

## PAYMENT AND SETTLEMENT ACT, 2007

### Definitions

2(a) "bank" means,--

- (i) a bank included in the Second Schedule to the Reserve Bank of India Act, 1934
- (ii) a post office savings bank
- (iii) a banking company
- (iv) a co-operative bank
- (v) such other bank as the Reserve Bank may, by notification, specify for the purposes of this Act;

2(b) "derivative" means an instrument, to be settled at a future date, whose value is derived from change in interest rate, foreign exchange rate, credit rating or credit index, price of securities (also called "underlying"), or any other underlying or a combination of more than one of them and includes interest rate swaps, forward rate agreements, foreign currency swaps, foreign currency rupee swaps, foreign currency options, foreign currency rupee options or any other instrument, as may be specified by the Reserve Bank from time to time;

2(c) "electronic funds transfer" means any transfer of funds which is initiated by a person by way of instruction, authorisation or order to a bank to debit or credit an account maintained with that bank through electronic means and includes point of sale transfers, automated teller machine transactions, direct deposits or withdrawal of funds, transfers initiated by telephone, internet and card payment;

2(d) "gross settlement system" means a payment system in which each settlement of funds or securities occurs on the basis of separate or individual instructions;

2(da) "issuer" means a person who issues a legal entity identifier or such other unique identification (by whatever name called), as may be specified by the Reserve Bank from time to time;

2(db) "legal entity identifier" means a unique identity code assigned to a person by an issuer for the purpose of identifying that person in such derivatives or financial transactions, as may be specified by the Reserve Bank from time to time;]

2(e) "netting" means the determination by the system provider of the amount of money or securities, due or payable or deliverable, as a result of setting off or adjusting, the payment obligations or delivery obligations among the system participants, including the claims and obligations arising out of the termination by the system provider, on the insolvency or dissolution or winding up of any system participant or such other circumstances as the system provider may specify in its rules or regulations or bye-laws (by whatever name called), of the transactions admitted for settlement at a future date so that only a net claim be demanded or a net obligation be owned;

2(f) "notification" means a notification published in the Official Gazette;

2(g) "payment instruction" means any instrument, authorisation or order in any form, including electronic means, to effect a payment,--

- (i) by a person to a system participant; or
- (ii) by a system participant to another system participant;

2(h) "payment obligation" means an indebtedness that is owned by one system participant to another system participant as a result of clearing or settlement of one or more payment instructions relating to funds, securities or foreign exchange or derivatives or other transactions;

(i) "payment system" means a system that enables payment to be effected between a payer and a beneficiary, involving clearing, payment or settlement service or all of them, but does not include a stock exchange.

*Explanation.*--For the purposes of this clause, "payment system" includes the systems enabling credit card operations, debit card operations, smart card operations, money transfer operations or similar operations;

2(j) "prescribed" means prescribed by regulations made under this Act;

2(k) "regulation" means a regulation made under this Act;

2(l) "Reserve Bank" means the Reserve Bank of India, constituted under the Reserve Bank of India Act, 1934

2(m) "securities" means the Government securities as defined in the Public Debt Act, 1944 of 1944) or such other securities as may be notified by the Central Government from time to time under that Act;

2(n) "settlement" means settlement of payment instructions and includes the settlement of securities, foreign exchange or derivatives or other transactions which involve payment obligations;

2(o) "systemic risk" means the risk arising from--

(i) the inability of a system participant to meet his payment obligations under the payment system as and when they become due; or

(ii) any disruption in the system,

which may cause other participants to fail to meet their obligations when due and is likely to have an impact on the stability of the system:

Provided that if any doubt or difference arises as to whether a particular risk is likely to have an impact on the stability of the system, the decision of the Reserve Bank shall be final;

2(p) "system participant" means a bank or any other person participating in a payment system and includes the system provider;

2(q) "system provider" means a person who operates an authorised payment system;

### **Designated Authority and Its Committee**

1. The Reserve Bank shall be the designated authority for the regulation and supervision of payment systems under this Act.

2. The Reserve Bank may, for the purposes of exercising the powers and performing the functions and discharging the duties conferred on it by or under this Act, by regulation, constitute a committee of its Central Board to be known as the Board for Regulation and Supervision of Payment and Settlement Systems.

3. The Board constituted under sub-section (2) shall consist of the following members, namely:- (a) Governor, Reserve Bank, who shall be the Chairperson of the Board; (b) Deputy Governors, Reserve Bank, out of whom the Deputy Governor who is in-charge of the Payment and Settlement Systems, shall be the Vice-Chairperson of the Board; (c) Not exceeding three Directors from the Central Board of the Reserve Bank of India to be nominated by the Governor, Reserve Bank.

4. The powers and functions of the Board constituted under sub-section (2), the time and venue of its meetings, the procedure to be followed in such meetings, (including the quorum at such meetings) and other matters incidental thereto shall be such as may be prescribed.

5. The Board for Regulation and Supervision of Payment and Settlement Systems constituted under clause (i) of sub-section (2) of section 58 of the Reserve Bank of India Act, 1934 shall be deemed to be the Board constituted under this section and continue accordingly until the Board is reconstituted in accordance with the provisions of this Act and shall be governed by the rules and regulations made under the Reserve Bank of India Act, 1934 in so far as they are not inconsistent with the provisions of this Act.

## **Authorisation of Payment Systems**

### **Payment system not to operate without authorisation .-**

**1. No person, other than the Reserve Bank, shall commence or operate a payment system except under and in accordance with an authorisation issued by the Reserve Bank under the provisions of this Act: Provided that nothing contained in this section shall apply to-**

- a. the continued operation of an existing payment system on commencement of this Act for a period not exceeding six months from such commencement, unless within such period, the operator of such payment system obtains an authorisation under this Act or the application for authorisation made under section 7 of this Act is refused by the Reserve Bank;
- b. any person acting as the duly appointed agent of another person to whom the payment is due;
- c. a company accepting payments either from its holding company or any of its subsidiary companies or from any other company which is also a subsidiary of the same holding company;
- d. any other person whom the Reserve Bank may, after considering the interests of monetary policy or efficient operation of payment systems, the size of any payment system or for any other reason, by notification, exempt from the provisions of this section.

2. The Reserve Bank may, under sub-section (1) of this section, authorise a company or corporation to operate or regulate the existing clearing houses or new clearing houses of banks in order to have a common retail clearing house system for the banks throughout the country:

Provided, however, that not less than fifty-one per cent. of the equity of such company or corporation shall be held by public sector banks.

Explanation.- For the purposes of this clause, "public sector banks" shall include a "corresponding new bank", "State Bank of India" and "subsidiary bank" as defined in section 5 of the Banking Regulation Act, 1949.

### **Application for authorisation. -**

1. Any person desirous of commencing or carrying on a payment system may apply to the Reserve Bank for an authorisation under this Act.
2. An application under sub-section (1) shall be made in such form and in such manner and shall be accompanied by such fees as may be prescribed.

### **Inquiry by the Reserve Bank. -**

After the receipt of an application under section 5, and before an authorisation is issued under this Act, the Reserve Bank may make such inquiries as it may consider necessary for the purpose of satisfying itself about the genuineness of the particulars furnished by the applicant, his capacity to operate the payment system, the

credentials of the participants or for any other reason and when such an inquiry is conducted by any person authorised by it in this behalf, it may require a report from such person in respect of the inquiry.

### **Issue or refusal of authorisation. -**

1. The Reserve Bank may, if satisfied, after any inquiry under section 6 or otherwise, that the application is complete in all respects and that it conforms to the provisions of this Act and the regulations issue an authorisation for operating the payment system under this Act having regard to the following considerations, namely:-

- i. the need for the proposed payment system or the services proposed to be undertaken by it;
- ii. the technical standards or the design of the proposed payment system;
- iii. the terms and conditions of operation of the proposed payment system including any security procedure;
- iv. the manner in which transfer of funds may be effected within the payment system;
- v. the procedure for netting of payment instructions effecting the payment obligations under the payment system;
- vi. the financial status, experience of management and integrity of the applicant;
- vii. interests of consumers, including the terms and conditions governing their relationship with payment system providers;
- viii. monetary and credit policies; and
- ix. such other factors as may be considered relevant by the Reserve Bank.

2. An authorisation issued under sub-section (1) shall be in such form as may be prescribed and shall-

- a. state the date on which it takes effect;
- b. state the conditions subject to which the authorisation shall be in force;
- c. indicate the payment of fees, if any, to be paid for the authorisation to be in force;
- d. if it considers necessary, require the applicant to furnish such security for the proper conduct of the payment system under the provisions of this Act;
- e. continue to be in force till the authorisation is revoked.

3. Where the Reserve Bank considers that the application for authorisation should be refused, it shall give the applicant a written notice to that effect stating the reasons for the refusal: Provided that no such application shall be refused unless the applicant is given a reasonable opportunity of being heard.

4. Every application for authorisation shall be processed by the Reserve Bank as soon as possible and an endeavour shall be made to dispose of such application within six months from the date of filing of such application.

### **Revocation of authorisation. -**

**1. If a system provider,-**

- i. contravenes any provisions of this Act, or
- ii. does not comply with the regulations, or
- iii. fails to comply with the orders or directions issued by the designated authority, or

iv. operates the payment system contrary to the conditions subject to which the authorisation was issued, the Reserve Bank may, by order, revoke the authorisation given to such system provider under this Act:

**Provided** that no order of revocation under sub-section (1) shall be made- (i) except after giving the system provider a reasonable opportunity of being heard; and (ii) without prejudice to the direction of the Reserve Bank to the system provider that the operation of the payment system shall not be carried out till the order of revocation is issued.

2. Nothing contained in sub-section (1) shall apply to a case where the Reserve Bank considers it necessary to revoke the authorisation given to a payment system in the interest of the monetary policy of the country or for any other reasons to be specified by it in the order.

3. The order of revocation issued under sub-section (1) shall include necessary provisions to protect and safeguard the interests of persons affected by such order of revocation.

4. Where a system provider becomes insolvent or dissolved or wound up, such system provider shall inform that fact to the Reserve Bank and thereupon the Reserve Bank shall take such steps as deemed necessary to revoke the authorisation issued to such system provider to operate the payment system.

### **Appeal to the Central Government. -**

1. Any applicant for an authorisation whose application for the operation of the payment system is refused under sub-section (3) of section 7 or a system provider who is aggrieved by an order of revocation under section 8 may, within thirty days from the date on which the order is communicated to him, appeal to the Central Government.

2. The Central Government shall endeavour to dispose of an appeal under sub-section (1) within a period of three months.

3. The decision of the Central Government on the appeal under sub-section (1) shall be final.

## **Regulation and Supervision by the Reserve Bank**

### **Power to determine standards. -**

**1. The Reserve Bank may, from time to time, prescribe-**

a. the format of payment instructions and the size and shape of such instructions;

b. the timings to be maintained by payment systems;

c. the manner of transfer of funds within the payment system, either through paper, electronic means or in any other manner, between banks or between banks and other system participants;

d. such other standards to be complied with the payment systems generally;

e. the criteria for membership of payment systems including continuation, termination and rejection of membership;

f. the conditions subject to which the system participants shall participate in such fund transfers and the rights and obligations of the system participants in such funds.

2. Without prejudice to the provisions of sub-section (1), the Reserve Bank may, from time to time, issue such guidelines, as it may consider necessary for the proper and efficient management of the payment systems generally or with reference to any particular payment system.

### **Settlement of disputes. -**

1. The system provider shall make provision in its rules or regulations for creation of panel consisting of not less than three system participants other than the system participants who are parties to the dispute to decide the disputes between system participants in respect of any matter connected with the operation of the payment system.

2. Where any dispute in respect of any matter connected with the operation of the payment system arises between two or more system participants, the system provider shall refer the dispute to the panel referred to in sub-section (1).

3. Where any dispute arises between any system participant and the system provider or between system providers or where any of the system participants is not satisfied with the decision of the panel referred to in sub-section (1), the dispute shall be referred to the Reserve Bank.

4. The dispute referred to the Reserve Bank for adjudication under sub-section (3) shall be disposed of by an officer of the Reserve Bank generally or specially authorised in this behalf and the decision of the Reserve Bank shall be final and binding.

5. Where a dispute arises between the Reserve Bank, while acting in its capacity as system provider or as system participant, and another system provider or system participant, the matter shall be referred to the Central Government which may authorise an officer not below the rank of Joint Secretary for settlement of the dispute and the decision of such officer shall be final.

### **Offences and Penalties**

#### **Penalties. -**

1. Where a person contravenes the provisions of section 4 or fails to comply with the terms and conditions subject to which the authorisation has been issued under section 7, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years or with fine which may extend to one crore rupees or with both and with a further fine which may extend to one lakh rupees for every day, after the first during which the contravention or failure to comply continues.

2. Whoever in any application for authorisation or in any return or other document or on any information required to be furnished by or under, or for the purpose of, any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which shall not be less than ten lakh rupees and which may extend to fifty lakh rupees.

3. If any person fails to produce any statement, information, returns or other documents, or to furnish any statement, information, returns or other documents, which under section 12 or under section 13, it is his duty to furnish or to answer any question relating to the operation of a payment system which is required by an officer making inspection under section 14, he shall be punishable with fine which may extend to ten lakh rupees in respect of each offence and if he persists in such refusal, to a further fine which may extend to twenty-five thousand rupees for every day for which the offence continues.

4. If any person discloses any information, the disclosure of which is prohibited under section 22, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five lakh rupees or an amount equal to twice the amount of the damages incurred by the act of such disclosure, whichever is higher or with both.

5. Where a direction issued under this Act is not complied with within the period stipulated by the Reserve Bank or where no such period is stipulated, within a reasonable time or where the penalty imposed by the Reserve Bank under section 30 is not paid within a period of thirty days from the date of the order, the system provider or the system participant which has failed to comply with the direction or to pay the penalty shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine which may extend to one crore rupees or with both and where the failure to comply with the direction continues, with further fine which may extend to one lakh rupees for every day, after the first during which the contravention continues.

6. If any provision of this Act is contravened, or if any default is made in complying with any other requirement of this Act, or of any regulation, order or direction made or given or condition imposed there under and in respect of which no penalty has been specified, then, the person guilty of such contravention or default, as the case may be, shall be punishable with fine which may extend to ten lakh rupees and where a contravention or default is a continuing one, with a further fine which may extend to twenty-five thousand rupees for every day, after the first during which the contravention or default continues.