



CENTRAL BANK OF  
TRINIDAD & TOBAGO

# Payments System Guideline No. 4 – Oversight of Systemically Important Payment Systems

**December, 2012**

## 4.1 INTRODUCTION

1. Section 36(cc) of the Central Bank Act, Chapter 79:02 (CBA) gives the Central Bank of Trinidad and Tobago (Central Bank) authority for the supervision of payments systems. In addition, Section 10 of the Financial Institutions Act, 2008 (FIA) states that the Central Bank may issue Guidelines on any matter that it considers necessary to *inter alia* give effect to the FIA and enable the Central Bank to meet its objectives.
2. This Guideline establishes a framework for the oversight of payment, clearance and settlement arrangements generally, with a particular focus on those systems which the Central Bank has identified as systemically important, the Interbank Payment Systems. These systemically important payment systems (SIPS), with the exception of those systems operated by the Central Bank, must be licensed by and report regularly to the Central Bank.
3. The SIPS comprise:
  - a. **Wholesale Payment Systems** due to the large value of single transactions (TT\$500,000.00 and over) which are processed through them. Currently, there is one wholesale payment system, the RTGS system, which is operated by the Central Bank.
  - b. **Retail Payment Systems** due to the large volumes and aggregate value of transactions processed through them. These include systems such as the cheque clearing arrangements, payment card systems, e-money systems and automated clearing houses.
4. Payment systems other than SIPS will be subject to a lighter oversight framework involving a process of registration (as opposed to licensing) and less stringent reporting requirements.

## 4.2 LICENSING AND REGISTRATION ARRANGEMENTS

The arrangements for the licensing of SIPS are outlined in Guideline No. 1. The arrangements for the registration of non-SIPS are covered in Guideline No. 2, while the arrangements for the registration of payment service providers are provided for in Guideline No. 3.

## 4.3 REPORTING BY SIPS OPERATORS

1. An Operator of a SIPS must submit requested reports to the Central Bank by the stipulated deadlines. The following reports must be submitted within 3 months of its financial year-end or such longer period as the Central Bank may permit:-
  - i. annual report;
  - ii. auditors' report.

In addition, an Operator of a SIPS must submit any other report that the Central Bank may require within the specified deadline.

2. The auditors' report referred to in paragraph (1)(ii) should include the findings and recommendations of the auditors on –
  - i. The adequacy of the internal controls of the Operator of the Payment System; and
  - ii. The Operator's non-compliance with any –
    - a. provision of the CBA and the FIA;
    - b. Direction issued by the Central Bank under these Acts; or
    - c. Other relevant laws, regulations or guidelines.
3. A Participant in a SIPS may be required to submit to the Central Bank -
  - i. transaction data;
  - ii. any other report.

#### **4.4 NOTIFICATION TO THE CENTRAL BANK OF CERTAIN EVENTS**

1. An Operator of a SIPS must notify the Inspector of Financial Institutions as soon as practicable after the occurrence of any of the following events:
  - a. any legal proceeding instituted against the Operator;
  - b. any disciplinary action taken against a Participant;
  - c. any failure of the operation of the system including:
    - i. disruptions in the availability of the system to end-users or participants;
    - ii. failure of settlement.
2. In the case of an event referred to in paragraph 1 above, the Operator should within 5 days of the occurrence of the event, submit a report to the Central Bank about the circumstances relating to the event, the corrective actions taken at the time of the event, and any follow-up actions taken or intended.

#### **4.5 IMPOSITION OF ACCESS REGIMES**

1. The Central Bank may impose access regimes under Section 9(5) of the FIA for Participants in or Operators of Interbank Payment Systems. An access regime refers to the entitlement and eligibility of persons to become Participants in or Operators of a payment system, as well as the terms and conditions of participation/operation (fees, charges and participant criteria).
2. An access regime to be imposed by the Central Bank –
  - a. Will be published on its website;
  - b. Will be regarded as in force on the day the decision to implement the regime is made or another day if so specified;

- c. May be set for a specified timeframe based upon the discretion of the Central Bank;
- d. Will outline the requirements for application for revocation<sup>1</sup>.

3. An access regime, once in force –

- a. May be varied by the Central Bank, following consideration of relevant factors;
- b. May result in a Direction being given with a notice in writing to an Operator or Participant, if there is failure to comply;
- c. May expire if such a date was previously declared;
- d. May be revoked-
  - i. by a decision of the Central Bank;
  - ii. upon the Central Bank's consideration of an application by the system's Participants or Operators; or
  - iii. if the system ceases to exist.

Notice shall be given in writing at least 5 days before the effective date of the Central Bank's intention to vary or revoke an access regime.

4. If Participants or Operators wish to apply for the revocation of an access regime imposed by the Central Bank, they must follow the specific requirements for so doing.

#### **4.6 PRINCIPLES FOR THE OPERATION OF PAYMENT SYSTEMS**

The Central Bank advocates certain basic principles for the safe and sound operation of payment systems which Operators are required to observe. These principles provide the basis upon which payment systems are assessed and include:

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<sup>1</sup> At the time of imposition of an access regime, such requirements will be outlined by the Central Bank.

1. The strength of the system's legal basis in terms of the rules and procedures regulating the system's activity, the documentation of same and their accessibility to participants;
2. The understanding and treatment of risk by operators and participants;
3. The efficiency and timeliness of completion of the settlement process;
4. The security, reliability and robustness of the system; and
5. The adequacy of the system's governance arrangements.

#### **4.7 ASSESSMENT OF COMPLIANCE OF LICENSED INTERBANK PAYMENT SYSTEMS**

1. The Central Bank will conduct regular reviews of the operations of each SIPS. The standards applicable to all SIPS are based on internationally accepted principles<sup>2</sup>. The Interbank Payment Systems currently licensed by the Central Bank are retail systems and may be held to a modified version of the standards.
2. The Central Bank may execute onsite as well as offsite assessments against the stated principles. Upon completion of a review, the Central Bank will share its findings and recommendations with the relevant Operator.
3. The Central Bank reserves the right to amend or change its assessment methodology. The Central Bank may from time to time, introduce, vary or revoke principles. If the Central Bank, introduces, varies or revokes a principle, notification will be provided promptly to payment system operators.

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<sup>2</sup> Currently these principles are the Core Principles for Systemically Important Payment Systems established by the Bank for International Settlements (BIS). However, not all of these principles are applicable to retail payment systems. In particular, Principle 4 is not applicable to the country's cheque clearing system as settlement takes place next day.

#### **4.8 MANAGEMENT OF DISPUTES**

1. All Payment Systems (including Payment Service Providers) are required to implement systems for the management of disputes. The Central Bank may review these procedures in the course of any oversight assessment.
2. The Central Bank may establish arrangements for the settlement of disputes where it determines that the issues raise concerns that impact the financial safety of the system for Participants or users, the efficiency of the system, or if there is some degree of risk to the financial system.
3. Where the Central Bank conducts mediation it shall be free from any action, claim or demand or libel to anything done in good faith in connection with the mediation.

#### **4.9 SHARING OF INFORMATION**

1. Section 100 of the FIA states that the Central Bank may enter into co-operation or information-sharing arrangements with any local or foreign regulatory agency or body that oversees payment systems. In exercising this authority, the Central Bank will establish arrangements for the sharing of information, including signing of Memoranda of Understanding with other local/regional/international supervisory/regulatory agencies that perform a role in the oversight or regulation of payment systems.
2. The Central Bank shall be satisfied that any information disclosed to such agencies or bodies will be kept confidential and used strictly for the purpose for which it was disclosed.

### Core Principles for Systemically Important Payment Systems - Bank for International Settlements.<sup>3</sup>

- 1. *The system should have a well-founded legal basis under all relevant jurisdictions.***
  - a) the system's activities are regulated by law and binding arrangements;
  - b) the rules and procedures regulating the system's activity are documented, readily available and accessible by participants;
  - c) the legal framework ensures that transactions that have already been settled are not reversed in the event that a participant becomes insolvent (zero hour rule).
  
- 2. *The system's rules and procedures should enable participants to have a clear understanding of the system's impact on each of the financial risks they incur through participation in it.***
  - a) the documents relating to the system's activity clearly identify the financial risks; are clear and detailed; describe the potential implication/impact of financial risks; and show ways in which to regulate these risks;
  - b) the rules and procedures define the rights and obligations of all sides (the system participants and the system operator).
  
- 3. *The system should have clearly defined procedures for the management of credit risks and liquidity risks, which specify the respective responsibilities of the system operator and the participants and which provide appropriate incentives to manage and contain those risks.***

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<sup>3</sup> The ten Core Principles highlighted in bold are taken from *Core Principles for Systemically Important Payment Systems*, Committee for Payment and Settlement Systems, Bank for International Settlements, January 2001 (<http://www.bis.org/publ/cpss43.pdf>). The narrative outlined under each Principle is derived from the explanations for each Principle provided by the BIS.



- a) the documents regulating the system should have clearly defined procedures for the management of credit risks and liquidity risks;
- b) the documents regulating the system's activity should have specified the rights and obligations of the system operator and participants with regard to the management of credit and liquidity risks.

**4. The system should provide prompt final settlement on the day of value, preferably during the day and at a minimum at the end of the day.**

- a) the period between the acceptance of the payment to the system and final settlement does not go beyond the end of the day of value;
- b) the system operator and participants adhere to the system's operating schedule.

**5. A system in which multilateral nettings take place should, at a minimum, be capable of ensuring the timely completion of daily settlements in the event of an inability to settle by the participant with the largest single settlement obligation.**

- a) the documents regulating the system have specified the actions that would ensure the system's liquidity;
- b) information on their liquidity positions should be available to system participants before final settlement;
- c) the contingency arrangements are reasonable relative to the activity of the system.

**6. Assets used for settlement should preferably be a claim on the Central Bank; where other assets are used, they should carry little or no credit risk and little or no liquidity risk.**

- a) whether the assets used for settlement are in accounts at the Central Bank;
- b) where settlement assets are not in central bank money, these assets should carry little or no credit or liquidity risk.

**7. The system should ensure a high degree of security and operational reliability and should have contingency for timely completion of daily processing.**

- a) the security and reliability standards meet national and international standards;
- b) risks analysis is periodically conducted;
- c) the changes made to the system are documented;
- d) the system operator has written a plan for business continuity of operations which includes the existence of an alternate site to ensure restoration of the working regime in a minimal time interval as well as clear arrangements for returning to normal operations;
- e) the system participants have a clear understanding of their responsibilities in the system's security and operational reliability.

**8. The system should provide a means of making payments which is practical for its users and efficient for the economy.**

- a) the system's revenues should cover its costs;
- b) the methodology used for the determination of the system's service fees are clear;
- c) the system's services meet the needs of its participants.

**9. The system should have objective and publicly disclosed criteria for participation, which permit fair and open access.**

- a) the criteria for participation should be written and publicly available;
- b) the criteria for access to the system should not limit competition between the participants;
- c) the conditions and procedures for the participants' dismissal from the system are specified in the documents regulating the system's activity.

**10. The system's governance arrangements should be effective, accountable and transparent.**

- a) the information on the system and its operations should be detailed, easily accessible and be regularly reviewed;
- b) the decisions on the improvement of the system should be adopted after consultations and discussions with the system's participants and other interested parties;
- c) the organizational structure of the system(s) for which the Central Bank is the operator should ensure the non-existence of contradiction of interests between the system's operational and supervision functions.