



CENTRAL BANK OF
TRINIDAD & TOBAGO

**DRAFT POLICY PROPOSAL DOCUMENT FOR
THE DRAFT PAYMENT SYSTEMS AND SERVICES
BILL OF TRINIDAD AND TOBAGO**

May 2021

Revised May 2024

ABBREVIATIONS

ACH	Automated Clearing House
AML	Anti-Money Laundering
Bill	Payment Systems and Services Bill
BIS	Bank for International Settlements
CBA	Central Bank Act, Chap. 79:02
CBTT	Central Bank of Trinidad and Tobago/Central Bank/ Bank
CCP	Central Counter Parties
CFT	Combatting of the Financing of Terrorism
CPF	Countering Proliferation Financing
CPMI	Committee on Payments and Market Infrastructure
CSD	Central Securities Depository
EFT	Electronic Funds Transfer
ECCS	Electronic Cheque Clearing System
EMI	E-Money Issuer
FIA	Financial Institutions Act, Chap. 79:09
FINTECH	Financial Technology
FIUTT	Financial Intelligence Unit of Trinidad and Tobago
FMI	Financial Market Infrastructures
FSB	Financial Stability Board
GSS	Government Securities Settlement System
IA	Insurance Act, 2018

IOSCO	International Organisation of Securities Commissions
ML	Money Laundering
NPS	National Payment System
NPSC	National Payments System Council
Order	E-Money Issuer Order, 2020
PF	Proliferation Financing
PFMI	Principles for Financial Market Infrastructures
PPD	Policy Proposal Document
PSP	Payment Service Provider
PSO	Payment System Operator
RTGS	Real Time Gross Settlement System
SIPS	Systemically Important Payment System
SRPS	Significant Retail Payment System
SSS	Securities Settlement System
TF	Terrorist Financing
TR	Trade Repository
TTCD	Trinidad and Tobago Central Depository
TTSEC	Trinidad and Tobago Securities and Exchange Commission
VA	Virtual Asset
VASP	Virtual Asset Service Provider

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1. EXECUTIVE SUMMARY

- 1.1 **Internationally, regionally and domestically, the payments ecosystem is being transformed by innovations in financial technology (“fintech”).** In Trinidad and Tobago, the national payments landscape is being impacted by the emergence of new fintech companies and other non-bank payment service providers (“PSPs”). PSPs facilitating e-commerce such as payment aggregators and merchant acquirers including payment gateways are becoming an important part of the payments ecosystem, particularly for small merchants that wish to participate in e-commerce.
- 1.2 **Given the burgeoning transformations occurring in payments internationally and the dynamism in the national payment system as a result of fintech developments, it became necessary to review the domestic legislative and regulatory frameworks with regard to payments.** This review conducted by the Central Bank of Trinidad and Tobago (“Central Bank”/ “Bank”/ “CBTT”), was critical to ascertain whether the current legislative and regulatory frameworks supported the rapidly evolving nature of the domestic and international payments sector. The review led to the finding of gaps in the current framework.
- 1.3 **The current legal framework governing the national payment system is inadequate to provide the appropriate regulation, supervision and oversight necessary to promote the safety, soundness, reliability and efficiency of the national payment system and to accommodate the new persons, payment products and services and mitigate associated risks.** As such, it is critical that the legislative and regulatory frameworks be modernised and strengthened to remove existing deficiencies and facilitate developments and innovations in the payments space. This can be accomplished by *inter alia*, adoption of international best practice and standards including the accepted Principles for Financial Market Infrastructures (“PFMI”).
- 1.4 **The Central Bank, as the regulator, supervisor and overseer of the national payment system, is therefore taking steps to develop a modern, flexible and comprehensive payment system legislation and has documented the key proposals in this Policy Proposal Document (“PPD”) for the Payment Systems and Services Bill (“the Draft Bill”/ “proposed legislation”).** In drafting the policy proposals, the Central Bank took into consideration the following:
- Developments in the rapidly evolving payments ecosystem and financial market globally and in Trinidad and Tobago;
 - The experience of the Central Bank in conducting regulation, supervision and oversight under the Financial Institutions Act, Chap. 79:09 (“FIA”), the Insurance Act, 2018 as amended (“IA”), the E-Money Issuer Order, 2020 as amended (“Order”) and the requisite Guidelines mentioned below;
 - International best practice garnered from international standard setting bodies and jurisdictions;
 - The need to harmonise certain areas of the Draft Bill with the FIA and IA to prevent regulatory arbitrage; and
 - The recommendations from the International Monetary Fund (“IMF”) during their technical assistance¹ with the Central Bank.

¹ Conducted between January to May 2021 by the Monetary and Capital Markets Department of the IMF.

1.5 The main objectives of the policy proposals for the Draft Bill and legislative reform in the sphere of payments are to:

- consolidate the legal framework and streamline the oversight of all payment systems and the regulation and supervision of PSPs under a single law;
- promote the safety, soundness and efficiency of the national payment system;
- give legal certainty to, and protect, users of payment, clearing and settlement systems;
- implement a modular and risk-based regulatory regime that is calibrated to the risks posed by different types of activities and persons; and
- facilitate e-commerce, cashless payments and financial inclusion.

1.6 The key proposals are grouped under the following ten (10) areas:

- (a) General powers for regulation, supervision, oversight and enforcement by the Central Bank in line with other Central Bank-administered legislation.
- (b) Licensing and supervision of payment service providers. The classes of payment services are:
- (b)(1) Providing payment services**
- i. Provision of transaction accounts;
 - ii. Issuing of electronic money;
 - iii. Provision of e-money account;
 - iv. Provision of electronic wallet services;
 - v. Issuing of payment instruments;
 - vi. Acquiring of payment transactions;
 - vii. Money remittance services; and
 - viii. Processing of electronic funds transfer for third parties.
- (b)(2) Providing ancillary services**
- i. Payment initiation services; and
 - ii. Account information services.
- (c) Licensing and oversight of payment system operators.
- (d) A testing permit regime to test payment systems or services within a regulatory sandbox.
- (e) Designation of payment systems and payment service providers that are systemic for enhanced oversight and supervision respectively.
- (f) Exempt persons and excluded services for which no PSP or PSO licence would be required.
- (g) Addressing regulatory risks and concerns by specific provisions relating to:
- i. Operational risk;
 - ii. Financial risk;

- iii. Liquidity risk;
 - iv. Settlement risk;
 - v. Collateral and Netting Arrangements;
 - vi. Interoperability;
 - vii. User protection;
 - viii. Obligations of participants, PSOs and PSPs;
 - ix. Specific restricted/prohibited activities; and
 - x. Money laundering (“ML”), financing of terrorism (“TF”) and proliferation financing (“PF”) (AML)² risk, information technology risk, cyber risk, third party risk, data protection and data privacy, and business continuity and resilience among others.
- (h) Ensuring proper governance of payment systems and PSPs.
- (i) The establishment in law, of the National Payments System Council (“NPSC”).
- (j) Appropriate transitional arrangements for companies previously licensed or registered with the Central Bank, as well as consequential amendments to other laws as relevant, to allow for the smooth implementation of the new regulatory regime.

1.7 This PPD is organised as follows:

- i. Part 2 presents a *Background* of the national payment system.
- ii. Part 3 showcases the national payment system landscape including the existing legislative framework.
- iii. Part 4 explores the *adoption of the international standards of the PFMI*.
- iv. Part 5 examines the *methodology* used to develop the key proposals.
- v. Part 6 briefly discusses the *key considerations* to bolster the legislative framework.
- vi. Part 7 gives an overview of the policy position.
- vii. Parts 8 to 16 dissect the *key proposals* listed above in greater detail.
- viii. Part 17 gives a brief *conclusion*.

1.8 The draft PPD was issued for public consultation for a six (6) week period which commenced on May 17, 2021, with relevant stakeholders³ that have interest in ensuring a modern, comprehensive and flexible Draft Bill and accompany Regulations. Written comments on the PPD were submitted by June 30, 2021, in soft copy to PSBConsultation@central-bank.org.tt.

1.9 The PPD has been revised in accordance with the feedback received during the consultation period in 2021 and to reflect the rapid developments which occurred within the domestic and international payments arena between 2021 and 2024. Please be advised that an accompanying Stakeholders’ Comments Feedback Matrix will be published with the Revised PPD.

² AML refers collectively to Anti-Money Laundering (“AML”), Combatting of the Financing of Terrorism (“CFT”) and Countering Proliferation Financing (“CPF”).

³ Stakeholders included, but were not limited to members of the Payments System Council, licensees under the FIA, other domestic regulators, licensed payment systems and registered PSPs.

2. BACKGROUND

- 2.1 **Globally, financial services have been affected by the rapid pace of technological advancements.** In Trinidad and Tobago, the national payment system is being influenced by these advancements through the emergence of fintech companies, new innovative payment solutions, business models and technologies, and attendant risks.
- 2.2 **In more recent years, the payment landscape has been impacted by the emergence of fintech companies and other PSPs.** Payment service providers which offer consumers/users and businesses more options for making and receiving payments, are playing a more prominent role in the payments landscape. There are PSPs that initially provided mainly bill payment services to utility companies that clear and settle their transactions via private commercial banks. These PSPs have now expanded their services beyond bill payments. Utility companies and commercial banks also provide bill payment services via mobile applications and online payment solutions. New players are also emerging on the payments landscape including e-money issuers (“EMIs”), virtual asset service providers (“VASPs”) and other fintech entities utilising new technologies inter alia, cloud computing, application programming interface (“API”) and Quick Response (“QR”) codes, blockchain technology, distributed ledger technology (“DLT”), Central Bank Digital Currencies (“CBDC”) and even generative artificial intelligence (“AI”), to facilitate online payments, remittances and international trade. PSPs facilitating e-commerce such as payment aggregators and merchant acquirers including payment gateways also exist in the payment landscape.
- 2.3 **These developments, among others, created an opportunity for Trinidad and Tobago to review, revise and reform its existing payments legislative and regulatory framework.** In this regard, the Central Bank has frontally engaged in comprehensive legal reform of its national payment system to accommodate these rapid developments and to bring Trinidad and Tobago into alignment with international standards and best practice, while addressing its unique circumstances in the payment sector.
- 2.4 **It should be noted that the Draft Bill will be technology agnostic and flexible enough to accommodate fintech and other market innovations.** Notwithstanding, the PPD previously issued in May 2021 for stakeholder consultation stated, “*While the Central Bank does not propose to be the regulator for the issuance of, or trading in, virtual assets on an exchange, where a person offers a service that uses a virtual asset to make payments or transfers that activity will be regulated.*” **This policy position has changed.** VAs and VASPs and their related activities will not be regulated as a class of payment service under the Draft Bill. This new policy allows the Draft Bill to be technology agnostic and it further facilitates the treatment of VAs, VASPs and their related activities at a national level.
- 2.5 **However, the Central Bank remains committed to progressing the national conversation on the treatment of VAs and VASPs and their related activities.** In keeping with this commitment, in September 2023, a public private panel discussion was held on “*Considerations in Crypto Asset Regulation*”⁴. Subsequently, the Bank

⁴ The panelists comprised: *Dr. Alvin Hilaire*, Governor of the Central Bank of Trinidad and Tobago, who presented on, ‘[The Case for the Regulation of Crypto Assets in Trinidad and Tobago](#)’; *Lystra Lucillio*, Chief Executive Officer (Ag.), TTSEC, who addressed the topic, ‘[Regulating Crypto Assets](#)’ and *Mark Pereira*, Chief Executive Officer, Zed Labs, who focused on, ‘[Harnessing Crypto for Financial Innovation: Navigating the Future of Finance in Trinidad and Tobago](#)’.

submitted its comments on the subject to the Minister of Finance. As a corollary to this, the staff at the Central Bank continue to play an active role in the country's engagement including with respect to preparation for national measures on VAs and VASPs.

- 2.6 **Notwithstanding, the Draft Bill, though technology agnostic**, should propose consequential amendments to the Central Bank Act, Chap. 79:02 ("CBA") to appropriately treat with CBDCs in the future.

The Current Payment Systems Legislative Framework

- 2.7 **The Central Bank's authority to supervise and oversee payment systems in Trinidad and Tobago is captured under separate pieces of legislation, namely the Central Bank Act, Chap. 79:02 ("CBA") and the FIA.** Currently, the Central Bank has a broad mandate under section 36 (cc) of the CBA to "*supervise the operations of payment systems in Trinidad and Tobago generally, Interbank Payment Systems in accordance with the Financial Institutions Act and the transfer of funds by electronic means including money transmission or remittance business.*" The Central Bank also has responsibility for the oversight of *interbank* payment systems under the provisions of the FIA. In addition, the Central Bank has issued several Guidelines⁵ to treat with the regulation of non-interbank payment systems and PSPs, in line with its responsibilities under the CBA. However, the framework for the regulation of these entities needs to be strengthened significantly.
- 2.8 **The regulatory framework for other classes of payment services, beyond e-money issuance, needs to be expanded and more comprehensively developed.** Under the FIA, financial institutions, as well as other categories of persons as may be prescribed by Order of the Minister on the advice of the Central Bank, are authorised to issue e-money. Following the 2020 E-Money Policy proposals of the Central Bank, the Order was issued by the Minister of Finance on August 4, 2020, permitting other entities⁶ to issue e-money. The Order only covers the issuance of e-money and prescribes a framework for granting registration to e-money issuers. It should be noted that the Order was amended in 2023 to update the transaction limits and wallet sizes in line with stakeholders' feedback, experiences of the Central Bank, other domestic circumstances relating AML and advice from the IMF. Notwithstanding, the regulatory framework for other classes of payment services needs to be expanded.
- 2.9 **While the Central Bank has a broad legislative mandate in respect of payment systems, the legislative and regulatory framework is fragmented, inadequate and needs to be strengthened significantly.** It is therefore important to introduce comprehensive, flexible, modern and future driven payments legislation and to consolidate and enhance the regulatory regime and reflect the international best practice as espoused in the PFMI.

⁵ Guideline No. 1 - Licensing and Operation of Interbank Payment Systems.

Guideline No. 2 - Registration and Operation of Non- Interbank Payment Systems.

Guideline No. 3 - Operation of Payment Service Providers.

Guideline No. 4 - Oversight of Systemically Important Payment System.

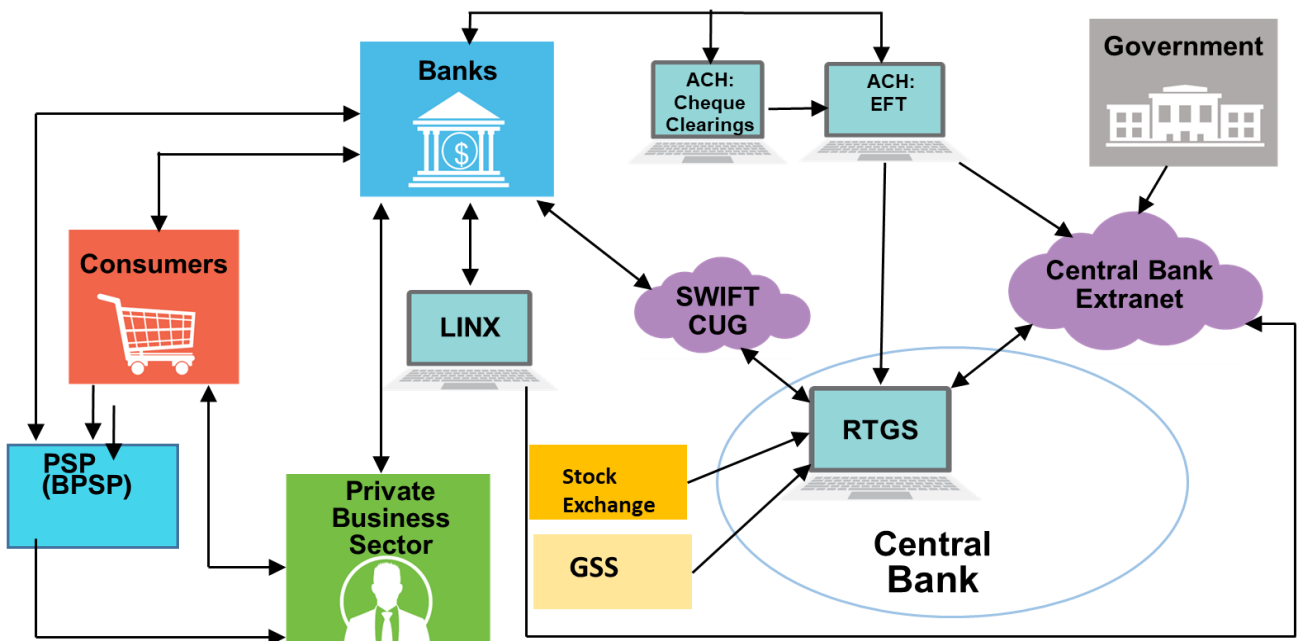
⁶ Registered payment service providers or operators; money remitters registered with the Financial Intelligence Unit of Trinidad and Tobago, authorised mobile network operators; technology service providers and other financial institutions such as credit unions, insurance companies and the Trinidad and Tobago Unit Trust Corporation to apply to the Central Bank to be registered as an e-money issuer.

3. TRINIDAD AND TOBAGO’S NATIONAL PAYMENT SYSTEMS LANDSCAPE

3.1 The National Payment System consists of all the services, entities and infrastructures associated with sending, receiving and the processing of orders of payment or transfer of money in domestic or foreign currencies and includes- the issuance and management of payment instruments; financial institutions, payment service providers, payment system operators, participants, and any third party acting on behalf of them, either as an agent or by way of outsourcing agreements whether entirely or partially operating in Trinidad and Tobago; payment systems, clearing systems and settlement systems, including the processing of securities and other financial instruments and the arrangements and procedures associated with those systems.

3.2 The financial market infrastructures (FMIs) play a critical role in the financial system and the broader economy by facilitating payments, clearing, settlement and recording of monetary and financial transactions. Therefore, it is important to ensure that they are operating safely and efficiently. The FMIs in Trinidad and Tobago are illustrated in *Diagram 1* below and comprise:

- (i) Real Time Gross Settlement System (“RTGS”);
- (ii) Automated Clearing House-Electronic Funds Transfer (“ACH-EFT”);
- (iii) Automated Clearing House-Electronic Cheque Clearing System (“ACH-ECCS”);
- (iv) Debit Card Switch (“LINX”);
- (v) Central Securities Depositories (“CSDs”); and
- (vi) Securities Settlement Systems (“SSS”).



* Diagram does not show securities settlement

Diagram 1: Current Payment Systems Landscape of Trinidad and Tobago

3.3 *Payment Systems*⁷

3.3.1 The FMIs in Trinidad and Tobago currently comprise four (4) payment systems. There is one (1) systemically important payment system (“SIPS”) namely the RTGS system also referred to as “Safe-tt” and a number of significant retail payment systems (“SRPS”). These SRPSs include the ACH-EFT, ACH-ECCS and the Debit Card Switch.

Systemically Important Payment System

3.3.2 The RTGS system is the hub of the payment system, and is owned and operated by the Central Bank. The RTGS processes large value (\$500,000 (TTD) and over) and time critical payments on behalf of the Central Bank, its customers, the eight (8) commercial banks are direct participants in the system and is the settlement agent for the systems listed above. Indirect participants of the RTGS include the Trinidad and Tobago Unit Trust Corporation, the Deposit Insurance Corporation and non-bank financial institutions. There are linkages across the FMI as the RTGS system facilitates settlements for the cash leg of the securities trades for the Government Securities Settlement (“GSS”) System and Securities Settlement Systems (“SSS”) and is also the settlement agent for the retail payment system operators namely LINX, ACH-EFT and ACH-ECCS.

Significant Retail Payment Systems

3.3.3 Currently, these three (3) SRPSs in Trinidad and Tobago utilise the RTGS system for settlement of transactions. In Trinidad and Tobago, the SRPSs are owned and operated by Infolink Services Limited (“ISL”)⁸. ISL operates the ACH-EFT, ACH-ECCS and the Debit Card Switch and plans to implement an Instant Payment System. Thus, making ISL a major provider of retail payments services in Trinidad and Tobago. Likewise, other international organisations have expressed their desire to partner with local PSOs or even the Central Bank to operate instant payment systems in Trinidad and Tobago. These discussions are ongoing and remain integral aspects of the *Central Bank’s Strategic Project 13* to modernise the national payment system. It is further proposed that the Draft Bill should have the requisite provisions to treat with the introduction of instant payments in Trinidad and Tobago, when necessary.

3.3.4 The ACH-EFT clears large volumes of low value transactions (under \$500,000 TTD) within a 24-hour period. The commercial banks and the Central Bank are currently the only direct participants in the ACH-EFT. On March 28, 2022, ISL was granted a licence to operate the upgraded ACH-EFT. The previous OnNet system reached its end of life and was upgraded to the Montran ACH-EFT system which facilitates the clearing of transactions for the ACH-EFT and the *ACH-ECCS*.

3.3.5 The ACH-ECCS, which commenced operations in February 2023, is a fully automated cheque clearing system. It was previously a manual Cheque Clearing Arrangement, whereby representatives of the commercial banks and the Central Bank met daily at a ‘clearinghouse’ to physically present cheques, and the parties agreed on the net amounts to be cleared and settled based on the cheque listings received the previous day. The new ACH-ECCS is a modernised fully automated cheque clearing system.

⁷ A payment system is defined “as any organised set of infrastructure, persons, institutions, payment instruments, procedures, rules, standards and technologies allowing the transfer of funds, between or among participants including by means of payment instruments, or the discharge of obligations on a gross or net basis and includes interbank and non-interbank payment systems”.

⁸ A joint venture corporation which is equally owned by four (4) of the largest commercial banks in Trinidad and Tobago.

3.3.6 **The Debit Card Switch, (“LINX”) is the Automated Teller Machine network and the Electronic Funds Transfer Point of Sales system for debit and credit cards.** Its direct participants are six (6) commercial banks and Eastern Credit Union. It should be noted that internationally branded credit and debit cards bearing the VISA and MasterCard logos are also used in the market, but are cleared and settled via private arrangements between the commercial banks and those international clearing houses.

3.4 Securities Systems

3.4.1. The FMIs in Trinidad and Tobago comprise of securities systems, which are the central securities depositories and securities settlement systems.

Central Securities Depository

3.4.2 **The PFMI state that a CSD provides securities accounts, central safekeeping services, and asset services,** which may include the administration of corporate actions and redemptions, and plays an important role in helping to ensure the integrity of securities issues (that is, ensure that securities are not accidentally or fraudulently created or destroyed, or their details changed). The two (2) CSDs are the Trinidad and Tobago Central Depositories (“TTCD”) for private securities, and the GSS for Government securities. The GSS is administered by the Central Bank.

Securities Settlement System

3.4.3 The two (2) SSSs are the Trinidad and Tobago Stock Exchange (“TTSE”) for trades in private securities and secondary market and the GSS system for primary auctions of government securities.

3.4.4 **The TTCD and TTSE fall under the remit of the Trinidad and Tobago Securities and Exchange Commission (“TTSEC”).** Although, the GSS is owned and operated by the Central Bank, it is currently not overseen by neither the Central Bank nor the TTSEC. The PPD recommends that the oversight remit of the Central Bank be extended to the GSS and subjected to cooperative oversight with the TTSEC. There are no central counterparties or trade repositories at this time.

4. ADOPTION OF INTERNATIONAL STANDARDS FOR PAYMENT SYSTEMS - THE PFMI

4.1 **In 2014, the Central Bank adopted the international standards for bench marking FMIs, more specifically payment systems known as the PFMI, which should be reflected in the proposed payments legislation.** The PFMI are the international standards for an FMI, i.e. payment systems, CSDs, SSSs, central counterparties and trade repositories. Issued by the Committee on Payments and Market Infrastructure (“CPMI”) and the International Organisation of Securities Commissions (“IOSCO”), the PFMI are part of a set of twelve (12) key standards that the international community considers essential to strengthening and preserving financial stability.⁹

4.2 **The PFMI provide guidance for addressing risks and efficiency in FMIs.** The PFMI comprise twenty-four (24) principles that the FMI are required to meet and five (5) separate responsibilities which apply to central banks, market regulators and other authorities. Of particular significance to payments systems are

⁹ Financial Stability Board https://www.fsb.org/work-of-the-fsb/about-the-compendium-of-standards/key_standards/.

PFMI 1- *Legal basis*; 2 – *Governance*; 3 – *Framework for comprehensive management of risks*; 5 – *Collateral*; 8 – *Settlement finality*; and 18 – *Access and Participation Requirements* (See Appendix 1).

4.3 The proposed payments legislation should reflect all applicable PFMI principles. Principle I of the PFMI states “[A]n FMI should have a well-founded, clear, transparent and enforceable legal basis for each material aspect of its activities in all relevant jurisdictions”. The first principle of the PFMI therefore requires a clear and enforceable legislative basis for the operation of payment systems and PSPs. Under this Principle, the law should clearly set out the rights and obligations of the FMIs’ participants, customers or users and all stakeholders as well as the powers and responsibilities of the regulator. The broad mandate under the CBA and the Guidelines issued by the Central Bank therefore need to be enhanced by a comprehensive piece of legislation in the interest of legal certainty, to protect stakeholders’ interests and to reflect all applicable PFMI.

4.4 The proposed legislation should also reflect certain regulatory responsibilities of the Central Bank identified by the PFMI. The five (5) responsibilities of the Central Bank as the oversight and regulatory authority under the PFMI are:-

- (a) **Responsibility A** – *Regulation, supervision, and oversight of FMIs: FMIs should be subject to appropriate and effective regulation, supervision and oversight by a central bank, market regulator or other relevant authority.*
- (b) **Responsibility B** – *Regulatory, supervisory and oversight powers and resources: Central banks, market regulators and other relevant authorities should have the powers and resources to carry out effectively their responsibilities in regulating, supervising and overseeing FMIs.*
- (c) **Responsibility C** – *Disclosure of policies with respect to FMIs: Central banks, market regulators and other relevant authorities should clearly define and disclose their regulatory, supervisory and oversight policies with respect to FMIs.*
- (d) **Responsibility D** – *Application of the principles for FMIs: Central banks, market regulators and other relevant authorities should adopt the CPSS-IOSCO Principles for financial market infrastructures and apply them consistently.*
- (e) **Responsibility E** – *Cooperation with other authorities: Central banks, market regulators and other relevant authorities should cooperate with each other, both domestically and internationally, as appropriate, in promoting the safety and efficiency of FMIs.*

5. METHODOLOGY

5.1 In contributing to the policy proposals on the Draft Bill, the Central Bank garnered international best practice from international standards setting bodies and conducted jurisdictional research, as well as received technical assistance from the IMF. The Central Bank undertook the following:

5.2 Reviewed the literature on the conceptual aspects and recommendations by international standard setting bodies. The Central Bank reviewed standards already adopted from the CPMI, IOSCO, IMF, Bank for International Settlement (“BIS”), the Financial Stability Board (“FSB”), and the Financial Action Task Force (“FATF”), among others.

5.3 Reviewed international best practice from jurisdictions. The jurisdictions reviewed included, but were not limited to: the United Kingdom (“UK”), the European Union (“EU”), Singapore, Jamaica, Guyana,

Barbados, Malaysia, Uganda and Pakistan. These jurisdictions have modern payment systems legislation that are generally reflective of the relevant PFMI and were determined to be capable of adaptation to the unique needs of Trinidad and Tobago.

5.4 Received Technical Assistance from the IMF. During the months of January 2021 to May 2021, the Monetary and Capital Market Department (“MCM”) of the IMF provided technical assistance to the Central Bank on the draft PPD. Subsequently, between the period of 2021 to 2023, the Legal Department of the IMF provided technical assistance on the Draft Bill. Some of their recommendations have been reflected in the revisions to this PPD.

5.5 Harmonised with other legislative instruments administered by the Central Bank to prevent regulatory arbitrage. Where appropriate, the proposals sought to ensure harmonisation of the Bill, with the existing financial legislation administered by the Central Bank namely, the FIA and IA.

6. KEY CONSIDERATIONS TO BOLSTER THE CURRENT LEGISLATIVE FRAMEWORK GOVERNING THE PAYMENT SYSTEMS AND PAYMENT SERVICES

6.1 Key considerations should be utilised to bolster the current legislative framework which is quite fragmented and contains certain deficiencies which need to be addressed. The current legislative framework under the FIA and CBA are set out in *Appendix 2*.

6.2 Critical provisions concerning interbank payment systems in the FIA should apply to both interbank and non-interbank payment systems in the Draft Bill. There should be no distinction between the payment systems in the proposed legislation. The FIA currently sets out oversight provisions for the regulation by the Central Bank of interbank payment systems (which includes finality of settlement, netting, collateral arrangements and conflict of laws), such detailed provisions should also be extended to all payment systems. An explicit power to regulate all payments systems to promote safety and efficiency should be set out in legislation.

6.3 Flexible licensing, supervision and oversight powers of the Central Bank for PSPs and PSOs. The licensing framework for payment services and payment systems should be risk-focused. Additionally, clear licensing, market conduct, prudential and operational requirements that are enforceable by the usual range of enforcement powers and criminal/administrative penalties are also needed to ensure compliance. Further, emergency powers to assume control and manage a crisis in relation to the payments system and payment services would also be important.

6.4 The expansion of payment services beyond the e-money issuance should be enshrined in law. Under the current Order, e-money issuance is limited to certain eligible categories of persons¹⁰ and is not purely activity-based (owing to constraints presently specified in section 17 of the FIA). Moreover, a person seeking to be registered as an EMI must also be registered separately as a PSP. A new Payment Systems and Services law presents an opportunity to review and streamline the

¹⁰ The EMI Order specifies the following eligible category of entities: registered Payment Service Providers or Payment System Operators, money remitters registered with the FIU, mobile network operators, technology service providers and other financial institutions, such as credit unions, insurance companies and the T&T Unit Trust Corporation.

approach to the licensing and supervision of all PSPs using an entity-based approach to facilitate effective regulation and supervision for a broader range of payment activities. Therefore, an explicit power to regulate, supervise and oversee all PSOs and PSPs should be set out in the new legislation.

6.5 An express legislative regime to facilitate testing of payment products, services and systems in the payments sector should be addressed in the Draft Bill. A new Payment Systems and Services law should allow a regulatory sandbox to be used to test payment systems and services in a controlled environment under the Central Bank. All in all, this will redound in a wider range of PSOs and PSPs or other fintech companies to test their payment systems or payment services.

6.6 The Central Bank should be the AML supervisory authority for all its regulated entities under the Draft Bill. ML/TF/PF risk (collectively known as AML risk) is one of the key risks impacting PSPs such as, money remitters and EMIs. The AML supervision of money value transfer services including PSPs currently falls under the regulatory remit of the Financial Intelligence Unit of Trinidad and Tobago (“FIUTT”). This is unlike other financial institutions currently regulated by the Central Bank. Consequently, it is proposed that amendments will be required to AML legislation for the Central Bank to become the AML supervisory authority for all those PSPs that it licences.

7. OVERVIEW OF THE KEY POLICY PROPOSALS FOR THE NEW PAYMENTS SYSTEMS AND SERVICES LEGISLATION

OBJECTIVES

7.1 This Draft PPD provides objectives for both this document, as well as proposals for objectives in the Draft Bill.

Objectives of the Draft PPD

7.2 The objectives of the PPD are to effectively address five (5) crucial elements as previously mentioned in the Executive Summary above. These include:

- (i) streamlining the oversight of payment systems and the regulation and supervision of PSPs under a single legislation by creating a single comprehensive legislative framework to facilitate the regulation and supervision of the PSPS for all payment systems (interbank and non-interbank) and a wider range of activity-based PSPs;
- (ii) promoting the safety, soundness and efficiency of the national payment systems and enhancing financial system stability;
- (iii) giving legal certainty and protecting users of payment, clearing and settlement systems;
- (iv) implementing a flexible, modular and risk-based regulatory regime that is calibrated to the risks posed by different types of activities; and
- (v) facilitating e-commerce, cashless payments and financial inclusion.

Objectives of the Proposed Legislation

7.3 It is recommended that the objectives of the Central Bank under the proposed legislation, in respect of the national payment system, should be expressly set out. The primary objective of the Central Bank in respect of PSOs and PSPs licensed under the Draft Bill should be to maintain confidence in, and promote the safety, soundness, reliability, and efficiency of the national payment

system and the stability of the financial system in Trinidad and Tobago. The other objectives of the Central Bank should include: promoting the existence of a fair market for payments systems and payment services; and access to payment services and retail payment systems.

8. FUNCTIONS AND GENERAL POWERS OF SUPERVISION AND OVERSIGHT OF THE CENTRAL BANK

8.1 The functions and powers of the Central Bank in relation to the national payment system must be explicitly set out in the proposed legislation. The functions of the Bank should explicitly include its ability to regulate, supervise and oversee the national payment system, and exercise any other functions deemed necessary and take into account any international standards in the exercise of its functions.

8.2 The proposed legislation should treat with the general powers of supervision, oversight and enforcement of the Central Bank. These include measures that treat with *inter alia* confidentiality, access to information and premises, regulatory co-operation and information sharing, and the usual suite of enforcement powers. The proposed legislation should also contain general requirements and powers that are common in other Central Bank-administered legislation. These include auditing requirements, inspections and investigations, offences, appeals and power to prescribe regulations, issue notices, and grant exemptions.

8.3 Overarchingly, the proposed general powers of the Central Bank in respect of the national payment system should be broad and flexible, reflective of international best practice and allow the Bank to:

- (i) formulate and adopt a national payment system policy for Trinidad and Tobago;
- (ii) issue directives, guidelines and notices in accordance with the proposed legislation;
- (iii) determine general or individual conditions, rules and procedures and any other implementing measures applicable to a person to which it has issued a licence and ensure such conditions, rules and procedures are applied;
- (iv) issue a licence to PSOs and PSPs;
- (v) Examine, inspect and investigate under the conditions of secrecy of the PSOs and PSPs and related entities in accordance with the books of persons;
- (vi) approve rules and arrangements relating to the operation of payment systems including access regimes, netting agreements, risk management and internal controls (sharing and risk control mechanism), finality of settlement and finality of payment and other matters related to systemic risk;
- (vii) participate in payment systems;
- (viii) designate payment systems and PSPs that are systemic;
- (ix) collect, compile, disseminate, on a timely basis, monetary and related financial statistics related to the national payment system;
- (x) establish a forum for the consideration of matters of policy and mutual interest concerning the national payment system;
- (xi) take such steps, or undertake any other ancillary or incidental action as it deems necessary;
- (xii) obtain information in relation to any payment system and PSP;
- (xiii) conduct on and off-site inspections and investigations without hindrance;

- (xiv) enforce compliance through compliance directions, administrative fines, court enforcement of directions, injunctive orders, restricting, revoking licences/designations, suspending operations, and publication of non-compliance;
- (xv) appoint subject experts, including auditors, to assist in the exercise of its functions; and
- (xvi) advise the Minister on making regulations, generally, and the granting of exemptions in the public interest.

8.4 It is also considered necessary for the Central Bank to have emergency powers over all designated payment systems and PSPs (that are systemic and are under enhanced oversight or supervision respectively), including the power to assume control, replace the Board and Management, appoint a Manager, issue directions, deal with assets and undertakings, restructure the entity and take all steps necessary to protect the interest of participants and users and the system. **The Central Bank's emergency powers for designated payment systems and PSPs will be reflected in consequential amendments to the CBA.** Where emergency powers have been exercised in a crisis, the redress for any claim related thereto (including judicial review) should be limited to the award of damages and shall exclude any stay of the actions of the Bank. In this way, resolution plans aimed at the stability of the system in a crisis can progress while at the same time affording appropriate redress to an aggrieved party.

9. LICENSING AND SUPERVISION OF PAYMENT SERVICE PROVIDERS

9.1 **The proposed licensing regime should be flexible to accommodate new players and new activities in the domestic payments ecosystem.** The proposed licensing regime should be modelled after section 28 of the IA. As such, it is proposed that all persons wishing to provide a payment service in Trinidad and Tobago must be a company incorporated in Trinidad and Tobago and be required to meet basic regulatory standards and requirements. These include the payment of a non-refundable application fee, capital, liquidity, operational, risk management, governance and reporting requirements. The person must also provide other documents as required by the Central Bank.

9.2 **It should be noted that a person who is desirous of providing any of the ancillary services in Table 1 below, namely payment initiation services or account information services, should not be required to be licensed by the Central Bank under the proposed legislation.**

(a) *Proposed Classes of Payment Services to be Regulated*

9.3 **Under the activity-based and risk-focused licensing approach, the Central Bank, in considering the granting of a licence, will take into account *inter alia* consumer protection, AML risks; interoperability, cyber risk and information technology risk, data protection and data privacy, among others.** Governance arrangements including the fitness and propriety of the persons' directors, officers and significant and controlling shareholders will also be considered. The Central Bank may also attach such conditions to a licence as it thinks fit. Notwithstanding, a licence will be valid until revoked, but will be subject to an annual fee.

9.4 **The proposed legislation should apply to the classes of payment services listed in Table 1 below, as well as any other payment service activities that pose a risk to the national payment system which may be added over time by the Minister of Finance on the recommendation of the Central Bank.** The flexible approach to the proposed regulated activities/classes of payment services,

is adapted from the BIS Financial Stability Institute ([“FSI” Insights on policy implementation No 33 Fintech and payments: regulating digital payment services and e-money](#)). **This model ensures that the category, class of payment services and descriptions of each, are broad, flexible and reflective of the current payment activities in Trinidad and Tobago and possible developments in the payment space.**

Table 1 – Brief Description of the Proposed Classes of Payment Services

Category	Class of Payment Service	Definition
(A) Providing payment services	(a) Provision of transaction accounts ¹¹	A service of providing transaction accounts held with non-bank payment service providers that can be used for making and receiving payments.
	(b) Provision of e-money account	A service providing an e-money account. ¹²
	(c) Issuance of electronic money	The service of issuing electronic money to any person for the purpose of allowing a person to make payment transactions.
	(d) Provision of electronic wallet services	A service that enables users to access, manage and use payment instruments issued by one or more payment service providers through a mobile application or a website.
	(e) Issuing of payment instruments	A service by a payment service provider contracting to provide a user with a payment instrument to initiate and process the user’s payment transactions.
	(f) Acquiring of payment transactions	A service provided by a payment service provider contracting with a payee to accept and process payment transactions, which results in a transfer of funds to a user <i>including merchant acquisition services</i> .

¹¹“Transaction account” means a payment account intended for holding funds that are linked to present or future payment transactions of a user.

¹² “E-money account” means an account used for the purpose of loading an e-money instrument and includes prepaid accounts and the term “e-money account holder” shall be construed accordingly.

Category	Class of Payment Service	Definition
	(g) Money remittance service	<p>A service for the transmission of funds, without any payment accounts being created in the name of the payer or the payee, where—</p> <p>(a) funds are accepted in Trinidad and Tobago for the purpose of transmitting, or arranging for the transmission of, the funds on behalf of the payer to any person outside Trinidad and Tobago;</p> <p>(b) funds are received from outside of Trinidad and Tobago for any person in Trinidad and Tobago, or arrangements are made for the receipt of any funds from outside of Trinidad and Tobago by any person in Trinidad and Tobago; or</p> <p>(c) funds are accepted in Trinidad and Tobago for the purpose of transmitting, or arranging for the transmission of, the funds on behalf of the payer to any person in Trinidad and Tobago, subject to any required authorisation for the conversion of currencies under the Exchange Control Act Chap. 79:80 where incidental or ancillary to the remittance service.</p>
	(h) Processing of electronic funds transfer for third parties	A service including information technology and network communication services, such as authentication and authorisation, which enable the payment service providers to conduct transfers of funds and include direct debits, credit transfers, card payments and e-money transfers.
(B) Providing ancillary services	(i) Payment initiation service	A service to initiate a payment instruction at the request of the payment service user with respect to a payment account held at another payment service provider.
	(j) Account information service	An online service to provide consolidated information on one or more payment accounts held by a user with either another payment service provider or with more than one payment service provider.

9.5 **The Central Bank may grant a licence to allow a person to undertake one or more classes of payment services or regulated activities.** It should also be possible for a person to be licensed as a PSP and PSO under the Draft Bill. However, the person once licensed, must maintain separate records and accounts in respect of each activity and submit statements and returns to the Central Bank, as required. Notwithstanding, the Central Bank may direct the controlling shareholders and significant shareholders of a person applying for a licence to provide any of the classes of payment services or a licensed PSP to form a separate company incorporated in Trinidad and Tobago, to provide any class of payment service under the Bill. These proposals are critical to ensure ring fencing of the person's or PSP's payment business from their other lines of businesses. More importantly, a separate legal entity will facilitate (1) the segregation of the activities from other activities and financial flows

(potentially limiting the risk of the PSP failing owing to losses in other business activities), and (2) the regulation and prudential supervision of the PSP on a standalone basis.

E-Money Issuers

9.6 **For EMIs currently registered under the Order, transition provisions would be included in the Draft Bill to bring them under its remit.** Upon the enactment of the proposed legislation and accompanying Regulations, the Order will be repealed in its entirety. It is further proposed that the definition of e-money as adopted from the FIA would be revised in the Bill to reflect the current approaches of the EU and UK. This broader approach to the definition of e-money is not only in alignment with international best practice, but it ensures that e-money is not issued at a discount. The revised definition should read as follows:

“monetary value represented by a claim on the issuer, which is

- (a) stored electronically, including digitally or magnetically, or on any other tangible or intangible device;*
- (b) issued on receipt of funds of an amount not less than the monetary value issued for the purpose of making payment transactions; and*
- (c) accepted as a means of payment by persons, other than the issuer, so however that the funds referred to in (b) above shall not be treated as a deposit under the Financial Institutions Act.”*

9.7 **Under the Draft Bill, a PSP licensed as an EMI should be able to provide the following classes of payment services:** provide e-money accounts, issue e-money and provide electronic wallet services and any other service specified by the Central Bank. Such PSP licensed to provide e-money related services above, may also apply to the Central Bank to provide other classes of payment services.

Use of Agents

- 9.8 **Agents are important to the effective provision of payment services by PSPs.** It is proposed that the provisions on agents, agent arrangements and management in the Order be transposed into the Draft Bill with the requisite modifications. Moreover, an agent may act on behalf of a PSP to the extent the law permits. An agent acting on behalf of an EMI, may conduct the following activities: cash-in, cash out, collect information and complete documents for opening e-money accounts.
- 9.9 **It is proposed that a PSP should notify the Central Bank before using each agent and provide the requisite information.** This allows the Central Bank to object or not object to the use of the agent. The Central Bank must within seven (7) business days of receipt of the notification and all documentation including any further documentation requested in writing, issue an acknowledgement of receipt to the PSP. Where the Central Bank objects to the use of an agent by a PSP, it shall issue to the PSP the appropriate notice within thirty (30) business days of the acknowledgment.
- 9.10 **Moreover, PSPs should ensure that their agents are non-exclusive and should not sign an exclusive agreement with their agents.** This has been the practice in many countries including Kenya, Uganda and Guyana. An agent may act for two (2) or more PSPs once each PSP has in place agency arrangements and management procedures with the bases on the requirements set out by the Central Bank in the Regulations and/or Guidelines. A PSP should ensure that the agent has the capacity to manage the transactions for the different PSPs including appropriate premises or operating space, suitable technology and financial soundness. Notwithstanding, a PSP would remain liable for the acts and omissions of its agents and/ or third parties to which they have outsourced activities

(b) **Requirements and criteria for the licensing of PSPs**

9.11 **A flexible licensing regime will accommodate swift developments in fintech and proportional risk-based requirements for licensing.** It is important to set out clearly the minimum requirements and criteria for the licensing of PSPs in the legislation. Currently, licensing requirements for non-bank PSPs are set out in a Guideline No. 3¹³, whereas the Order contains requirements for EMIs. As the Bill will apply to all PSPs, the licensing requirements for PSPs in the Guideline and Order will be harmonised and strengthened in the Bill and/or Regulations as required.

9.12 **The licensing requirements below are largely the same for both PSPs and PSOs.**

A person may apply for a licence to provide any class of payment service or operate a payment system in Trinidad and Tobago by submitting the documents in *Appendix 2*.

The Central Bank may accept or refuse an application during the licensing process. Every application submitted to the Central Bank must be signed by two (2) directors who shall certify that the information given in the application is true and correct. The Central Bank may impose terms and conditions on the applicant at any stage of the approval process and conduct off-site evaluations or on-site inspections during supervision or oversight. If a person who has received a licence as a PSP or PSO is applying for permission to provide an additional class of payment service or vary the class of payment service for which it is licensed, or operate an additional payment system, the Central Bank may waive such terms and conditions, as it deems appropriate.

9.13 **Some further licensing requirements which should be modelled after the approaches in the FIA and IA and included in the Draft Bill are as follows:**

- (a) at least one (1) director or officer of the person is ordinarily resident in Trinidad and Tobago;
- (b) prudential criteria, including adequate capital and liquidity, as prescribed;
- (c) the company is not part of a larger organisational or group structure that would hinder effective supervision;
- (d) the business plan for the future conduct and development of the business is sound and feasible;
- (e) the company satisfies such operational requirements as the Central Bank may specify;
- (f) the acquirers, controlling shareholders, significant shareholders, directors, officers and the company, and those who occupy such other positions as may be designated by the Central Bank, are fit and proper persons to perform their respective roles;
- (g) the acquirers, controlling shareholders and significant shareholders of the company have complied with the Draft Bill and Regulations as to the financial soundness of the applicant;
- (h) the public interest will be served by the granting of the licence;
the applicant has adequate internal controls and risk management mechanisms, including, but not limited to adequate cyber-risk controls, cyber security controls and, in respect of user or participant information, data protection controls and data privacy controls; and
- (i) that the applicant meets such other criteria for the grant of the licence as the Central Bank considers relevant.

¹³ Guideline No. 3 - Operation of Payment Service Providers.

10. LICENSING AND OVERSIGHT OF PAYMENT SYSTEM OPERATORS

10.1 **Similar to the licensing of PSPs, all persons desirous of operating a payment system in Trinidad and Tobago must be licensed by the Central Bank, unless exempted.** The proposed licensing regime and overall approach to payment systems in the Draft Bill will be modelled after Part XII of the FIA, which will be repealed once the Bill is proclaimed into law.

(a) *Requirements and criteria for the licensing of PSOs*

10.2 **It is important to set out clearly the minimum requirements and criteria for the licensing of PSOs in the legislation.** Currently, the licensing requirements for interbank PSOs are set out in *section 94 of the FIA* and non-interbank are set out in a Guideline No 1.¹⁴ As the Draft Bill will apply to all payment systems, it is proposed that the licensing requirements for *PSOs in section 94 of the FIA, section 28 of the IA and the Guideline No. 1*, will be harmonised and strengthened in the Bill and/or Regulations as required. *Some of the requirements and criteria for licensing of PSOs have been set out above.*

(b) *Treatment of foreign PSPs and PSOs*

10.3 **Foreign PSPs and PSOs will either be required to be licensed or qualify for an exemption from licensing under the proposed legislation.** It is proposed that where a foreign PSP or PSO is desirous of providing payment services or operating a payment system in Trinidad and Tobago, it should be required to establish a physical presence locally and be incorporated in accordance with the laws of Trinidad and Tobago and pursuant to the proposed Bill. However, to facilitate access to the global financial system, the Central Bank may exempt certain foreign PSPs and PSOs that are regulated by a foreign regulator that is acceptable to the Central Bank where the services provided may not be available locally due to capacity issues or to facilitate critical access to international financial markets (*See section below on Exempted Persons*).

10.4 **The requirements for supervision of a foreign PSP and oversight of a foreign PSO may be further detailed in Regulations and Guidelines.** This may include for example, ongoing capital requirements, safeguarding of user funds provisions and outsourcing among others.

11. TESTING PERMITS TO TEST WITHIN A REGULATORY SANDBOX

11.1 **To facilitate the development of the payments sector, the proposed legislation should specifically cater for payment systems and services to be tested in a closed and controlled environment of the regulatory sandbox.** As evident in other jurisdictions including Barbados, Jamaica and the UK, the Central Bank should require a separate regime for testing payment systems or services in a regulatory sandbox. It is proposed that where a person is desirous of providing a payment system or service in Trinidad and Tobago, he may apply to the Central Bank, or the Central Bank may require him to apply, for a testing permit to test the system or service in a regulatory sandbox. In addition to the power to launch innovation facilitator structures such as tech sprints, the Central Bank should be empowered to issue testing permits and impose certain terms and conditions on the testing permit holder in order to develop and test payment systems and services that may be used in the payment sector in a safe and controlled ‘sandboxing’

¹⁴ Guideline No. 1 - Licensing and Operation of Interbank Payment Systems.

environment. Some of the terms and conditions, which can be varied by the Central Bank include: extent and nature of the operations, the period of testing, the size of its user base, and limits on the monetary values that may be transferred or funded using the tested service or products. The testing regime should be applicable for a specified temporary period not exceeding an aggregate period of two (2) years, and should be stated in the requisite Guidelines.

11.2 Following the testing, monitoring and review of the payment system or service in a regulatory sandbox, the testing permit holder may succeed or fail at testing. On one hand, where the Central Bank is of the view that the payment system or service succeeds at testing within the testing period and is not likely to endanger, disrupt, damage, injure or impair the national payment system, the financial system or the interests of participants or users, the Central Bank may inform the holder of the testing permit that he may apply to the Central Bank for a licence to operate in Trinidad and Tobago. On the other hand, where the Central Bank is of the view that the payment system or service fails the testing within the testing period whether as a result of failures in information technology systems and software, internal control processes, consumer protection, data protection or for any other reason, or is likely to endanger, disrupt, damage, injure or impair the national payment system, the financial system or the interests of participants or users, the Central Bank should inform the testing permit holder that the payment system or service may not be operated in Trinidad and Tobago and revoke the testing permit accordingly.

11.3 It is also proposed that similar to the approach in [Jamaica](#), the Central Bank may at any time revoke a testing permit, by notice in writing, where the testing permit holder: breaches any term or condition of the testing permit; submits information that is materially false, misleading or inaccurate or has concealed or failed to disclose material facts in the application; contravenes any applicable law administered by the Central Bank; is undergoing or has gone into liquidation; breaches data security and confidentiality requirements; fails to effectively address any technical defects, flaws or vulnerabilities in the payment system or service which gives rise to recurring service disruptions or fraud incidents; or any other reason determined by the Central Bank.

11.4 Further details on the testing permit should be clearly enunciated in Regulations and/or specific Guidelines.

12. DESIGNATION OF PAYMENT SYSTEMS AND PAYMENT SERVICE PROVIDERS THAT ARE SYSTEMIC FOR ENHANCED OVERSIGHT AND SUPERVISION RESPECTIVELY

12.1 The designation regime enables the Central Bank to designate payment systems and PSPs, which may pose great systemic risk to the national payment system or the financial system. Designation allows for enhanced oversight and supervision of payment systems and PSPs respectively, in order to maintain financial stability. It is proposed that the designation regime is modelled after Singapore.

12.2 The Central Bank may designate a payment system if it is considered a SIPS or a SRPS. Once the payment system is designated, the PSOs, settlement agents and participants of the designated payment systems are regulated by the Central Bank. Under *PFMI Responsibility A: Regulation, supervision, and oversight of FMIs*, FMIs should be subject to appropriate and effective regulation, supervision, and oversight. The principles in the PFMI are broadly designed to apply to all SIPSs. These SIPSs, normally include CSDs, SSSs, CCPs, and TRs and are typically subject to enhanced regulation, supervision, and oversight because of the critical role that they play in the financial system. It is imperative to strengthen the regulatory oversight to reduce the probability of failure systems and

minimise the risk to financial stability and the real economy. “Criteria that are often considered in determining the need for, or degree of, oversight for various types of FMIs include:

- (a) the number and value of transactions processed;
- (b) the number and type of participants;
- (c) the markets served;
- (d) the market share controlled;
- (e) the interconnectedness with other FMIs and other financial institutions;
- (f) the available alternatives to using the FMI at short notice; and
- (g) [other criteria relevant in the jurisdiction]¹⁵.”

12.3 **Based on the above, only SIPS and SRPS are subject to oversight and benefit from the entrenched safeguards of settlement finality in the law.** A SIPS, according to the PFMI is “a payment system that has the potential to trigger or transmit systemic disruptions; this includes, among other things, systems that:

- are the sole payment system in a country or the principal system in terms of the aggregate value of payments;
- mainly handle time-critical, high-value payments; and
- settle payments used to effect settlement in other systemically important FMIs”¹⁶.

12.4 **An SRPS is not systemically important, but it is widely used and may for example include a payment system that handles large volumes of low value transactions.** A disruption in such a payment system can impact a wide segment of the economy and as such has the potential to disrupt economic activity and affect public confidence in the payment system.

12.5 **A PSP may also be designated if it is systemic.** Designating PSPs is important in the Trinidad and Tobago, as PSPs can become systemic and affect financial stability. It is proposed that the Draft Bill however, should outline the criteria for designation for payment systems and PSPs, *as seen below*.

(a) Designation Criteria

12.6 **Payment systems and PSPs should be subject to an enhanced oversight and supervisory regime for financial stability purposes.** The designation criteria for payment systems and PSPs may be similar to the criteria in Singapore and the UK. Though these jurisdictions have not designated PSPs, the criteria were adapted accordingly. It is proposed that the Central Bank may, by notice in the *Gazette*, on its own initiative, designate a payment system for purposes of its oversight under the Bill, if it is satisfied that any of the following considerations applies:

- a. a disruption in the operations of the payment system could –
 - i. trigger, cause or transmit further disruptions to participants of the payment system;

¹⁵ Para. 4.1.2 of the Principles for Financial Market Infrastructures. April 2012

¹⁶ Ibid see Para 1.20

- ii. trigger or cause systemic disruption to the national payment system or financial system of Trinidad and Tobago; or
- iii. affect public confidence in the national payment system or the financial system of Trinidad and Tobago;
- b. the payment system is widely used in Trinidad and Tobago, handles time-critical, high-value payments or may have an impact on the operations of one or more other payment systems in Trinidad and Tobago;
- c. the designation is otherwise in the public interest; or
- d. any other criteria as may be prescribed by the Minister, on the recommendation of the Central Bank.

12.7A designated PSP should be subject to an enhanced supervisory regime for financial stability purposes. Additionally, the Central Bank may, by notice in the Gazette, designate a PSP, if the Central Bank is satisfied that –

- a. a disruption in the operations of the payment service is likely to –
 - i. trigger, cause or transmit further disruptions to other payment service providers or a payment system or systems;
 - ii. trigger or cause disruption, substantial damage, injury or impairment to the national payment system or the financial system of Trinidad and Tobago; or
 - iii. affect public confidence in the national payment system or the financial system of Trinidad and Tobago;
- b. a payment service provider is offering a payment service that may be of widespread use as a means of making payments or value and volumes of payment transactions are significant, and may affect the national payment system or financial system Trinidad and Tobago;
- c. the designation is otherwise in the public interest; or
- d. any other criteria as may be prescribed by the Minister by Order, on the recommendation of the Central Bank.

12.8 Those payments systems and PSPs found to be designated for enhanced oversight and supervision respectively, are subject to the principles in the PFMI. The Bank would also be empowered to impose conditions or vary a designation. A payment system or PSP that does not meet the above criteria will not be designated by the Central Bank, but will remain subject to the usual licensing, oversight and supervisory requirements. For the avoidance of doubt, designation of a payment system or PSP occurs subsequent to licensing of the PSO or the PSP, if required.

(b) Designation Requirements

12.9 The designation requirements are the same licensing requirements for payment systems and PSPs, since designation occurs subsequent to licensing. Where a payment system or PSP poses system risk and threaten financial stability, because of the criteria mentioned above or grows to the level of a SIPS or SRPS, thereby meeting the criteria for designation by the Central Bank, the operator and the PSP would be required to meet the regulatory requirements of such a designated system or PSP and the Central Bank would rely on the enforcement powers under the Draft Bill.

12.10 **The Central Bank may impose on a participant or an operator of a designated payment system and on a designated PSP such conditions or restrictions as the Central Bank thinks fit including in relation to any of the following:**

- (a) additional regulatory and supervisory requirements including prudential criteria (capital and liquidity);
- (b) the activities that the operator of the designated payment system or the designated payment service provider may undertake; and
- (c) the standards to be maintained by the operator of the designated payment system or the designated payment service provider.

13. EXEMPT PERSONS AND EXCLUDED SERVICES

13.1 The Draft Bill should exempt persons and exclude services from the regulation of the Central Bank, if necessary.

Excluded Services

13.2 **The regulated classes of payment service activities should be drafted broadly to allow the law to adapt to new technologies and business models.** However, this means that the definitions of the regulated classes of activities may inadvertently catch entities or activities that may present negligible risk and therefore should not be regulated under the Draft Bill. It is therefore proposed to carve out certain activities from the regulatory ambit of the Central Bank under the Draft Bill. The exclusion of services is important since these services will not be deemed payment services under the Draft Bill. This approach is modelled after the European Union Payment Services Directive (“PSD2”) The activities to be carved out would include but not be limited to:

- (a) *Payment transactions from the payer to the payee through a commercial agent authorised via an agreement to negotiate or conclude the sale or purchase of goods or services on behalf of only the payer or only the payee.*
- (b) *Closed-loop payment services such as food vouchers, reward or loyalty programmes, and transportation payment schemes.*
- (c) *Cash or processing of cash-only transaction which do not involve an intermediary or which do not involve funds held on payment account.*
- (d) *Professional physical transport of banknotes and coins, including their collection, processing and delivery.*
- (e) *Payment transactions through cheques, however for the avoidance of doubt, a person operating a cheque clearing house is required to be licensed as an operator, unless otherwise exempted.*
- (f) *Payment transactions carried out within a payment system or securities system between settlement agents, central counterparties, clearing houses, central banks and other participant of the system.*
- (g) *Provision of technology service.¹⁷*

¹⁷ “Technology service” means an information technology service which, without entering at any time into possession or contact with funds or, without issuing or administering any means of payments at any time, supports the provision of payment services, including but not limited to processing and storage of data, trust and privacy protection services, data and entity authentication, information technology and communication network provision, provision and maintenance of terminals and devices used for payment services and the provision of hardware and software; and does not include payment initiation services and account information services.

- (h) *Payment transaction related to securities asset servicing, including dividends, income or other distributions, same and redemption of securities carried out by a regulated securities market participant.*

Exempt Persons

13.3 **The proposed legislation should exempt certain persons from licensing since they are already under a licensing regime acceptable to the Central Bank.** It is proposed that the following persons should be exempt from the requirement *to obtain a licence under the proposed legislation to provide a payment service*: (a) a financial institution licensed under the Financial Institutions Act that provides e-money accounts, issues electronic money or provides electronic wallet services; and (b) the Central Bank. Additionally, the following persons should be exempted from the requirement to obtain a licence under the proposed legislation *to operate a payment system*: (a) the Central Bank; (b) an operator of a securities clearing system regulated under the Securities Act; (c) a foreign operator of a payment system that is regulated and supervised by a foreign regulator acceptable to the Central Bank where the services provided may not be available locally or the services are deemed necessary by the Central Bank for any reason, including capacity issues or to facilitate critical access to international financial markets.

13.4 **It is further proposed that though exempted, the financial institutions above should comply with certain supervisory requirements** such as: the safeguarding of user funds, protection of users, powers of Central Bank to require interoperability between payment accounts, transaction accounts and payment systems; and powers of Central Bank to ensure interoperability between PSOs and PSPs; and any other accompanying Regulations, as required. Notwithstanding, such financial institutions may be subject to other operational, reporting and disclosure requirements in relation to their payment services as evident in the case of Barbados, Guyana and Singapore.

13.5 **With regards to the exemption from operating a payment system**, the Central Bank should also have the power to request information from and enquire into or examine the affairs of any such person and specify such requirements as it deems necessary which such exempted person should implement or adhere to in operating a payment system.

13.6 The Central Bank may prescribe in Regulations any other person or type of activity to be exempt or excluded.

14. ADDRESSING REGULATORY RISKS AND CONCERNS

14.1 It is proposed that the Draft Bill should address many regulatory risks and concerns that are critical to the National Payment System.

Liquidity and Settlement risk

14.2 **The objective of Principle 8 of the PFMI on Settlement Finality (See Appendix 1) is to reduce settlement risk by clearly defining when payments or funds transfers are irrevocable and unconditional and therefore cannot be voided or unwound.** This is particularly important in the case of the insolvency of a participant. The FIA currently contains provisions in sections 101 to 103 which collectively serve to mitigate settlement risk and should be moved to the Bill and applied for *all* payment systems.

14.3 **The effect of sections 101 to 103 of the FIA is to exempt transactions in a protected system from the potential application of the “zero-hour rule”¹⁸ and give legal certainty to existing net settlement arrangements even in the event of insolvency proceedings against a participant.** Importantly, while it is proposed that payments will be settled for all orders entered *prior to* notification of an insolvency, an aggrieved party would still be able to exercise any right or file a claim for recovery or restitution on the underlying transaction (as under section 103(2) of the FIA).

14.4 **To manage settlement risk, the Draft Bill should require that every participant in a payment system open and maintain settlement accounts in the books of the Central Bank or with a settlement agent.** It should be noted that currently, only commercial banks have direct access to the settlement agent, the RTGS. At this time, direct access by other non-bank non financial institutions will not be given by the Central Bank who owns and operates the RTGS. Additionally, the maintenance of minimum balances would be prescribed by the rules of the payment system or the Central Bank. In this regard, the Central Bank may issue Guidelines outlining the requirements on the opening, maintenance, rules concerning settlement accounts, as well as the funds and financial instruments held in those accounts. It is also proposed that a reserve account established and maintained pursuant to section 57 of the Financial Institutions Act would not constitute a settlement account. Further, funds and financial instruments held in settlement accounts would not be subject to enforcement measures. Additionally, PSOs or settlement agents would have the ability to temporarily suspend transactions on the settlement accounts of system participants subject to specific payment system rules.

(b) Collateral and Netting Arrangements

14.5 **The Draft Bill should maintain/ incorporate the financial collateral and netting arrangements from Part XII of the FIA, to ensure that the PSO manage its or its participant’s credit exposure.** Principle 5 of the PFMI on Collateral states *inter alia* that, “*An FMI that requires collateral to manage its or its participants’ credit exposure should accept collateral with low credit, liquidity, and market risks: For example cash, treasury bills, commercial paper, and money market funds*” (see Appendix I.) The proposals being recommended on collateral for payment and settlement obligations will ensure that they will remain valid, enforceable and binding on third parties and will not be affected by insolvency or winding-up proceedings, receivership, reorganisation, administration, scheme of arrangement or any other law of similar effect. This is rooted in the key considerations supporting Principle 1 of the PMFI “Legal basis”, which states, *inter alia*, that “*The legal basis should provide a high degree of certainty for each material aspect of an FMI’s activities in all relevant jurisdictions.*”

14.6 **Sections 104 to 109 of the FIA have clearly outlined provisions on the enforceability of financial collateral arrangements; substitution and topping-up of financial collateral; perfection of pledged financial collateral and enforcement of pledged financial collateral.** Close-out netting arrangements are also rendered legally binding. These provisions are consistent with the PMFI and

¹⁸ The zero-hour rule refers to a provision in the insolvency law whereby the transactions of a closed institution that have taken place after midnight on the date the institution is ordered closed may be retroactively rendered ineffective. This affects the finality of settlement since funds settled that day can be reversed as transactions are back dated to zero hour on that day.

international best practice. In this regard, it is proposed that sections 104 to 109 of the FIA should be repealed, and similar provisions incorporated into the proposed comprehensive Bill/Regulations, with necessary changes so as to be consistent with the framework of the new legislation being recommended. Further, sections 110 and 111 of the FIA serve to provide clarity on which law would be applicable where another jurisdiction is involved in the holding of collateral or the insolvency of a participant or where an FMI is subject to the laws of other jurisdictions. These sections would also be moved into the proposed Bill.

(c) Interoperability

14.7 **The PFMI promote the importance of interoperability among PSPs and payment systems across various principles.** For example, **Principle 20** which explicitly addresses FMI links and their risk management; **Principle 2** on governance, which states that FMIs should consider the interests of the broader markets; **Principle 3** on the framework for the comprehensive management of risks, which states that an FMI should consider the relevant risks that it bears from and pose to other entities; **Principle 18** on access and participation requirements, which states that an FMI should provide fair and open access, including to other FMIs.

14.8 **Consumers/ users may not be able to make payments directly to each other, or to merchants, if both parties use different PSPs.** Lack of interoperability may act as a barrier to the adoption of e-payment solutions by consumers and merchants. Merchants are also faced with having to provide consumers with multiple point of sale terminals or other payment acceptance methods which should be compatible with each other.

14.9 **To promote interoperability, it is proposed that similar to Singapore, the Central Bank be given powers under the Bill,** to impose in special circumstances, these three types of interoperability measures:

- (i) **access regime measures** - to mandate that a designated or non-designated payment system operator allows third parties to access its system on fair and reasonable commercial terms. This would be important for those entities that operate widely used payment systems that should be interoperable with common payment methods.
- (ii) **the adoption of a common system** - to mandate a major PSP's participation in a common system to achieve interoperability of major accounts or wallets covering a substantial population of users with other mainstream payment accounts.
- (iii) **the adoption of common standards** – to direct a PSP to make widely used payment acceptance methods interoperable.

14.10 The draft Bill should give the Central Bank the power to impose interoperability between payment accounts, transaction accounts and payment systems and PSOs or PSPs.

(d) Consumer/ User Protection

14.11 **A PSP and a PSO must operate in a fair, responsible and professional manner when dealing with users and participants and comply with all standards of market conduct.** Of critical importance to the protection of the user and the overall stability of the national payment system and

the financial system in Trinidad and Tobago, is the safeguarding of user funds. It is proposed that the model in the Singaporean Payment Services Act and Regulations be adopted in the Draft Bill and modified according to our unique circumstances. This approach will ensure that consumers/users will not lose any funds held by the PSP or prevent transactions from settling in the event of the failure of the PSP.

14.12 **A PSP that carries on a payment service that involves the holding of user funds should safeguard the users.**

- a. A PSP that provides any of the following classes of payment service must ensure that its funds are safeguarded. These include: money remittance services; acquiring of payment transactions including merchant acquisition services; or any other payment service that may be recommended by the Minister of Finance on recommendation of the Central Bank. The PSP must ensure that no later than the next business day after any relevant funds received from, or on account of, a user, is safeguarded in one of the following manners:
 - (ii) a guarantee given by a financial institution or an insurer;
 - (iii) an insurance policy issued by an insurer;
 - (iv) deposit the user's funds in an account designated as a trust account which shall be maintained with a financial institution; segregated from any other funds that the payment service provider holds; and held for the sole benefit of users; or such other mechanism as may be specified by the Central Bank.
- b. **A PSP that is licensed to provide e-money accounts, issue electronic money and provide electronic wallet services and a financial institution that provides e-money accounts, issues electronic money and provides electronic wallet services should ensure** that no later than the next business day after any relevant funds received from, or on account of, a user is safeguarded by: holding such user funds in an account designated as a trust account which shall be maintained with a financial institution. These funds should be segregated from any other funds that the PSP holds and held for the sole benefit of users.
- c. **A PSP that is licensed as an EMI may be required by the Central Bank to have additional mechanisms to safeguard user funds by way of** - (i) a guarantee given by a financial institution or an insurer; (ii) an insurance policy issued by an insurer; or (iii) such other mechanism as may be specified by the Central Bank.
- d. All funds held in the account designated as a trust account :
 - i. must not be used for the payment of the debts of the PSP;
 - ii. must not be used as collateral for the purpose of satisfying any debt or claim;
 - iii. are not liable to be taken in execution of an order or a process of any court entered against the PSP;
 - iv. should not form or be deemed to form part of the property of the PSP; and
 - v. in the case of an insolvency event in relation to the PSP must not be applied directly or indirectly to any other creditor other than the users on behalf of whom the PSP was required to safeguard the relevant funds, save to the extent that the funds exceed the liabilities owed to such users.

14.13 **It is proposed that the proceeds of the guarantee or insurance policy should be paid, in the case of an insolvency event, into a separate trust account held by a financial institution and applied solely to the users on behalf of whom the PSP was required to safeguard the relevant funds.**

14.14 **Similar to Singapore, the Minister should be specifically empowered upon the recommendation of the Central Bank to prescribe, by Regulations, matters concerning the account designated as a trust account**, permitted withdrawals from the designated trust account, restrictions on commingling, the manner in which the users' money must be treated and dealt with, despite any other written law, on the occurrence of either or both of the following: any event affecting the ability of the PSP to perform its obligations, such as in the event of its insolvency; any event affecting the ability of the financial institution holding the money to perform its obligations, such as in the event of the insolvency of financial institution.

14.15 **As provided for in the UK, it is further recommended that the Minister also make regulations for payment service user redress** where the user notifies the PSP without undue delay on becoming aware of any unauthorised or incorrectly executed payment transaction or where the PSP fails to provide transaction records to the user.

(e) Obligations for PSOs and PSPs

14.16 **An operator of a payment system, as well as a PSP and a designated payment systems or PSP should have the following obligations:**

- (i) To notify the Central Bank of significant matters, such as any:
- (a) intention to make a material change to the nature of the operating rules, settlement procedures or activities of the designated payment system;
 - (b) event or irregularity that impedes or prevents access to, or impairs the usual operations of, the designated payment system or its settlement operations; Its settlement operations; or introduces material risks to its operations, interoperability or business viability".
 - (c) material outsourced function;
 - (d) litigation against the operator or settlement institution;
 - (e) likely insolvency or inability to meet its obligations;
 - (f) change in the regulatory requirements imposed by another regulator or disciplinary action taken by another regulator;
 - (g) changes to the directors or officers for non-objection by the Bank; and
 - (h) other matter that the Bank may specify by notice in writing.
- (ii) To adequately disclose any terms and conditions including fees and charges.
- (iii) To submit reports or returns in the form, manner and frequency specified by the Bank.
To inform the Bank of the conduct of any other business other than the business of a designated payment system or PSP.

14.17 **An operator of a payment system should also be required to establish, with the approval of the Central Bank**, written rules for the governance, management and operation of the system taking into account minimum requirements to be specified by the Bank.

(f) Specific Restricted/Prohibited Activities

14.18 Since only financial institutions licensed under the FIA may engage in “business of banking” or “business of a financial nature” which includes deposit taking and lending¹⁹ and are subject to extensive prudential and regulatory requirements, PSPs will be prohibited from conducting consumer lending or any activity similar to deposit taking. A PSP would also be prohibited from providing any class of payment service through an agent, unless the agent meets the criteria set by the Central Bank and is not objected to by the Bank.

14.19 Additionally, a PSP will be prohibited from using any user’s money to finance *wholly or to any material extent* any activity of any business carried on by the PSP. There would also be a general prohibition against solicitation and advertising by unregulated persons. Limitations may also be placed on the sizes of payment and e-money accounts, including e-wallets as well as the withdrawal of cash in order to reduce the amount of cash and promote cashless payments.²⁰

(g) ML/TF/PF risk, technology and cyber risk, and business continuity

14.20 **PSPs providing the classes of payment services in Table 1 above, must satisfy AML/CFT/CPF requirements.** AML/CFT/CPF requirements would be detailed in Guidelines and may be tiered to take into consideration the nature and size of the activity being undertaken. Technology and cyber security risks, data protection and data privacy are key risks facing all payment systems and all payment systems should be required to have robust technology risk governance and management systems in place, including user authentication, data encryption, fraud monitoring and detection, and protection against denial of service attacks. Payment systems will be also required to have robust business continuity and resolution plans.

15. ENSURING PROPER CORPORATE GOVERNANCE OF PAYMENT SYSTEMS**(a) Control - Shareholders, Directors and Officers**

15.1 **An important aspect of designating or licensing a PSO or PSP is ensuring that its principals – namely its directors, officers and shareholders are fit and proper²¹.** Being fit and proper means, *inter alia*, that the persons are financially sound and possess the requisite, skills, expertise, education and integrity to own, manage or control a payment system. **Shareholders and proposed shareholders of a PSO or PSP seeking to acquire whether directly or indirectly:**

- 10% or more;
- 20% or more; or
- 50% or more,

¹⁹ It should be noted that persons registered or licensed under the Money Lenders Act can also lend money.

²⁰ Refer to the E-Money Issuer Order, 2020 as amended.

²¹ Refer to the Bank’s Fit and Proper Guideline, 2019.

of the shareholding of the entity should be required to be fit and proper and must receive the prior approval of the Bank for those shareholdings. These requirements will be prescribed in the relevant Regulations.

15.2 Further, it is recommended that:

- (i) The criteria and procedures similar to those in sections 71-72 of the FIA and sections 52 to 53 of the IA, in relation to, *inter alia*, the assessment of shareholders should be included with such modifications as necessary.
- (ii) Provisions similar to those in sections 33-35 of the FIA and sections 65 to 67 of the IA, in relation to the non-objection to directors should be included with such modifications as necessary.
- (iii) The Central Bank should have the power to impose conditions in respect of its approval of shareholders.
- (iv) In view of the ongoing obligations relating to fitness and propriety and regulatory compliance, the Bank should be empowered to object to an existing shareholder, director or officer where these obligations are no longer being met.
- (v) The Central Bank should have the ancillary powers to enforce decisions taken in relation to shareholders by directing the transfer or disposal of all or any of the shares in the regulated person or restricting the transfer or disposal of all or any of the shares (as in the FIA and IA).
- (vi) There should be a requirement for applicants, licensed PSPs or PSOs and designated PSPs or PSOs to report periodically all nominal and beneficial shareholders who hold directly or indirectly shareholdings of 5 percent or more of the issued share capital of the licensed payment system or one applying to be licensed.
- (vii) The Central Bank should be allowed to specify other governance requirements for payments systems on the basis of risk, for example, the boards of designated systems should have a number of independent directors.

(b) Amalgamations and Acquisitions

15.3 Given that the ownership of a payments system or a PSP can change over time due to amalgamations or acquisitions, it is also proposed that:

- (i) a payment system and a PSP, as well as the majority shareholder of a payment system or PSP, must obtain the approval of the Central Bank prior to acquiring or amalgamating with another designated payment system or PSP; and
- (ii) where an acquisition or amalgamation under (i) would result in a combined market share greater than 40% of the market for payment systems and/or payment services or any subset thereof, the Central Bank shall submit a recommendation to the Minister for his approval. This approach is consistent with the approach to competition and market concentration in sections 73-74 of the FIA). This proposal is directed at avoiding excessive concentration of economic power within the national payment system.

(b) Confidentiality, Co-operation and Information Sharing with other Regulators

15.4 ***There should be broad and flexible mandate in the Bill for confidentiality, co-operation and information sharing with other regulators similar to the FIA and IA and in alignment with the PFMI.*** Responsibility E of the PFMI requires the regulator to “cooperate with each other, both domestically and internationally, as appropriate, in promoting the safety and efficiency of FMIs.” This responsibility is currently codified under section 100 of the FIA in relation to interbank payment

systems. This provision should be moved into the Bill and made applicable to all matters falling under the scope of the Bill. Under the Bill, the Central Bank should be authorised to enter into co-operation or information-sharing arrangements with any relevant local or foreign regulatory agency or body that oversees payment systems, the operations of PSPs and related services (including AML/CFT bodies) where the Central Bank is satisfied that any information disclosed to such agency or body will be kept confidential and used strictly for the purpose for which it was disclosed.

Similar to the confidentiality provisions under other legislation such as the FIA and the IA, the Bill should contain clear responsibilities to maintain confidentiality under threat of criminal sanction:

- (i) There should be a duty on the Central Bank to maintain confidentiality regarding information coming into its purview relating to the regulated entity and its customers;
- (ii) There should be a duty on the payment system operator and PSP to maintain the confidentiality of information received from its participants and/or customers, unless it has the explicit consent from the owner of the information for disclosure.
- (iii) There should also be the usual exceptions to the confidentiality rule, which allow disclosure of confidential information /documents for example –
 - (a) to facilitate cooperation with relevant local or foreign regulatory agencies or bodies;
 - (b) to designated AML/CFT/CPF bodies;
 - (c) pursuant to an order of the court.

16. THE NATIONAL PAYMENTS SYSTEM COUNCIL

16.1 In line with international best practice, the proposed legislation should formally establish a National Payment System Council in law, since it is integral to the effective functioning of the National Payment System. Trinidad and Tobago has an informal Council²² and it is proposed that the Bill would include provisions regarding its formal establishment as a forum that would facilitate dialogue and collaboration on the development of the national payment system. Moreover, it is proposed that the Draft Bill should stipulate that the Bank may issue guidance and instructions as required on the composition and appointment of the members, its meeting procedures and all other matters relevant to its operations and functions.

16.2 The established forum may also seek to improve education and public awareness of payment system issues and developments. The established Council should be chaired by the Central Bank and comprise representatives of:

- (i) the Central Bank;
- (ii) other governmental bodies regulating or in any other way involved in the payments and financial markets;
- (iii) national associations of financial institutions involved in payment activities or clearing and settlement of securities; and
- (iv) any other entity, involved in payments activities or in the clearing and settlement of securities, as may be determined by the Bank.

²² Information on the current Council can be found at the following link for <https://www.central-bank.org.tt/psc/index.html>

17. TRANSITIONAL ARRANGEMENTS AND CONSEQUENTIAL AMENDMENTS

17.1 The proposed legislation will clearly set out transitional arrangements and consequential amendments. The proposed Bill will provide for transitional arrangements for existing regulated entities and consequential amendments to the CBA, AML legislation including the Proceeds of Crime Act, Financial Intelligence Unit of Trinidad and Tobago and the repeal of relevant provisions of Part XII of the FIA and the Order in its entirety.

18. CONCLUSION

18.1 It is the Central Bank's view that the translation of the above policy proposals into law, will allow for the modernisation and the strengthening of the legislative and regulatory frameworks in the payments sector; the maintenance of confidence and promotion of the safety, soundness, reliability, and efficiency of the national payment system; while ensuring the stability of the financial system in Trinidad and Tobago.

APPENDIX 1**EXTRACTS OF CPSS-IOSCO – PRINCIPLES FOR FINANCIAL MARKET INFRASTRUCTURES
– APRIL 2012²³****Principle 1: Legal basis**

An FMI should have a well-founded, clear, transparent, and enforceable legal basis for each material aspect of its activities in all relevant jurisdictions.

Key considerations

- 1. The legal basis should provide a high degree of certainty for each material aspect of an FMI's activities in all relevant jurisdictions.*
- 2. An FMI should have rules, procedures, and contracts that are clear, understandable, and consistent with relevant laws and regulations.*
- 3. An FMI should be able to articulate the legal basis for its activities to relevant authorities, participants, and, where relevant, participants' customers, in a clear and understandable way.*
- 4. An FMI should have rules, procedures, and contracts that are enforceable in all relevant jurisdictions. There should be a high degree of certainty that actions taken by the FMI under such rules and procedures will not be voided, reversed, or subject to stays.*
- 5. An FMI conducting business in multiple jurisdictions should identify and mitigate the risks arising from any potential conflict of laws across jurisdictions.*

Principle 2: Governance

An FMI should have governance arrangements that are clear and transparent, promote the safety and efficiency of the FMI, and support the stability of the broader financial system, other relevant public interest considerations, and the objectives of relevant stakeholders.

Key considerations

- 1. An FMI should have objectives that place a high priority on the safety and efficiency of the FMI and explicitly support financial stability and other relevant public interest considerations.*

²³ For the full text of the PFMI, see <https://www.bis.org/cpmi/publ/d101a.pdf>.

2. *An FMI should have documented governance arrangements that provide clear and direct lines of responsibility and accountability. These arrangements should be disclosed to owners, relevant authorities, participants, and, at a more general level, the public.*
3. *The roles and responsibilities of an FMI's board of directors (or equivalent) should be clearly specified, and there should be documented procedures for its functioning, including procedures to identify, address, and manage member conflicts of interest. The board should review both its overall performance and the performance of its individual board members regularly.*
4. *The board should contain suitable members with the appropriate skills and incentives to fulfil its multiple roles. This typically requires the inclusion of non-executive board member(s).*
5. *The roles and responsibilities of management should be clearly specified. An FMI's management should have the appropriate experience, a mix of skills, and the integrity necessary to discharge their responsibilities for the operation and risk management of the FMI.*
6. *The board should establish a clear, documented risk-management framework that includes the FMI's risk-tolerance policy, assigns responsibilities and accountability for risk decisions, and addresses decision making in crises and emergencies. Governance arrangements should ensure that the risk-management and internal control functions have sufficient authority, independence, resources, and access to the board.*
7. *The board should ensure that the FMI's design, rules, overall strategy, and major decisions reflect appropriately the legitimate interests of its direct and indirect participants and other relevant stakeholders. Major decisions should be clearly disclosed to relevant stakeholders and, where there is a broad market impact, the public.*

Principle 3: Framework for the comprehensive management of risks

An FMI should have a sound risk-management framework for comprehensively managing legal, credit, liquidity, operational, and other risks.

Key considerations

1. *An FMI should have risk-management policies, procedures, and systems that enable it to identify, measure, monitor, and manage the range of risks that arise in or are borne by the FMI. Risk-management frameworks should be subject to periodic review.*
2. *An FMI should provide incentives to participants and, where relevant, their customers to manage and contain the risks they pose to the FMI.*
3. *An FMI should regularly review the material risks it bears from and poses to other entities (such as other FMIs, settlement banks, liquidity providers, and service providers) as a result of interdependencies and develop appropriate risk-management tools to address these risks.*
4. *An FMI should identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for recovery or orderly wind-down. An FMI should prepare appropriate plans for its recovery or orderly wind-down based on the results of that assessment. Where applicable, an FMI should also provide relevant authorities with the information needed for purposes of resolution planning.*

Principle 5: Collateral

An FMI that requires collateral to manage its or its participants' credit exposure should accept collateral with low credit, liquidity, and market risks. An FMI should also set and enforce appropriately conservative haircuts and concentration limits.

Key considerations

- 1. An FMI should generally limit the assets it (routinely) accepts as collateral to those with low credit, liquidity, and market risks.*
- 2. An FMI should establish prudent valuation practices and develop haircuts that are regularly tested and take into account stressed market conditions.*
- 3. In order to reduce the need for procyclical adjustments, an FMI should establish stable and conservative haircuts that are calibrated to include periods of stressed market conditions, to the extent practicable and prudent.*
- 4. An FMI should avoid concentrated holdings of certain assets where this would significantly impair the ability to liquidate such assets quickly without significant adverse price effects.*
- 5. An FMI that accepts cross-border collateral should mitigate the risks associated with its use and ensure that the collateral can be used in a timely manner.*
- 6. An FMI should use a collateral management system that is well-designed and operationally flexible.*

Principle 8: Settlement finality

An FMI should provide clear and certain final settlement, at a minimum by the end of the value date. Where necessary or preferable, an FMI should provide final settlement intraday or in real time.

Key considerations

- 1. An FMI's rules and procedures should clearly define the point at which settlement is final.*
- 2. An FMI should complete final settlement no later than the end of the value date, and preferably intraday or in real time, to reduce settlement risk. An LVPS or SSS should consider adopting RTGS or multiple-batch processing during the settlement day.*
- 3. An FMI should clearly define the point after which unsettled payments, transfer instructions, or other obligations may not be revoked by a participant.*

Principle 18: Access and participation requirements

An FMI should have objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access.

Key considerations

- 1. An FMI should allow for fair and open access to its services, including by direct and, where relevant, indirect participants and other FMIs, based on reasonable risk-related participation requirements.*
- 2. An FMI's participation requirements should be justified in terms of the safety and efficiency of the FMI and the markets it serves, be tailored to and commensurate with the FMI's specific risks, and be publicly disclosed. Subject to maintaining acceptable risk control standards, an FMI should endeavour to set requirements that have the least-restrictive impact on access that circumstances permit.*
- 3. An FMI should monitor compliance with its participation requirements on an ongoing basis and have clearly defined and publicly disclosed procedures for facilitating the suspension and orderly exit of a participant that breaches, or no longer meets, the participation requirements.*

APPENDIX 2**THE CURRENT LEGISLATIVE FRAMEWORK
GOVERNING PAYMENTS SYSTEM****CENTRAL BANK ACT CHAP. 79:09 (“CBA”)*****PART IV******THE BUSINESS OF THE BANK***

36. *Subject to this Act, the Bank may –*

...(cc) supervise the operations of payments systems in Trinidad and Tobago generally, Interbank Payment Systems in accordance with the Financial Institutions Act and the transfer of funds by electronic means including money transmission or remittance business.

FINANCIAL INSTITUTIONS ACT CHAP. 79:09 (“FIA”)***PART II******GENERAL PROVISIONS CONCERNING REGULATION,
SUPERVISION, GUIDELINES AND PENALTIES***

5.(1) *The Central Bank shall be responsible for the general administration of this Act, the supervision of licensees and the oversight of payment systems, and shall have the powers and duties conferred on it by this Act and the Central Bank Act.*

Regulations, Guidelines and Penalties

9.(1) *The Minister may, after receiving recommendations from the Central Bank, make Regulations for -*

- (a) any matter required to be prescribed under this Act;*
- (b) the transfer of funds by electronic means;*
- (c) prudential criteria;*
- (d) the oversight of payment systems;*
- (e) generally giving effect to the provisions of this Act.*

(2) Regulations made under subsection (1) shall be subject to a negative resolution of Parliament.

(3) Regulations made under subsection (1)(c) may include, but shall not be limited to -

- (a) capital adequacy and solvency requirements and capital ratios in relation to licensees, financial holding companies and members of financial groups;
- (b) liquidity requirements and ratios;
- (c) treatment of credit exposures;
- (d) treatment of assets and investments;
- (e) treatment of interest;
- (f) transactions with connected parties and connected party groups;
- (g) risks relating to self dealing;
- (h) profiting from insider information;
- (i) risks relating to foreign exchange transactions, sectoral and business risks and off balance sheet transactions;
- (j) reporting requirements for large deposits;
- (k) reporting requirements for transactions referred to in paragraph (f);
- (l) other reporting requirements;
- (m) information required in published financial statements;
- (n) new financial instruments;
- (o) relationships with holding companies, controlling shareholders, significant shareholders, subsidiaries and other affiliates as they may affect the capital position of the licensee; and
- (p) issuing electronic money.

(4) Capital adequacy and solvency requirements and capital ratios shall apply -

- (a) to a licensee on an individual basis, and on a consolidated basis to include where applicable, all the domestic and foreign -
 - (i) subsidiaries of the licensee;
 - (ii) companies in which the licensee is a significant shareholder; and
- (b) on a consolidated basis, to a financial holding company and all of the domestic and foreign members of the financial group that the financial holding company controls.

(5) Regulations pertaining to the oversight of payment systems may include but shall not be limited to -

- (a) access regimes;
- (b) operating rules;
- (c) standards of compliance for payment systems;

-
- (d) standards of compliance for participants to the payment systems;*
 - (e) risk-control and risk-limitation mechanisms;*
 - (f) disclosure requirements; and*
 - (g) procedures for the processing of applications.*

(6) *A person who contravenes Regulations made under this section commits an offence and where the person -*

(a) is an individual, the person is liable on summary conviction to a fine of five million dollars and to imprisonment for five years and in the case of a continuing offence to a fine of five hundred thousand dollars for every day on which the offence continues;

(b) is a company -

(i) every director and officer of such company is liable on summary conviction to a fine of five million dollars and to imprisonment for five years and in the case of a continuing offence to a fine of five hundred thousand dollars for every day on which the offence continues; and

(ii) the company is liable on summary conviction to a fine of five million dollars and in the case of a continuing offence to a fine of five hundred thousand dollars for every day on which the offence continues.

10. *The Central Bank may issue guidelines on any matter it considers necessary to—*

(a) give effect to this Act;

(b) enable the Central Bank to meet its objectives;

(c) aid compliance with the Proceeds of Crime Act, the Anti-Terrorism Act, or any other written law relating to the prevention of money laundering and combating the financing of terrorism; and

(d) regulate the market conduct of licensees.

PART XII
PAYMENT SYTEMS

Division 1—Framework for Oversight

92. In this Part -

“Close-out Netting Arrangement” means -

(a) an arrangement under which, if a particular event happens, whether through the operation of Netting or otherwise -

(i) the obligations of the parties are accelerated so as to be immediately due and expressed as an obligation to pay an amount representing their estimated current value, or are terminated and replaced by an obligation to pay such an amount; and

(ii) an account is taken of what is due from each party to the other in respect of such obligations, and a net sum equal to the balance of the account is payable by the party from whom the larger amount is due to the other party; or

(b) such other type of arrangement as the Minister may by Regulations prescribe;

“External Administration” means any receivership, winding-up or reorganisation of a Participant or party under the Companies Act or this Act, or, in the case of a foreign Participant, under the written law of the jurisdiction of that Participant;

“External Administrator” means the person appointed to take control of the assets or undertaking of a Participant or party under External Administration;

“Financial Collateral” means cash, securities, such as but not limited to shares, bonds, money market instruments, other debt instruments, and any other securities which are normally dealt in and which give the right to acquire any such shares, bonds or other securities by subscription, purchase or exchange, as well as precious metals and commodities, including derivatives on such securities, precious metals and commodities;

“Financial Collateral Arrangements” means pledges and Transfer of Title Agreements, including repurchase agreements, which apply to Financial Collateral;

“Interbank Payment System” means any payment system between or among financial institutions which facilitates the transfer of money or the discharge of obligations on a gross or net settlement basis;

“Licensed Interbank Payment System” means an Interbank Payment System which is licensed under section 94;

“Netting” means an agreed offsetting of transfer orders, positions or obligations by trading partners or Participants resulting in one net claim or one net obligation per Participant or trading partner;

“Operator” means the Central Bank or the person operating an Interbank Payment System or a Licensed Interbank Payment System;

“Participant” means a person who participates in a Protected System in accordance with the Rules and Procedures of the protected system;

“Protected System” means either a Licensed Interbank Payment System, any payment system operated by the Central Bank or a securities settlement system for the settlement of transactions in book-entry securities of the Government of Trinidad and Tobago, including those of State Agencies or Enterprises and Statutory Authorities;

“Relevant Securities Account” means the securities account in which the securities are held by the owner or the holder, or, if the securities are subject to a Financial Collateral Arrangement, the securities account in which the securities are held in the possession or under the control of the collateral taker or a person acting on behalf of the collateral taker;

“reliable” in relation to a payment system means apt to limit systemic and other risks, including liquidity, credit, legal and operational risks, that may jeopardise or negatively affect the proper and continuous operation of the payment system and public confidence in payment instruments and the word “reliability” shall be construed accordingly;

“Rules and Procedures” means the contractual documentation, in the widest sense of the term, governing the use and operation of a Protected System, including but not limited to terms and conditions, technical annexes, agreement letters, instructions and operating circulars and guidelines issued by the Central Bank;

“Settlement Account” means any cash or securities account, that is debited or credited by a Protected System in order to settle transfer orders processed within such system;

“Settlement Agent” means the person providing the Settlement Accounts through which the transfer orders within the Protected System are settled; and

“Transfer of Title Agreement” means any arrangement or agreement, including a repurchase agreement, under which a collateral provider transfers title of Financial Collateral to a collateral taker for the purpose of securing or otherwise covering the performance of obligations.

93.(1) *Subject to subsection (3) no person shall operate an Interbank Payment System in Trinidad and Tobago unless the Central Bank has issued a licence for that purpose in accordance with this Part.*

(2) *A person intending to operate an Interbank Payment System shall, before commencing such operations, apply for a licence under section 94.*

(3) *Any Interbank Payment System, other than a system operated by the Central Bank, operating before the coming into force of this Act shall be issued a provisional licence and shall be given a period of six months to comply with the provisions of this Act and any Regulations made hereunder.*

94.(1) *Every application for a licence to operate an Interbank Payment System shall be made to the Central Bank in writing and shall be accompanied by -*

(a) a statement of the name and the registered address of the applicant/Operator;

(b) a certified copy of the Articles of Incorporation/Continuance, Bye-laws or other constituent document of the applicant/Operator;

(c) the name, address, nationality, experience and other relevant information pertaining to each director and officer of the applicant/Operator;

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- (d) the latest audited Financial Statements of the Operator and its policies for risk management and internal controls;*
 - (e) a statement outlining the organisational structure of the Operator;*
 - (f) a statement establishing the identity of the Settlement Agent;*
 - (g) the Rules and Procedures of the system; and*
 - (h) such additional information as the Central Bank may require.*

(2) In determining whether to approve an application under subsection (1), the Central Bank shall consider -

- (a) the adequacy of the Rules and Procedures of the system;*
- (b) whether operations of the Interbank Payment System as proposed will be safe, sound, reliable and efficient;*
- (c) whether the Interbank Payment System will contribute to the stability of the financial system in Trinidad and Tobago; and*
- (d) such other matters as may be specified by the Central Bank.*

(3) A licence to operate an Interbank Payment System may contain such terms and conditions as may be specified by the Central Bank.

95.(1) The Central Bank may suspend or withdraw the licence of the Operator of a Licensed Interbank Payment System where -

- (a) the Operator has failed to comply with the rules and procedures of the system;*
- (b) any of the criteria set out in section 94(2) is not being fulfilled or is unlikely to be fulfilled;*
- (c) the Operator of a Licensed Interbank System has failed to comply with any term or condition imposed under section 94(3); or*
- (d) the Operator of a Licensed Interbank Payment System has failed to comply with any provision of this Act, any Regulations made hereunder or any requirement of the Central Bank made under this Part.*

(2) Subject to subsection (4), before suspending or withdrawing the licence of a Licensed Interbank Payment System, the Central Bank shall give to its Operator notice in writing of its intention to do so, specifying the grounds upon which it proposes to suspend or withdraw the licence and shall require the Operator to submit to it within a specified period a written statement of objections to the suspension or withdrawal of the licence.

(3) Upon consideration of the written statement of objections referred to in subsection (2) the Central Bank shall give the Operator written notice of its decision to suspend, withdraw or continue the licence.

(4) Notwithstanding subsection (2), where the Central Bank is of the opinion that the safety, soundness, reliability or efficiency of a Licensed Interbank Payment System is or may be threatened, it may, without prior notice, suspend or withdraw the licence of the Operator of that system so, however, that the Central Bank publishes a notice in the Gazette and in at least two daily newspapers published and circulated in Trinidad and Tobago within fourteen days of the suspension or withdrawal, the circumstances and the basis for such action.

(5) Except as provided in subsection (4), the Central Bank shall, within seven days of an Operator ceasing to hold a licence, publish notice of such cessation in the Gazette and in at least two daily newspapers published and circulated in Trinidad and Tobago.

96. Where an Operator is aggrieved by a decision of the Central Bank to suspend or withdraw its licence, that Operator may appeal to a Judge in Chambers within fourteen days of the date of notice in the Gazette and in at least two daily newspapers published and circulated in Trinidad and Tobago under section 95(4) or notice of suspension or withdrawal under section 95(3), setting forth the grounds of such appeal and the Judge may confirm or set aside the decision of the Central Bank.

97.(1) The Central Bank may give directions to an Operator -

(a) during the pendency of a provisional licence issued under section 93(4);

(b) where a notice of intention to suspend or withdraw is served under section 95(2); and

(c) where the Operator has violated or is about to violate a provision of this Part or any Regulations made under section 9.

(2) Section 86(9) applies mutatis mutandis to this section.

(3) A person who fails to comply with a direction given under subsection (1) commits an offence and is liable on summary conviction to a fine of six hundred thousand dollars and in the case of a continuing offence, to a fine of sixty thousand dollars for each day that the offence continues.

98. In the performance of its duties of oversight under this Act, whether on-site or off-site, the Central Bank shall at all reasonable times have access to all books, records, accounts, minutes of meetings, statements and any other information regarding an Operator, including documents stored in electronic form and the right to call upon any director or officer of the Operator for any information or explanation as may be necessary.

99. An Operator who fails to comply with an obligation imposed under this Part or Regulations made under this Act commits an offence and is liable on summary conviction to a fine of five million dollars and where such offence is committed with the consent or connivance of or is attributable to any neglect on the part of any director or officer of the Operator, that person also commits an offence and is liable on summary conviction to a fine of five million dollars and to imprisonment for five years.

100. 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 where the Central Bank is satisfied that any information disclosed to such agency or body will be kept confidential and used strictly for the purpose for which it was disclosed.

Division 2— Soundness of Payment Systems

101.(1) Upon knowledge of External Administration in respect of any Participant the Inspector shall promptly notify the Governor of such fact.

(2) Upon receiving the notification referred to in subsection (1), the Central Bank shall promptly notify the relevant Operator of the commencement of the said External Administration.

102.(1) Notwithstanding the Companies Act and the Bankruptcy Act the commencement of External Administration in respect of a Participant shall have no retroactive effect on the subsisting rights and obligations of another Participant arising from, or in connection with its participation in a Protected System.

(2) External Administration in respect of a Participant shall only affect those rights and obligations of another Participant arising from, or in connection with its participation in a Protected System, from the time which the Operator of the Protected System was notified of the commencement of such External Administration pursuant to section 101.

103.(1) Where, in a Protected System, the transfer orders of a Participant have been entered in accordance with the Rules and Procedures of that system prior to the notification of commencement of External Administration in respect of that Participant -

(a) the netting or settlement of such transfer orders shall be enforceable and binding on third parties, including the External Administrator and may not be undone, even where such netting or settlement occurs after the commencement of the External Administration; and

(b) neither the Participant, the External Administrator of the Participant nor a third party may revoke such transfer orders.

(2) Subsection (1)(a) does not prevent a Participant or a third party from exercising a right or claim resulting from the underlying transaction, which they may have in law, to recovery or restitution in respect of a transfer order which has entered the system.

104.(1) Notwithstanding the commencement of External Administration in respect of a Participant, the Operator or Settlement Agent of a Protected System may use funds or securities available on the Settlement Account of that Participant in order to settle the transfer orders entered into the system prior to the Operator being notified of the commencement of such External Administration pursuant to section 101.

(2) Notwithstanding the commencement of External Administration in respect of a Participant, the Operator or Settlement Agent of a Protected System may use any credit facility of that Participant connected to the system, in order to settle the transfer orders entered into the system prior to the Operator being notified of the commencement of External Administration against the Participant pursuant to section 101.

(3) No Settlement Account, nor any amount credited on such account, or destined to be credited on such account, may be seized or attached by any party other than the Settlement Agent in whose books such account is held.

105. Financial Collateral Arrangements, including pledges of cash, which are effected in relation to a Protected System and perfected prior to commencement of External Administration are valid, enforceable and binding on third parties, including the External Administrator of a party to such arrangements.

106. Close-out Netting Arrangements which are effected in relation to a Protected System, are valid, enforceable and binding on third parties, including the External Administrator of a party to such arrangements, notwithstanding -

(a) the commencement or continuation of any External Administration in respect of a party to the Close-out Netting Arrangements; or

(b) any purported assignment, judicial or other attachment, the creation of any encumbrance or any other interest, in relation to the rights which are subject to the Close-out Netting Arrangement, or other disposition of or in respect of such rights.

107. The provision of Financial Collateral, additional Financial Collateral, or substitute or replacement Financial Collateral, pursuant to an obligation or right to do so contained in the Financial Collateral Arrangement is not invalid and shall not be reversed or declared void on the sole basis that -

(a) such provision was made on the same day of, but prior to, the commencement of, External Administration in respect of the party making the provision; or

(b) the relevant financial obligations were incurred prior to the date of the provision of the Financial Collateral, additional Financial Collateral or substitute or replacement Financial Collateral.

108. The pledge of Financial Collateral is validly perfected between parties and against third parties once the Financial Collateral is delivered, transferred, held, registered or otherwise designated so as to be in the possession or under the control of the collateral taker or a person acting on behalf of the collateral taker.

109.(1) Notwithstanding the commencement of External Administration in respect of the pledgor and subject to the terms of the pledge agreement, a pledgee may enforce Financial

Collateral pledged in his favour in the following manner:

(a) where cash is pledged, by setting off the amount against or applying it in discharge of the guaranteed obligation; or

(b) where securities, precious metals or commodities, including derivatives on such securities, precious metals or commodities are pledged, by the sale thereof and by setting off the value against, or applying the value in discharge of the guaranteed obligation.

(2) No prior approval by the Court or any other formality is required for enforcement under subsection (1).

110. *Where securities are held in a securities account (“book entry securities”), the following issues shall be governed by the law of the jurisdiction in which the Relevant Securities Account is maintained:*

- (a) the legal nature and proprietary effects of book-entry securities;*
- (b) the requirements for perfecting a Financial Collateral Arrangement relating to book-entry securities;*
- (c) the steps required for the enforcement of Financial Collateral Arrangements relating to book-entry securities; and*
- (d) whether a person’s title to or interest in book-entry securities is overridden or subordinated to a competing title or interest, or a good faith acquisition has occurred.*

111. *In the event of the commencement of External Administration in Trinidad and Tobago in respect of a Participant in a Protected System, the rights and obligations arising from, or in connection with the participation of that Participant in such system shall be entirely determined and governed by the laws of Trinidad and Tobago.*

APPENDIX 3

Application requirements for a testing permit to test in a regulatory sandbox or a licence to provide a payment service or operate a payment system.

Testing Permit/ Licence	Application Requirements
Testing Permit	<ul style="list-style-type: none"> (a) a statement of the name and registered address of the applicant; (b) a certified copy of the Articles of Incorporation, or Continuance, bye-laws and other constituent documents under which the applicant is incorporated, continued or constituted; (c) the name, address, nationality, experience, and other relevant information, including the information specified in the Third Schedule pertaining to each director and officer or proposed director and officer and all existing and proposed acquirers and shareholders holding twenty per cent or more of any class of shares; (d) projected profit and loss statements, cash flow statements and balance sheet of the applicant for the three years immediately following the application; (e) the organisational structure of the applicant, including its group structure; (f) clear and detailed business plan, the contents of which will be specified by the Central Bank; (g) demonstration of core functionality of the product or service; (h) proposed funding arrangements for minimum capital requirements, including sources of funds; (i) details of its technology infrastructure including information technology process flows and settlement processes; and (j) proof of payment of the non-refundable application fee as set out in the proposed legislation.

<p>Payment Service Provider Licence</p>	<ul style="list-style-type: none"> (a) a statement of the name and the registered address of the applicant; (b) a certified copy of the articles of incorporation or continuance, bye-laws and other constituent documents, under which the applicant is incorporated, continued or constituted; (c) the name, address, nationality, experience and other relevant information including the information specified in the Third Schedule pertaining to each director and officer or proposed director and officer and all existing and proposed acquirers and shareholders holding twenty per cent or more of any class of shares; (d) a statement outlining the organisational structure of the applicant, including its group structure; (e) proof of compliance with the testing permit, where necessary; (f) projected profit and loss statements, cash flow statements and balance sheet of the applicant for the three years immediately following the application; (g) the latest audited Financial Statements of the applicant for the past three years, where the applicant has been in operation immediately preceding the application except that where the local company has been functioning for less than three years, a copy of audited financial statements for each year it has been in operation shall be sufficient; (h) clear and detailed business plan, the contents of which will be specified by the Central Bank; (i) proposed funding arrangements for minimum capital requirements, including sources of funds; (j) demonstration of core functionality of the product or service; (k) details of its technology infrastructure including information technology process flows and settlement processes; (l) a risk management framework approved by the board of directors of the applicant; (m) user complaint resolution policies; (n) information communication technology and cyber-security framework approved by the board of directors of the applicant; (o) anti-money laundering, counter-terrorist financing and counter-proliferation financing policies and procedures approved by the board of directors of the applicant; (p) exit strategy approved by the board of directors of the applicant; (q) business continuity and business resilience arrangements; (r) proof of the establishment of an account designated as a trust account maintained with a financial institution, segregated from any other funds that the payment service provider holds; and held for the sole benefit of users; (s) safeguarding policies and procedures approved by the board of directors of the applicant;
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	<ul style="list-style-type: none"> (t) terms and conditions for using the product or service; (u) policies and procedures for the protection of users; (v) agent arrangements; (w) proof of payment of the non-refundable application fee as set out in the Act; and (x) such additional information as the Central Bank may require.
Payment System Operator Licence	<ul style="list-style-type: none"> (a) a statement of the name and the registered address of the applicant; (b) a certified copy of the articles of incorporation or continuance, by-laws and other constituent documents, under which the applicant is incorporated, continued or constituted; (c) the name, address, nationality, experience and other relevant information including the information specified in the Third Schedule pertaining to each director and officer or proposed director and officer and all existing and proposed acquirers and shareholders holding twenty per cent or more of any class of shares; (d) a statement outlining the organisational structure of the applicant, including its group structure; (e) projected profit and loss statements, cash flow statements and balance sheet of the applicant for the three years immediately following the application; (f) the latest audited Financial Statements of the applicant for the past three years, where the applicant has been in operation immediately preceding the application except that where the local company has been functioning for less than three years, a copy of audited financial statements for each year it has been in operation shall be sufficient; (g) clear and detailed business plan, the contents of which will be specified by the Central Bank; (h) proposed funding arrangements for minimum capital requirements, including sources of funds; (i) demonstration of core functionality of the product or service; (j) details of its technology infrastructure including information technology process flows and settlement processes; (k) a risk management framework approved by the board of directors of the applicant; (l) participant complaint resolution policies; (m) information communication technology and cyber-security framework approved by the board of directors of the applicant; (n) anti-money laundering, counter-terrorist financing and counter-proliferation financing policies and procedures approved by the board of directors of the applicant;

	<ul style="list-style-type: none">(o) exit strategy approved by the board of directors of the applicant;(p) business continuity and business resilience arrangements;(q) safeguarding policies and procedures approved by the board of directors of the applicant;(r) terms and conditions for using the product or service;(s) policies and procedures for the protection of users; and(t) the agreement between the applicant and the settlement agent;(u) the Draft Operating Rules and Procedures of the payment system;(v) proof of payment of the non-refundable application fee as set out in the Act; and(w) such additional information as the Central Bank may require.
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