involves the issuance of electronic money and management of stored-value accounts; or
- (b) a payment service provider or a bank intends to issue electronic money,

the applicant, payment service provider or bank shall submit to the central bank, together with its application, relevant documents and information to establish that –

- (i) the provision of electronic money does not include the provision of credit;
- (ii) electronic money is issued on receipt of funds for amount exactly equal to the monetary value offered;

- (iii) the electronic money is redeemable at any time and at par with the equivalent conventional money and only service fees explicitly disclosed to the holder may be levied;
- (iv) the payment service provider or bank holds, and the applicant undertakes to hold, a trust account with one or several banks in Mauritius where funds collected in exchange of the electronic money issued to holders of electronic money accounts, are deposited and are separated from the applicant's, bank's or payment service provider's own accounts;
- (v) traceability of funds collected and deposited in the trust account held in accordance with subparagraph (iv) pertaining to each electronic money holder is ensured;
- (vi) reconciliation mechanisms are in place to ensure that the balance on the trust account referred to in subparagraph (iv) is, at all times, equal to total outstanding balance of all electronic money holders under the service;
- (vii) services allowed to agents are governed by comprehensive service agreements and agents are duly trained and any associated risks are or shall be monitored and managed by the applicant, payment service provider or bank.

12. (1) Every licensee shall furnish to the central bank, within such period as the central bank may determine and, in any event, not later than one month after it is made –

- (a) a duly certified copy of its audited financial statements for the financial year, prepared in accordance with

the International Accounting Standards and such guidelines as the central bank may issue; and

- (b) an auditor's certificate attesting that the licensee complies with the Act, regulations, any guideline and any instruction issued by the central bank.

(2) The central bank may, by notice, require a licensee to prepare, in addition to the financial statements referred to in paragraph (1)(a), its financial statements for such shorter period as may be specified in the notice.

(3) A licensee shall furnish to the central bank such periodic returns as the central bank may specify from time to time.

13. These regulations shall come into operation on 1 June 2021.

Made by the Bank of Mauritius on 25 May 2021.

FIRST SCHEDULE

[Regulations 4 and 5]

FEES

	Non-refundable fee for processing of application	Fee for issue or renewal of authorisation or licence
	(Rs)	(Rs)
For a payment service provider to provide the following payment service –		
(a) services enabling cash to be placed on a payment account, including all operations required for operating a payment account	25,000	100,000
(b) services enabling cash withdrawal from a payment account, including all operations required for operating a payment account	25,000	100,000
(c) execution of payment transactions, including transfers of funds on a payment account with the payment service provider of the user or with another payment service provider, including the execution of –		
(i) direct debits and one-off direct debits;		
(ii) payment transactions through a payment card or a similar device;	25,000	
(iii) credit transfers and standing orders		100,000

(d) execution of payment transactions where the funds are covered by a credit line for a payment service user, including the execution of –				
(i) direct debits and one-off direct debits;	}	}		
(ii) payment transactions through a payment card or a similar device;			25,000	500,000
(iii) credit transfers and standing orders				
(e) issue of payment instruments and/or acquiring of payment transactions	25,000	500,000		
(f) money remittance	25,000	50,000		
(g) payment initiation services	25,000	100,000		
(h) account information services	25,000	50,000		
(i) any other services functional to the transfer of money, including the issuance of electronic money and electronic money instruments, but excluding the provision of solely online or telecommunication services or network access, of which –				
(i) small e-money issuer	25,000	50,000		
(ii) large e-money issuer	25,000	100,000		

(iii) other services	25,000	Will vary according to nature and size of business and will be specified by the central bank by notice to the applicant
For an operator of a –		
(a) payment system;	} 50,000 }	} 200,000 }
(b) clearing system; or		
(c) settlement system		

SECOND SCHEDULE
[Regulation 8]

MINIMUM CAPITAL REQUIREMENT

	Minimum capital requirement (Rs)
For a payment service provider to provide the following payment service –	
(a) services enabling cash to be placed on a payment account, including all operations required for operating a payment account	5 million
(b) services enabling cash withdrawal from a payment account, including all operations required for operating a payment account	5 million
(c) execution of payment transactions, including transfers of funds on a payment account with the payment service provider of the user or with another payment service provider, including the execution of –	
(i) direct debits and one-off direct debits	} 5 million
(ii) payment transactions through a payment card or a similar device	
(iii) credit transfers and standing orders	
(d) execution of payment transactions where the funds are covered by a credit line for a payment service user, including the execution of –	
(i) direct debits and one-off direct debits	} 5 million
(ii) payment transactions through a payment card or a similar device	
(iii) credit transfers and standing orders	

(e) issue of payment instruments and/or acquiring of payment transactions	5 million
(f) money remittance	3 million
(g) payment initiation services	3 million
(h) account information services	1 million
(i) any other services functional to the transfer of money, including the issuance of electronic money and electronic money instruments, but excluding the provision of solely online or telecommunication services or network access, of which –	
(i) small e-money issuer	3 million
(ii) large e-money issuer	5 million
(iii) other services	Will vary according to nature and size of business and will be specified by the central bank by notice to the applicant

For an operator of –

(a) a payment system;	}	50 million
(b) a clearing system; or		
(c) a settlement system		
