



CENTRAL BANK OF
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Payments Quarterly is a newsletter on developments in the Payments System in Trinidad and Tobago

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details or would like to offer any
suggestions please contact the
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In this edition of Payments Quarterly, we take a look at a major piece of legislation that was proclaimed on 6th January 2012 called the Electronic Transactions Act, 2011. This legislation is expected to have a significant impact on the development of electronic commerce (e-commerce) and e-payments in Trinidad and Tobago. In keeping with the theme on electronic commerce in this issue, the second article focuses on the readiness of commercial banks to process e-payments. We then examine the advances in E-Space (E-Payments, E-Banking and E-Commerce) in Trinidad and Tobago from the perspective of a global bank operating in Trinidad and Tobago. Finally, the local debit card payments operator, LINX, provides an update on its operations in 2011 in the *Operators' Spot*.

What's New on the Legal Scene: Review of the Electronic Transactions Act No. 6 of 2011

Introduction

Many countries today conduct business through electronic means, which allow for the rapid flow of payments in markets. However, the lack of specific statutory laws with respect to electronic transactions contributes to an uncertain environment for the operation of electronic commerce (e-commerce). In an effort to create an appropriate infrastructure that enables electronic transactions and affords legal protection for the consumer and business, many countries are moving towards developing a legal platform for e-commerce more consistent with international best practice. Trinidad and Tobago has done likewise with the introduction of the Electronic Transactions Act, 2011.

The Electronic Transactions Act No. 6 of 2011

The Electronic Transactions Bill was passed in the House of Representatives on 11th February 2011, assented to on 28th April 2011 and proclaimed on 6th January 2012. This means that the Act forms part of the legislative framework and applies to all electronic transactions. The Act can be found on the Parliamentary website (www.ttparliament.org).

This Act is expected to give the citizens of Trinidad and Tobago a certain degree of protection under the law to conduct their business in an electronic environment, if they choose to do so. This means that the law now recognizes contracts, signatures, records, documents in electronic format and lays out the rules and standards for the authentication and integrity of electronic records. This should boost public confidence in the integrity and reliability of electronic transactions and assist in promoting the development of electronic commerce. It represents a major pillar towards the establishment of the legal and business infrastructure necessary to implement secure electronic commerce activities.

A brief overview of the clauses in the Act is provided on the next page:

What's New on the Legal Scene: Review of the Electronic Transactions Act No. 6 of 2011

- **Part I** of the Act defines the terms used in and outlines the purpose of the legislation. Specifically, **Section 5** states *inter alia* that the objectives are to:

- (a) Facilitate electronic transactions;
- (b) Remove barriers to electronic commerce arising from uncertainties over what is required to authenticate writing and signatures in documents;
- (c) Facilitate electronic filing of documents with public bodies;
- (d) Help to establish uniformity of rules, regulations and standards regarding the authentication and integrity of electronic records; and
- (e) Foster the development of electronic commerce through the use of electronic signatures.

- **Part II** provides for the legal effect, admissibility and enforceability of the information, documents or records in electronic form. This is important in the event of a breach by a party to an electronic transaction, as it gives legal recognition to the electronic information, documents or records being used. It also establishes formal requirements applicable to electronic transactions and provides for the retention of information, records etc. in electronic form and the validity of electronic copies and electronic signatures.

- **Part III** deals with the preparation and validity of electronic contracts. This means that an offer and the acceptance of an offer which is required for a valid contract may be expressed in an electronic form. Also, particular attention should be paid to Clause 22 which details the instances where a contract between a person and an electronic agent¹ can be made void. Further, Part III sets rules for attribution of electronic communications, and defines time

and place of sending and receipt of electronic communications.

- **Part IV** sets out minimum standards to ensure, and the criteria to determine the reliability and integrity of electronic signatures.

- **Part V** outlines (a) the registration requirements and procedure to become an Electronic Authentication Service Provider², (b) mandates the operating and confidentiality requirements, responsibilities and liabilities of an Electronic Authentication Service Provider, (c) recognizes qualified external Electronic Authentication products, and (d) provides for the establishment of a public registry of accredited Service Providers. It also sets out the power of the designated authority to deal with any failure of the Service Providers to meet requirements.

- **Part VI** regulates the liability of intermediaries³ and of telecommunications service providers⁴ for the content of data messages, records or information in electronic form and establishes in Section 51, a procedure for dealing with unlawful actions. It also provides for the development of codes of conduct and standards for intermediaries and telecommunications service providers by the Minister with responsibility for Information and Communication Technology.

- **Part VII** allows government and other public bodies to carry out their functions by electronic means and sets out the requirements for doing so.

- **Part VIII** deals with consumer protection. It establishes the obligations of persons using electronic

means to sell goods or services, to provide customers with information about the goods and services offered. It also sets out the minimum requirements for entering into an electronic contract. The issuance of a qualified electronic authentication product is required and allows the customer to rescind a contract if not provided with the necessary information laid out in Sections 55 and 56. In addition, consumers must be given an option to stop the receipt of unsolicited messages, and persons have committed an offence if this is contravened.

- **Part IX** sets out particular offences and penalties for same under the Act. Some of the actions which constitute offences are the filing of fake or misleading information, the obstruction of an audit and breach of confidentiality obligations.

- **Part X** sets out the duties of directors, the jurisdiction of the Court and allows for the making of Regulations.

Conclusion

It is expected that the provisions of the Electronic Transactions Act should encourage more persons to do business electronically since the Act mitigates risks associated with electronic documents, records, signatures and transactions, and provides legal protection when conducting e-commerce. This Act is geared to facilitate Trinidad and Tobago's progress in the global information economy of the 21st century. ■

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1 The Act defines "Electronic agent" as a programme or other electronic or automated means configured and enabled by a person that is used to initiate or respond to data messages or performance in whole or in part without review or intervention by a person at the time of the initiation or response.

2 In the Act "Electronic Authentication Service Provider" means a person who issues electronic authentication products and services.

3 The Act defines "Intermediary" with respect to data messages as a person who, on behalf of another person, sends, transports, receives or stores that data message, or provides other services with respect to that data message including the provision of content, e-mail, caching and hosting services.

4 In the Act "Telecommunications service providers" are providers of telecommunications services within the meaning of the Telecommunications Act.

Advancing the E-Space (E-Payments, E-Banking and E-Commerce) in Trinidad and Tobago, What More Needs to be Done from the Perspective of a Global Bank



INTRODUCTION

Over the last decade, Trinidad and Tobago has made great strides in building the infrastructure needed to facilitate an electronic commerce environment. In the local financial sector, banks can now efficiently transfer funds electronically amongst themselves on behalf of their corporate customers via the Real Time Gross Settlement (RTGS) and Automated Clearing House (ACH) systems. Consumers can pay for commercial (and some government) transactions via debit and credit cards. More recently, the government has passed legislation (the Electronic Transactions Act, 2011 and the Data Protection Act, 2011) geared to streamline, monitor, control e-transactions as well as protect stakeholders who utilize this e-space to conduct their business activities.

But there is more to be done, particularly in the area of Business to Business (B2B) and Business to Government (B2G) payment flows.

As our local business sector moves to diversify the country's export base, seek new business partners and become more visible to the rest of the world, the need arises for enhanced global financial capabilities.

NEEDS OF THE BUSINESS SECTOR

For global corporations, electronic banking channels are an accepted way of doing business as Chief

Financial Officers (CFOs) and Corporate Treasurers seek ways to conduct transactions and share information quickly, securely and with minimum human intervention. As this trend gathers pace, greater demands will be placed on local and regional banks to partner with corporations to enhance their e-banking capability.

When a company begins doing business beyond its borders, there are different ground rules. For example, when choosing a bank for local and international business, key considerations include:

1. **An integrated regional payment platform** – The optimum solution being a single, electronic payment platform that manages working capital for all operations, and various currencies. The payment platform needs to be fully integrated with the payment systems of each local market to fully leverage on local capabilities.
2. **Superior processing** - The best global banks have centres of excellence that focus on full compliance with all regulatory frameworks in each country. They maximize their scale and leverage regional and global capacities to improve quality of service for all clients. When regional processing centres work off the same technology platform, the result is dramatic cost savings for clients.

3. Comprehensive Reporting

- Real time information flows with respect to account balances, payments, collections, trade and related transactions from all countries to a centralized location.

4. Continued Innovation

– Adoption of state-of-the-art technology, to ensure secure and reliable Host-to-Host connectivity, as well as mobile solutions, will be key drivers in the evolution of banking services for institutional clients.

CONCLUSION

In summary, generally, countries are moving towards increasing the efficiency of commercial activities. In countries that have advanced electronic payment systems such as the Nordics, cheques are being systematically phased out, governments are reviewing their legislation to be sure the commercial systems can support e-commerce and are leading the way through the introduction of tax and other government payment schemes. Whether the channel is mobile, web or other, people should be ready to take advantage and promote the increased efficiency and transparency that comes with e-commerce, e-banking and e-payments. ■

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OPERATORS SPOT LINX Performance for 2011



In 1996 Infolink Services Limited (LINX), the company that manages the local debit card switch began operations. In that year, the service facilitated 7.7 million transactions totaling \$1 billion in purchases and cash withdrawals. Transactional growth on the LINX network slowed in 2008 due to the world economic crisis and since then, growth in the number of transactions

has been slow but steady. In 2011, the LINX service facilitated over 33 million transactions valued at \$9.8 billion.

In 2008, the LINX network was extended to Eastern Credit Union and at the beginning of 2011, to the Bank of Baroda. Some 500,000 card holders use the LINX system monthly to withdraw cash or make purchases.

Approximately 60 per cent of these transactions take place at LINX merchants and 40 per cent at LINX ATMs. There are over 417 ATMs and 15,296 LINX merchants spread throughout the country ensuring convenience and ease of access to this debit card service. ■

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Payments Glossary

Here are 5 terms applicable to the Payments System:



1. E-banking	Allows customers of a financial institution to conduct financial transactions on a secure website operated by the institution, which can be a retail or virtual bank, credit union or building society. (Also known as online banking or internet banking).
2. Front Office/Front-end Operations	A firm's trading unit and other areas that are responsible for developing and managing relationships with counterparties.
3. Middle Office	Responsible for risk management, profit and loss calculation and information technology monitoring and implementation.
4. Back Office/Back-end Operations	The part of a firm that is responsible for post-trade activities. The functions include settlements, clearances, record maintenance, regulatory compliance and accounting.
5. SWIFT	Society for Worldwide Interbank Financial Telecommunication: a cooperative organization created and owned by banks that operates a network which facilitates the exchange of payment and other financial messages between financial institutions (including broker-dealers and securities companies) throughout the world. A SWIFT payment message is an instruction to transfer funds; the exchange of funds (settlement) subsequently takes place over a payment system or through correspondent banking relationships.

Source: A Glossary of Terms used in Payments and Settlement Systems, Committee on Payment and Settlement Systems, Bank of International Settlements, March 2003.

<http://www.investopedia.com/terms>, <http://www.coolinvesting.com/dictionary>

<http://en.wikipedia.org/wiki>

Safe-tt, ACH and Cheques Volume Meter

Safe-tt, ACH and Cheques statistics 2009-2012

	2009	2010	2011	2011	2012
				Jan - Mar	Jan - Mar
Safe-tt	0.05	0.05	0.05	0.01	0.01
ACH	2.59	2.89	3.13	0.73	0.83
Cheques	9.74	9.65	9.46	2.44	2.39
Total	12.38	12.59	12.64	3.18	3.23

NB: Volumes in Millions

Source: Central Bank of Trinidad and Tobago, Trinidad and Tobago Interbank Payments System Ltd.

If you require any further details or would like to offer any suggestions, please contact the Payments System Department at the Central Bank of Trinidad and Tobago at

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