

Statutory Instrument No. 2 of 2019

BANK OF BOTSWANA ACT
[Cap. 55:01]

ELECTRONIC PAYMENT SERVICES REGULATIONS, 2019
(Published on 4th January, 2019)

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“significant shareholder” means a person other than the government or a public entity that owns directly or indirectly alone or in concert with another person, an interest that represents 10 per cent or more of the shares of an electronic payment service operator.

3. (1) These Regulations shall apply to —

Application

- (a) a person who wishes to operate an electronic payment service; and
- (b) an electronic payment service operator whose place of business is in Botswana.

(2) Part III of these Regulations shall not apply to commercial banks when providing electronic payment services.

(3) These Regulations shall not apply to —

- (a) limited services based on specific payment instruments that meet the following conditions —
 - (i) instruments allowing the holder to acquire goods or services in the premises of the issuer,
 - (ii) instruments within a limited network of service providers under direct commercial agreement with the issuer, or
 - (iii) instruments which can be used to acquire a very limited range of goods or services;
- (b) payment transactions made exclusively in cash directly from the payer to the payee without intervention;
- (c) cash to cash currency exchange operations where the funds were not held on a payment account in a bureau de change;
- (d) technical support services for the provision of payment services, without the service providers entering into possession of funds to be transferred during the services;
- (e) payment transactions carried out between payment service providers, their agents or branches for their own account; and
- (f) payment transactions carried out within a payment or securities settlement system.

PART II — *Licensing of Electronic Payment Service Providers*

4. (1) A person shall not operate an electronic payment service unless the person has been issued with a licence in accordance with these Regulations.

Application for licence

(2) A person who wishes to operate an electronic payment service shall make an application to the Bank in Form A set out in Schedule 1.

(3) An application under subregulation (2) shall be accompanied by —

- (a) the fee set out in Schedule 2;
- (b) information of significant shareholders, proposed directors and principal officer in Form B set out in Schedule 1;
- (c) clear and understandable description of the electronic payment services offered including rates and charges;
- (d) a detailed business plan for the provision of electronic payments indicating —
 - (i) a programme of operations specifying the type of electronic payment service to be provided,
 - (ii) the geographical areas to be covered,
 - (iii) five years' financial projections demonstrating appropriate and proportionate systems resources and procedures for sound operation, and

- (iv) process flows and settlement arrangements which shall include —
 - (aa) processes for creation, allocation and de-allocation of electronic money, and
 - (bb) defined roles and responsibilities of the personnel in charge of the processes;
- (e) description of the applicant's governance arrangements and internal control mechanisms, including —
 - (i) sound administrative procedures,
 - (ii) risk-management procedures, and
 - (iii) accounting and auditing procedures,
 that are comprehensive and proportionate to the nature, scale and complexity of the payment services to be provided;
- (f) the internal control mechanism that the applicant has established to comply with its obligations in relation to anti-money laundering and combating terrorist financing and financing of the proliferation of arms of war or NBC weapons; and
- (g) a description of main characteristics and key risks.

(4) The Bank may, when considering an application under subregulation (1), require an applicant to submit any additional information as it may require.

(5) Where the Bank has required additional information, the applicant, principal officer, director or manager shall provide such information within 28 days.

(6) A person who contravenes subregulation (1) shall be guilty of an offence and shall be liable to a fine not exceeding P 5 000.

Licence criteria

5. (1) A licensee shall operate in accordance with these Regulations.

(2) Without prejudice to the generality of subregulation (1) an applicant shall satisfy the Bank that —

- (a) the applicant has the ability to provide electronic payment services in a safe, secure and sound manner;
- (b) where the applicant is engaged in other licensed commercial activities, there is no potential of the other commercial activities impairing or otherwise affecting —
 - (i) the safety, security or financial soundness of electronic payment services, or
 - (ii) the ability of the Bank to monitor compliance of the electronic payment services provider in accordance with these Regulations;
- (c) the applicant meets the minimum capital requirements set out in Schedule 2 and will provide additional capital as may be required; and
- (d) the applicant has sound prudent conduct and management of its affairs and that, it has —
 - (i) corporate governance arrangements with well-defined lines of accountability, including —
 - (aa) clearly defined and documented organisational arrangements for ownership and management structure, and
 - (bb) segregation of duties and internal control arrangements to mitigate against risk of mismanagement and fraud,
 - (ii) a risk management framework to identify, measure, monitor, manage and report any risks to which it might be exposed,
 - (iii) internal controls mechanisms,
 - (iv) directors and employed persons who are fit and proper as prescribed in the Banking Act, and
 - (v) adequate measures to safeguard customers.

6. (1) A licensee shall not appoint a principal officer, director or manager for the operation of electronic payment services without the approval of the Bank.

Additional applications for principal officer and managers

(2) A licensee who wishes to appoint a principal officer, director or manager shall make an application in Form B set out in Schedule 1.

(3) An application in accordance with subregulation (2) shall be accompanied by a completed questionnaire in Form C set out in Schedule 1.

(4) The Bank shall, if it is satisfied that the person in subsection (1) and (2) meets the requirements under these Regulations, give approval for the person to be appointed in terms of this section.

(5) A licensee who contravenes subregulation (1) shall be guilty of an offence and shall be liable to a fine not exceeding P 5 000.

7. (1) The Bank shall if satisfied that the applicant meets the requirements within three months of receiving an application, issue the applicant with a licence to operate an electronic payment service in Form D set out in Schedule 1.

Licence to operate electronic payment service

(2) The Bank shall require the applicant to establish a separate legal entity to carry on the provision of electronic payment services where —

(a) an applicant already carries on other business activities other than the provision of electronic payment services; and

(b) the Bank considers that the carrying on of such other business activities will impair or is likely to impair the —

(i) financial soundness of the applicant, or

(ii) Bank's effective supervision of the applicant.

(3) The Bank may, where additional information is not supplied in accordance with subregulation (1), reject the application.

(4) The Bank shall reject an application for a licence where —

(a) the applicant or any significant owners has been convicted of a financial offence in any jurisdiction during the preceding 10 years or is convicted of a crime which carries a sentence of imprisonment exceeding two years;

(b) the application contains incomplete, false or misleading information;

(c) the applicant fails to respond to the initial request from the Bank for additional information within 28 days of the request;

(d) the applicant intends to operate under a name which —

(i) resembles an existing bank or entity which may deceive the public,

(ii) suggests a false connection with a person or authority, or

(iii) falsely suggests a special status in relation to the Government or any public body or that the applicant enjoys official support or patronage.

(5) Where the Bank rejects an application, it shall notify the applicant in writing and give reasons for the rejection.

(6) The Bank may impose such conditions to the licence as it considers necessary.

(7) An aggrieved applicant whose application has been rejected may within 30 calendar days from the date on which the rejection was communicated, appeal against the decision to the Minister.

8. (1) A licence issued under these Regulations shall not be transferable.

Conditions of licence

(2) A licensee shall only undertake the business specified in the conditions of a licence.

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	<p>(3) The Bank may impose any other conditions it considers necessary to issue the licence.</p>
Suspension of licence	<p>9. The Bank may suspend a licence for a period not exceeding 12 months where the licensee has failed to conduct business in accordance with the Act or these Regulations, to enable the licensee to take remedial action so as to comply with the requirements of the licence and the provisions of these Regulations.</p>
Revocation of licence	<p>10. (1) The Bank shall revoke the licence where —</p> <ul style="list-style-type: none">(a) the licensee has failed to commence business within 12 months from the date the licence is issued;(b) the licensee ceases to engage in business for more than six consecutive months;(c) the Bank is satisfied that the licence was issued based on an application that contained information that is misleading or on concealment of material facts;(d) the licensee has failed to take the remedial action referred to under regulation 9;(e) the licensee has failed to pay the annual licence fee in accordance with regulation 13;(f) the licensee conducts business which constitutes a threat to the security or in a manner that affects the stability of a payment system;(g) the licensee has failed to comply with these Regulations;(h) the licensee fails to comply with the Financial Intelligence Act; or(i) the licensee has surrendered its licence in accordance with regulation 11 (1). <p>(2) Where the Bank suspends or revokes a licence, the Bank shall —</p> <ul style="list-style-type: none">(a) immediately notify the public of the suspension or revocation by Notice in the <i>Gazette</i> and at least two newspapers of wide national circulation;(b) order that operations cease immediately and that any further dealings with the licensee shall be for the purpose of corrective action;(c) notify the commercial bank holding the funds in the dedicated cash account to cease forthwith further dealings with the funds until it receives directions from the Bank;(d) notify other relevant regulatory authorities; and(e) amend the register accordingly. <p>(3) Where a licence has been revoked, a licensee shall —</p> <ul style="list-style-type: none">(a) immediately cease electronic payment services or any other activity allowed by these Regulations; and(b) surrender its licence to the Bank within 7 days.
Surrender of licence	<p>11. (1) A licensee may surrender the licence to the Bank by giving the Bank 30 days' notice, in writing, of its intention to voluntarily cease operations.</p> <p>(2) Where a licensee surrenders the licence in terms of this regulation the licensee shall —</p> <ul style="list-style-type: none">(a) notify its customers two months prior to the surrender to allow customers to retrieve their funds;(b) handover the entire database in readable format and other relevant information to the Bank to facilitate the processing of payments to customers; and(c) submit reports on the distribution of funds held in the dedicated cash account. <p>(3) The Bank may appoint any person, including another electronic payment services provider to distribute the funds in subregulation (2) (b).</p>

12. (1) The Bank shall keep and maintain a register of electronic payment services providers. Licensee register

(2) The register shall specify the —

- (a) address of the head office of the licensee;
- (b) address and the name of its agents and branches if any; and
- (c) electronic payment service for which the licence has been granted.

(3) The register shall be accessible to the public.

13. (1) A licensee shall pay to the Bank, an annual licence fee set out in Schedule 2. Annual fee

(2) Where a payment under subregulation (1) is not made within a period of 12 months after it became due, the Bank shall revoke the licence.

14. (1) A licensee shall seek prior authorisation from the Bank to introduce a substantial change or enhancement in its services or in its structure, organisation and functioning of the organisation. Approval of changes

(2) For purposes of this section —

“substantial change or enhancement in services” refers to a change or enhancement which expands the scope or nature of the services of the licensee and may include —

- (a) additional functionality of its service;
- (b) accessing new electronic channels;
- (c) changing any major partners or subcontractors in the business; or
- (d) any changes to the documentation and information provided during the application process; and

“substantial change or enhancement in structure, organisation and functioning” includes —

- (a) change in the commercial name, identity of shareholders and directors;
- (b) any other important changes to the documentation and information provided during the application process; or
- (c) transfer of shares that results in any shareholder acquiring or disposing of qualifying holding.

PART III — General Provisions Relating to Administration of Licensees

15. (1) A licensee shall establish effective, transparent and adequate governance arrangements to ensure continued integrity of its service. Governance

(2) The governance arrangements shall include the keeping of electronic payment services as a separate business unit from the other business units of the licensee including —

- (a) maintaining a separate management structure; and
- (b) keeping separate books of accounts for its payment services.

16. (1) A licensee shall ensure that the business has the necessary electronic payment services technological resources to conduct the business. Technological infrastructure

(2) For purposes of subregulation (1) the resources shall —

- (a) be appropriate and tested technology systems with fraud monitoring tools;
- (b) have valid third party certification from a certification authority or body on compliance status; and
- (c) be a system which is interoperable with other payment systems within Botswana.

(3) A licensee shall effect and settle customer funds and agent based electronic payment service transactions electronically and in real time against a preloaded account held by an agent.

(4) All transactions against customer accounts shall be authorized by the account holder.

(5) A licensee shall make settlement against pre-funded accounts weekly.

Internal controls

17. (1) A licensee shall ensure that the business has the necessary internal controls to conduct the electronic payment service business.

(2) A licensee shall ensure that the following minimum system and controls are in place —

- (a) sound and prudent management, administrative and accounting procedures;
- (b) updated internal controls;
- (c) appropriate security policies and measures intended to safeguard the integrity, authenticity, confidentiality of data and operating systems;
- (d) backup infrastructure;
- (e) business continuity and disaster recovery plan; and
- (f) an effective audit function to provide an annual review of security control environment and critical systems.

(3) A licensee shall test the effectiveness of the backup infrastructure and business continuity plan quarterly.

(4) A licensee shall ensure that a system maintains a complete audit log of all user activity.

(5) A licensee shall put in place systems that have built-in control mechanisms for a complete audit trail which include —

- (a) complete records of opened electronic money accounts;
- (b) records of identification for each customer;
- (c) tracking and monitoring of all electronic money transactions;
- (d) internal policies, procedures and accountability structures for anti-money laundering and counter-financing of terrorism or counter-financing of proliferation of arms of war or NBC weapon;
- (e) automatic alerts and flags on suspicious transactions; and
- (f) detection of irregular patterns of transactions.

(6) A licensee shall grant the Bank or its authorised agent access to connect to the system of a business licensed under these Regulations for purposes of monitoring.

Operational arrangements

18. (1) A licensee shall ensure that the business has adequate operational arrangements to conduct the electronic payment service business.

(2) A licensee shall ensure that the following operational arrangements are in place —

- (a) rules, policies, procedures and agreements setting out the rights, responsibilities and liabilities of the licensee, third parties, agents, customers and any relevant stakeholder engaged in outsourcing arrangements including —
 - (i) adequate training and support of agents, and provision of an agent manual containing policies, rules, and operational guidelines needed to ensure the safe and efficient provision of services to customers,
 - (ii) monitoring of activities carried out by agents, and
 - (iii) maintaining records of the number, volume and values of transactions carried out by each agent;

- (b) measures to ensure prudent management of funds collected from users, including measures to ensure that such funds are available at all times for repayment to users;
- (c) measures to ensure safety, security and operational reliability of services, including contingency arrangements;
- (d) the maintenance of separate, accurate and complete records and accounts for all its business activities; and
- (e) detailed terms and conditions for use of electronic payment services, which should be easily accessible and understood.

19. (1) A licensee shall establish and maintain a risk management framework to mitigate risk and to ensure the safety and integrity of electronic transactions. Risk management

(2) A licensee shall ensure that a risk management framework —

- (a) can identify the range of risks associated with the provision of critical operations and services;
- (b) include comprehensive risk management policies, procedures and systems to identify, measure and monitor the range of risks on an on-going basis;
- (c) provide incentives to customers or agents to manage and contain risks;
- (d) include liquidity management plans;
- (e) include capital management plans; and
- (f) include a comprehensive internal audit functions.

(3) A licensee shall comply with —

- (a) the technical standards as may be issued by the Bank from time to time; and
- (b) other international standards or risk management guidelines which may be made applicable to it by the Bank.

20. A licensee shall at all times maintain a minimum paid up capital as set out in Schedule 2. Capital requirements

21. (1) A licensee shall safeguard funds which have been received through electronic payment services by — Safeguarding of funds

- (a) not combining the funds received from customers for electronic payment services with the funds of any other payment service;
 - (b) ensuring that the funds in the dedicated cash account are not mixed with the funds of any person other than the licensee's funds;
 - (c) ensuring that the dedicated cash account is held either in an individual or pooled account with one or more commercial banks in Botswana;
 - (d) for electronic money issuance, ensuring that the funds received from the customers and exchanged for electronic money are deposited in a dedicated cash account opened in a commercial bank in Botswana and held for the sole purpose of safeguarding the relevant funds at least five business days after the date on which the electronic money has been issued;
 - (e) ensuring that balances in the dedicated cash account are not at any time less than what is owed to customers;
 - (f) ensuring that the account has records of all customers under the licensee;
 - (g) ensuring that the dedicated cash account is protected from risks that may occasion loss to beneficiaries of the funds; and
 - (h) complying with any other requirements.
- (2) A licensee shall enter into an agreement with a commercial bank which —
- (a) makes provision for the operations of the dedicated cash account and the safeguarding of funds for the benefit for customers;

Dedicated cash
account

- (b) provides that the sum of the dedicated cash account held in the commercial bank shall not exceed 20 per cent net worth of the commercial bank;
 - (c) indicates that when the threshold in paragraph (b) has exceeded the prescribed limit, the excess funds shall be placed in another commercial bank;
 - (d) requires the commercial bank to immediately notify the licensee when the threshold is exceeded;
 - (e) provides that any interest earned or accrued on the dedicated cash account shall be used by a licensee for account maintenance or social responsibility to promote financial inclusion; and
 - (f) shall be submitted to the Bank for approval.
22. (1) A licensee shall open an interest bearing settlement account in its name with a commercial bank.
- (2) The commercial bank shall credit interest earned to a separate account for the licensee to be used for —
- (a) account maintenance; or
 - (b) social responsibility to promote financial inclusion,
- subject to the prior approval of the Bank.
- (3) The commercial bank shall —
- (a) monitor all transactions made in the dedicated cash account and report to the Bank monthly;
 - (b) monitor —
 - (i) settlement of transactions with external systems,
 - (ii) inflows and redemptions by customers,
 - (iii) suspicious transactions, and
 - (iv) exceeded thresholds and limits;
 - (c) provide the licensee with the ability to electronically extract transaction information on a dedicated cash account and request for reports;
 - (d) report the funds held in the dedicated cash account as part of the deposit liabilities of the commercial bank monthly.
- (4) A licensee shall ensure that —
- (a) at any time, funds held in the dedicated cash account are equal to the outstanding issued electronic money;
 - (b) the dedicated cash account is reconciled on a daily basis; and
 - (c) the transactions to the dedicated cash account are made only to effect changes in the cumulative sum of customer account balances.
- (5) A licensee shall ensure that funds in the dedicated cash account are limited to transactions for —
- (a) settlement obligations arising from customer transactions and other settlement transactions by way of other payment systems; or
 - (b) withdrawal of funds by a customer.
- (6) A licensee shall not use funds in the dedicated cash account as security or collateral.
- (7) Where a licensee is insolvent, the —
- (a) claims of the customers shall be paid from the dedicated cash account in priority to all creditors; and
 - (b) commercial bank where the dedicated cash account is held shall have no claim to the funds in the dedicated cash account.
- (8) A licensee shall within 10 days of the end of every month submit to the Bank, the following information —

- (a) the volume and value of the electronic payment services offered including over the counter transactions;
- (b) the number of registered and active electronic money accounts issued by the electronic money issuers, stating the type of account level, with activity counted on a 90 day basis;
- (c) the number and types of registered and active agents in its network, including sub-agents not directly under contract with activity counted on a 30 day basis;
- (d) the aggregate value of pooled float or dedicated cash amount used in the money business held with commercial banks;
- (e) the total sum of outstanding electronic money balances as at end of each month;
- (f) monthly reconciliation statements of the aggregate value of balances held in the dedicated cash account against balances held in the electronic money accounts;
- (g) number and value of all dormant accounts;
- (h) balances in the unclaimed dormant account funds;
- (i) person to person payments (P2P), person to business payments (P2B), business to person payments (B2P) and business to business payments (B2B) value and volumes;
- (j) non electronic payment services such as airtime purchase;
- (k) bank to e-wallet and e-wallet to bank account;
- (l) agent cash transactions;
- (m) dedicated cash account interest balances;
- (n) dedicated cash account balance inquiry/statement;
- (o) fees collected;
- (p) incidents of fraud, cybercrime, theft or robbery, including at its agents and amount involved;
- (q) number of complaints received, broken down by category and agent location, including remedial measures taken, those resolved in favour of customers or not and those outstanding with valid reasons;
- (r) number and type of material service interruptions and significant security breaches;
- (s) number of system outages that result in the inability of the customer to access e-wallet lasting more than two hours; and
- (t) such other information as may be required by the Bank from time to time.

23. (1) A licensee shall keep 100 per cent of the electronic money float in the form of cash balances held at commercial banks in Botswana.

Liquidity
requirements

(2) Commercial banks regulated by the Banking Act shall not be subject to subregulation (1) but shall include electronic money balances in the calculation of their statutory reserve requirement and liquidity assets requirement.

(3) A licensee shall on a daily basis, no later than 4:00 pm reconcile the liquid assets held for redemption of electronic money with the electronic money value held by the customers, agents and merchants.

(4) A licensee shall where there are deficiencies in the amount of liquid assets in terms of subregulation (3) rectify the deficiencies by 12:00 pm the following day.

(5) A licensee shall keep records as well as reconciliations of the liquid assets in terms of this regulation and shall make them available to the Bank for inspection at any time.

Accounts and
audit

24. (1) A licensee shall keep and maintain proper books of accounts in respect of every financial year relating to the assets, liabilities, income and expenditure of the business and shall prepare in each financial year, a statement of such accounts.

(2) A licensee shall appoint, at its own expense an external auditor who is a member of Botswana Institute of Chartered Accountants to audit the books of accounts for each financial year.

(3) An external auditor appointed shall report in respect of the accounts for each financial year, in addition to any other matter on which the auditor considers it necessary to comment on, whether or not the —

- (a) external auditor received all the information and explanations which, to the best of the auditor's knowledge and belief, were necessary for the performance of the auditor's duties;
- (b) accounts and related records of the licensee have been properly kept;
- (c) the licensee has complied with all financial provisions of these Regulations with which it is its duty to comply; and
- (d) statement of accounts prepared by the licensee was consistent with that of the preceding year and represents a true and fair view of the transactions and financial affairs of the licensee.

(4) A licensee shall within three months of the end of each financial year submit audited books to the Bank.

(5) The Bank may require an external auditor to —

- (a) submit to the Bank such information or reports as the Bank may require in relation to the audit; and
- (b) carry out any examination or establish any procedure.

(6) Where a licensee stops an external auditor from executing the work assigned, the licensee and the auditor shall inform the Bank and the Bank may request an explanation, if any, from the licensee and the auditor.

Keeping of
records

25. (1) A licensee shall keep records of transactions and records of copies of identification documents presented by customers for a period of at least five years from the date a transaction is concluded and after the termination of the business relationship.

(2) A licensee shall keep records of —

- (a) identification, contact and address of each customer;
- (b) the name, physical address, postal address, email address and telephone number of the agents;
- (c) physical address and telephone numbers of each of the outlets of the agents where electronic payments services are provided;
- (d) the identity of the directors and persons responsible for the management of the agent; and
- (e) a register of agents including those whose services have been suspended or terminated and the reasons for such suspension or termination.

(2) A licensee shall keep records under this regulation by way of original copies, either in hard copies or electronically.

(3) The Bank may inspect premises from which a licensee is operating during working hours when such premises are open to the public and may require a licensee to produce any book or document required to be kept under these Regulations.

(4) Where a licensee fails to produce any book or document referred to in subregulation (1), the Bank may suspend its licence.

PART IV — *Electronic Payment Transactions*

26. (1) Electronic money accounts and transactions shall be denominated in Botswana Pula. Issuance of electronic money

(2) A licensee shall issue electronic money at par value on the receipt of monetary value.

(3) A licensee shall upon request of a customer redeem the monetary value of the electronic money.

(4) A licensee may charge a redemption fee which shall be proportionate and commensurate with the actual cost incurred by the licensee; and approved by the Bank.

(5) A licensee shall not —

(a) offer interest or any other benefit related to the duration of the balance of the electronic money remaining in the customer's account;

(b) engage in any lending or investment activity on the dedicated cash account;

(c) offer deposit facility to customers on their electronic money accounts; and

(d) present or market electronic money as deposit.

(6) A licensee shall provide the customer with —

(a) a reference enabling the customer to identify each transaction;

(b) transaction amount;

(c) transaction type;

(d) date and time of transaction;

(e) fee, if any; and

(f) electronic money balance.

(7) A licensee shall upon request by a customer make available in writing the remaining balance of the customer.

(8) A licensee shall not charge a customer for making information available to the customer under these Regulations.

27. (1) A licensee shall execute all electronic payment transactions in real time. Execution of payments

(2) A customer may not revoke an electronic payment once it has been received by a licensee.

(3) A licensee shall transfer the full amount of the electronic payment transaction.

(4) A licensee shall not deduct charges from the amount transferred in subregulation (3) unless —

(a) expressly agreed to by the customer in advance; or

(b) the customer received prior notice.

(5) A licensee shall where it is liable for non-execution or defective execution of an electronic payment transaction, immediately restore customer's account, including a refund of charges imposed.

(6) A licensee shall be liable for payment of transactions performed without the knowledge of the customer.

28. (1) A licensee shall transact within the limits set out in Schedule 3. Transaction limits

(2) The aggregate balance and transaction across electronic money accounts shall not exceed the limits stipulated for the account type.

29. (1) An account that has not registered a transactional activity for a period of 12 months shall be a dormant account. Dormant accounts

(2) A licensee shall notify a customer not less than one month before the lapse of the 12 month's limit that the account will be blocked unless there is transactional activity.

(3) A licensee shall block a dormant account and —

- (a) notify the customer that the account is blocked; and
- (b) provide instructions on how they can reactivate the account.

(4) A licensee may reactivate a dormant account where a customer makes a request for re-activation.

(5) A licensee shall transfer all funds held in dormant accounts to a separate account with a commercial bank to be kept for a period of not less than three years.

(6) A licensee shall where funds in a dormant account remain unclaimed by the customer in terms of subregulation (4), transfer such funds and contact information of the customer to the Abandoned Funds Account with the Bank.

(7) In the case of mobile money, outstanding electronic money balances may be dissociated from the Mobile Station International Directory Numbers after 90 calendar days of inactivity.

(8) A Mobile Station International Directory Number that is linked to an electronic money account shall be reassigned to a new customer only when the electronic money account is being terminated.

PART V — Outsourcing of Electronic Payment Services

Outsourcing

30. (1) A licensee may enter into an agreement with a third party to outsource its operational functions for electronic payment services including —

- (a) technology platform;
- (b) recruitment and registration of customers;
- (c) selection and training of agents;
- (d) management of agents, such as monitoring, branding or liquidity management;
- (e) sales and marketing; and
- (f) provision and maintenance of equipment.

(2) Where a licensee intends to outsource any operational function, the licensee shall —

- (a) ensure that outsourcing will not impair —
 - (i) the quality of internal control of the licensee; and
 - (ii) the ability of the Bank to monitor the compliance of the licensee with these Regulations;
- (b) be liable for anything done or omitted by the third party;
- (c) not substantially alter the relationship and obligations of the licensee toward its customers; and
- (d) notify the Bank 30 days before an outsourcing agreement is implemented.

Appointment of agent

31. (1) A licensee shall one month before appointing a new agent apply to the Bank to have an agent registered in the register.

(2) A licensee shall subject to subregulation (1) submit to the Bank the following information —

- (a) the criteria for appointing agents;
- (b) the geographical location of the agents;
- (c) a description of the technology to be used by the agent;
- (d) an internal controls audit report for the electronic payment services;

- (e) a risk assessment report for the electronic payment services;
 - (f) security measures plan for the agent's premises;
 - (g) revenue sharing structure for the agent and agent fee;
 - (h) agency manual and any materials used for training; and
 - (i) such other information as the Bank may require.
- (3) A licensee shall submit to the Bank a copy of the proposed agreement which shall include the obligation of the agent to provide information and access to premises, systems and records when requested by the Bank.
- (4) A licensee shall in selecting and contracting an agent —
- (a) exercise due care and diligence; and
 - (b) carry out an assessment to verify that the agent —
 - (i) possesses registration, trading licence or permits as may be required for the performance of its commercial activities,
 - (ii) is compliant with statutory financial requirements, and
 - (iii) has qualified human capital competent to perform the required functions.
- (5) Where the Bank approves the agent, the Bank shall place the name of the agent in the register.
- (6) The Bank may at any time remove an agent from the register where the —
- (a) licensee requests or consents to, the removal;
 - (b) licensee has obtained registration through inaccurate and false information; or
 - (c) removal is for the protection of the customer and the public.
- 32.** (1) A licensee may appoint an agent to perform duties on behalf of the licensee. Duties of agents
- (2) A contract for agent services shall not be exclusive.
- (3) An agent may provide services to more than one licensee provided that the agent has —
- (a) a separate contract with each licensee for the provision on electronic payment services; and
 - (b) the capacity to manage the transactions for the different licensees.
- (4) An agent may —
- (a) send, receive, store or process payments and provide other services in relation to electronic payment services;
 - (b) own, possess, operate, manage or control a public switched network for the provision of payment services;
 - (c) process or store data on behalf of a licensee or users of the services;
 - (d) provide cash services; or
 - (e) provide such other ancillary services.
- (5) An agent may redeem electronic money on behalf of a licensee, but shall not issue electronic money on its own behalf.
- (6) A licensee shall train and supervise an agent to —
- (a) provide customer support and education on electronic payment services; and
 - (b) report all transactions and customer complaints.
- (7) A licensee shall ensure that —
- (a) branding and marketing is adequate for easy customer identification by agents; and
 - (b) all tariffs and charges are prominently displayed, along with the licensee's customer service contact details.

(8) A licensee shall continuously monitor the liquidity of the agent.

(9) A licensee shall be liable to the customer for the conduct of its agent in the performance of its electronic payment services within the scope of the agent's contract agreement.

PART VI – Miscellaneous Provisions

Confidentiality
of information

33. (1) A licensee, director, employee, agent or any other person who by virtue of his professional relationship with the licensee has access to the records of the licensee, during or after his relationship with the licensee shall not directly or indirectly disclose any information he may acquire in the course of his duties concerning a customer's electronic payment account without the written permission of the customer.

(2) A licensee director, employee, agent or any other person who by virtue of his professional relationship with the licensee has access to the records of the licensee during or after his relationship with the licensee may subject to subregulation (1) disclose information where required to do so —

- (a) to the Bank;
- (b) by an Act of Parliament; or
- (c) by court order.

Cooperation

34. The Bank may enter into cooperation with other public authorities and foreign authorities for the better carrying out of these Regulations.

Access to
information
by Bank

35. (1) The Bank shall, for purposes of exercising its supervision role, have access to any relevant information in possession or under the control of a licensee or commercial bank related to the provision of electronic payment service.

(2) The Bank may in the performance of its functions under subregulation (1) —

- (a) conduct off-site and on-site inspections at the premises of a licensee and its agents or of a commercial bank, and may enter at any time, and without prior notice, any premises where the licensee or commercial bank is carrying on business or any premises where the Bank reasonably suspects that any business is carried out in contravention of these Regulations;
- (b) institute an audit or investigation of the licensee or commercial bank;
- (c) by notice, require an officer of the licensee or commercial bank to produce or furnish to the officer of Bank conducting an examination, in such manner and form as the Bank may specify and within a reasonable time, —
 - (i) such books of accounts and any other document in possession or control of the licensee or commercial bank, or
 - (ii) information relating to the affairs of the licensee or commercial bank as may be required by the examining officer; and
- (d) require a licensee or commercial bank to put in place such remedial measures as the Bank may consider necessary after an inspection, audit or investigation under these Regulations.

(3) The Bank shall, where the licensee fails to produce books of accounts, records, documents, correspondence, statements or other specified information without reasonable excuse, issue the licensee with a 14 days' notice to show cause why its licence should not be revoked.

36. A person who fails to comply with the provisions of these regulations shall be guilty of an offence and shall be liable to a fine not exceeding P5 000. Offences and penalties

37. (1) An electronic service provider who commenced operation of electronic payment service business before the commencement of these Regulations shall comply with Regulations within 12 months from commencement of these Regulations. Transitional provisions

(2) An electronic service provider who fails to comply with subregulation (1) shall be guilty of an offence and shall be liable to a fine not exceeding P5 000.

SCHEDULE 1

Form A
(reg. 4)

**APPLICATION FOR LICENCE AS AN ELECTRONIC PAYMENT SERVICES
PROVIDER (EPSP)**

NOTE: This application shall be filled in Capital Letters

1.	NAME OF APPLICANT (as it appears in the certificate of registration):	M/S:
2.	TYPES OF ELECTRONIC PAYMENT SERVICE(S) PROVIDED	<input type="checkbox"/> Electronic Money Issuance <input type="checkbox"/> Account-Based Payment Services (placing of cash on, or withdrawal of cash from a payment account, credit transfer, direct debit, card payments) <input type="checkbox"/> Issuing of payment instruments - Acquiring of payment transactions) <input type="checkbox"/> Non-Account Based Payment Services (Money Remittance)
3.	APPLICANT'S CONTACTS	
	Physical Address/ Corporate seat	
	Postal Address	
	Telephone and Fax Number	
	Email Address	

4. PARTICULARS OF SHAREHOLDERS / BENEFICIAL OWNERS

Name	Nationality & Identity Number	Telephone Numbers & Email Address	Business Title / Occupation	Percent of Shareholding / Percent of Voting Rights	Number of shares owned	Individual /Non individual
1.						
2.						
3.						

5. DESCRIPTION OF YOUR PAST AND CURRENT ACTIVITIES IN BOTSWANA AND ABROAD**SHAREHOLDING (DIRECTLY OWNED OR THROUGH NOMINEES)**

Company's Name	Date of Incorporation	Amount of shareholding	Percent of shareholding	Past shareholding		Remarks
				A	B	

A: Refers to date of sell, transfer, closure or surrender of shares

B: Refers to reasons for sell, transfer, closure or surrender of shares

6. PARTICULARS OF DIRECTORS AND MANAGERS IN ORDER OF SENIORITY

Name	Function	Educational qualifications and experience
1.		
2.		
3.		

7. PARTICULARS OF EXTERNAL AUDITOR

Name:.....

Address:.....

Registration
 Number.....

Contact
 Person.....

8. DECLARATION (by Shareholders):

I/We, the undersigned, hereby declare:

- (a) THAT the particulars set out herein are correct to the best of my/our knowledge and belief;
- (b) THAT I am/we are not undischarged bankrupt and that I/we have never been convicted of fraud or dishonesty;

Name.....
.....

Signature.....
.....

Name.....
.....

Signature.....
.....

THIS DONE AND SWORN TO ME THIS _____ DAY
OF _____ 20 _____

COMMISSIONER OF OATH

POSITION.....

TIME.....

FORM B*(reg. 4(3)(b))***APPLICATION AS A DIRECTOR**

**To be completed by prospective directors/senior managers of the Electronic Payment Service
Provider applicant**

1. Electronic Payment Service Provider Trading Name:		
2. Name of applicant:		
Residential address:	Postal address:	Mailing address:
Telephone No: Fax No: E-mail address:		
Business:		
Mobile:		
List other bodies corporate of which you are a director, shareholder ((use additional sheet if extra space is required)		
Company:	Title:	Dates:
I ----- the undersigned, acting as a principal/promoter, declare that the information stated above is true.		
Signed:		
DATED this ----- day of ----- 20 -----		
FOR OFFICIAL USE		
Form C Completed:		
Approved:		Rejected:

FORM C*(reg. 4)***QUESTIONNAIRE FOR INDIVIDUALS WHO ARE HOLDING, OR ARE
PROPOSING TO HOLD, THE OFFICE OF A DIRECTOR OR SENIOR MANAGER,
OR SHAREHOLDING IN AN ELECTRONIC PAYMENT SERVICE PROVIDER**

To be completed and signed by each of the (prospective) directors, shareholders and all other senior management officials of the Electronic Payment Service provider applicant.

(This questionnaire should be submitted together with the application form to Bank of Botswana).

Name of the Electronic Payment Services Provider in connection with which this form is being completed:

--

A. PERSONAL DETAILS

- (1) Individual's Full Name:.....
(2) Former surname(s) and or forenames(s) by which you may have been known:

.....

- (3) Date and place of Birth:.....
(4) Postal Address:.....
(5) Current residential address:.....

Dates resident at this address: From:.....

(If your current residential address has changed in the last three years, please provide details of all previous addresses of the last three years)

- (6) Your nationality and how it was acquired (birth, naturalisation or marriage). If applicable, a certified copy/suitable documentary evidence as proof that you were granted Botswana citizenship must also be attached.

.....

- (7) Please state in what capacity you are completing this questionnaire, ie as a current or prospective director, senior management official (specify) or shareholder. Please state your full title and describe the particular duties and responsibilities attaching to the position(s) that you hold or will hold. If you are completing this form in the capacity of a director (under the Companies Act), please indicate whether you will assume executive responsibilities for the management of the institution's business or whether your appointment is of a non-executive nature. In addition, please provide a copy of your curriculum vitae, unless it has already been provided.

.....

- (8) Please provide details of any other bodies corporate of which you are a director, shareholder, or manager and the countries in which these are incorporated.

.....

- (9) Names and address(es) of your bankers (personal and business) during the past 10 years.

.....

B EMPLOYMENT/BUSINESS RECORD

Give details of your employment history during the last 10 years up to the date of this questionnaire, including for each place of employment; details of the type of business; your title and the duties attaching to your position; the dates of employment; the name and address of your employer/s; reasons for leaving; the name; position and telephone number of two references (please submit the above information in a resume format which is to be attached) the resume should also include the following:

- Details of academic and professional qualifications with dates. Please attach certified copies of the relevant certificates;
- Other relevant training or experience; and
- Current memberships of relevant bodies, year of admission and the body's full particulars. Certified copies of the relevant certificates should also be attached to the Curriculum Vitae.

C FIT AND PROPER CRITERIA

Please answer the following questions, giving full particulars in case a question is answered in the affirmative.

1.1 Have you or any entity with which you are associated as director, shareholder or manager, ever held or applied for a licence or equivalent authorisation to carry on any business activity in any country: YES/NO if so, give particulars:

.....

1.2 If any such application was rejected or withdrawn after it was made or any authorisation revoked, give particulars:

.....

1.3 Have you at any time been convicted of any criminal offence in any jurisdiction? If so, give particulars of the court in which you were convicted, the offence, the penalty imposed and the date of conviction:

YES/No.....

1.4 Have you, or any entity with which you have been associated as director, shareholder or manager, been censured, disciplined, warned as to future conduct, or publicly criticised by any regulatory authority or any professional body in any country? If so, give particulars:

.....
.....
.....

1.5 Have you, or has any entity with which you are, or have been associated as a director, shareholder or manager, known to be the subject of an investigation, in any country, by a government department or agency, professional association or other regulatory body? If so, give particulars:

.....
.....
.....

1.6 Have you, in any country, ever been dismissed from any office or employment, been subject to disciplinary proceedings by your employer or barred from entry of any profession or occupation? If so, give particulars:

.....
.....
.....

1.7 Have you been diagnosed with any mental disability? YES/No If yes give particulars:

.....

1.8 Have you failed to satisfy debt adjudged due and payable by you on order of the court, in any country, or have you made any compromise arrangement with your creditors within the last 10 years? If so, give particulars:

.....
.....
.....

1.9 Have you ever been declared bankrupt by a court in any country or has a bankruptcy petition ever been served on you? If so, give particulars:

.....
.....
.....

1.10 Has any entity with which you were associated as a director, shareholder or manager in any country made any compromise or arrangement with its directors, been wound up or

otherwise ceased business either while you were associated with it or within one year after you ceased to be associated with it? If so, give particulars:

.....

- 1.11** Are you presently, or do you, other than in a professional capacity, expect to be engaged in any litigation in any country? If so, give particulars:

.....

- 1.12** Have you currently, or have you ever been regulated by the Central Bank or any other regulatory agency (in Botswana or elsewhere) If so, please provide the business name under which the services were carried out:

.....

- 1.13** Have you ever applied for authorisation by the Central Bank or any other regulatory agency (in Botswana or elsewhere) and had such an application refused?

.....

- 1.14** Have you ever applied for authorisation by the Central Bank or any other regulatory agency (in Botswana or elsewhere) and decided not to proceed with such an application after having made it? If so, give particulars:

.....

- 1.15** Are you a member of any professional association or trade body (in Botswana or elsewhere)? If so, give particulars:

.....

- 1.16** Have you ever applied for authorisation, membership or recognition by a body described in 1.15 above and decided not to proceed with such an application after having made it? If so, give particulars:

.....

-
-
- 1.17** Has any qualifying shareholder, subsidiary, related undertaking or associated undertaking of the applicant been the subject of winding up order, a dissolution or bankruptcy proceedings at any time in the previous five years? If so, give particulars:

.....

.....

.....

- 1.18** Has any qualifying shareholder, subsidiary, related undertaking or associated undertaking of the applicant been the subject of a sanction/fine/reprimand by the Central bank or any other regulatory agency (in Botswana or elsewhere)? If so, give particulars:

.....

.....

.....

- 1.19** Are you aware of any tax compliance issues that any of its qualifying shareholders/directors may have? If so, give particulars:

.....

.....

.....

- 1.20** Are you aware of any allegations of fraud, dishonesty, breach of trust, insider dealing or market manipulation in respect of any of its qualifying shareholders/directors/employees? If so, give particulars:

.....

.....

.....

.....

- 1.21** Have you any time had any authorisation/licence to carry on investment, banking or insurance business, in Botswana or elsewhere, revoked? If so, give particulars:

.....

.....

- 1.22** Have you ever been subject to any disciplinary measures by any regulatory body of which you are/or were a member?

.....

.....

- 1.23** Have you changed your legal advisers in the three years prior to the date of application?
If so, give particulars:

.....
.....
.....

- 1.24** Have you changed your bankers in the three years prior to the date of application? If so,
give particulars:

.....
.....
.....
.....

- 1.25** Have you changed your auditors in the three years prior to the date of application? If so,
give particulars:

.....
.....
.....

- 1.26** Have any legal proceedings or administrative sanction proceedings been brought in this
or any other jurisdiction against you, in which you have either been convicted or found
liable, in relation to the provision of financial services in the three years prior to the date
of application? If so, give particulars:

.....
.....
.....
.....

- 1.27** Have you agreed to an out of court settlement at any time in the three years prior to the
date of application in respect of legal proceedings brought against you in relation to your
financial services? If so, give particulars:

.....
.....
.....

- 1.28** Are you currently involved in any proceedings of the type described in questions 1.26 and
1.27?.....

.....

- 1.29** Have your books, records or other documents ever been requisitioned or seized by any
regulatory body in exercise of its powers, either in Botswana or in any other jurisdiction?
If so, give particulars:

.....

.....

.....

.....

- 1.30** Is there any additional information which you consider relevant for the consideration of your suitability or otherwise to own share capital of an institution? The omission of material facts may constitute “giving false information to a person employed in the public service” as per section 131 (a) of the Penal Code (Cap. 08:01).

.....

.....

.....

- 1.31** Indicate the names, postal and email addresses, telephone numbers and positions of three individuals of good standing who would be able to provide a reference on your personal and financial integrity and honesty. The referees should have known you for at least five years.

	Name of Referee	Postal Address	E-mail Address	Telephone no:	Position (where applicable)	Relationship with applicant
1.						
2.						
3.						

D DECLARATION/LETTER OF AUTHORISATION

I declare that the information supplied in this questionnaire is complete and correct. I also agree to provide the Bank with any supplementary information and/or clarifications, it may require, in connection with the completion of this questionnaire. I also certify that the capital to be invested in the proposed Electronic Payment Services Provider is not from proceeds of crime.

I hereby, irrevocably authorise the Bank as well as its officers or employees to obtain and or exchange information, as deemed necessary by them, with any third party, my present and past employers, foreign banking or financial or insurance supervisory/ regulatory authorities, etc, for the purpose of determining my fitness and properness in providing electronic payment services to the public. I undertake to inform the Bank of any changes material to the application which arise while the application is under consideration.

NAME.....

DATED AND SIGNED AT.....THIS.....DAY OF.....20.....

WITNESSED BEFORE ME:

SIGNED(Applicant)

THIS DONE AND SWORN TO ME THIS _____ DAY OF _____ 20 _____

COMMISSIONER OF OATH

POSITION:.....

TIME:.....

NB This form should be accompanied by the following documents:

- i) Detailed Curriculum Vitae;
- ii) Any other document as may be required by the Bank.

DECLARATION (by Shareholders/beneficial owners):

I/We, the undersigned, hereby declare:

- (a) THAT I am/we are not undischarged bankrupt and that I/we have never been convicted of fraud or dishonesty;
- (b) That I hold the shares in my personal capacity and not as agents/nominees for disclosed or undisclosed principals; and
- (c) That there are no silent partners controlling the shareholders of the company and that approval from Bank of Botswana will be obtained in respect of any subsequent changes in the ultimate beneficial ownership.

Name:.....

Signature:.....

Name:.....

Signature:.....

THIS DONE AND SWORN TO ME THIS _____ DAY OF _____ 20__

COMMISSIONER OF OATH

POSITION:.....

TIME:.....

C.42

FORM D
(reg. 7(1))



LICENCE NO.....

BANK OF BOTSWANA

ELECTRONIC PAYMENT SERVICE PROVIDER LICENCE

This is to certify that

.....
.....
is hereby licensed to operate an Electronic Payment Service under Regulation 4 of the Electronic Payment Services Regulations, 2018, subject to compliance with the provisions of all applicable laws and regulations and such other policies and directives as may be issued from time to time by the Bank of Botswana.

Signed at Gaborone this day of

GOVERNOR

SCHEDULE 2*(reg. 4, 5 and 9)***APPLICATION FEE AND LICENCE FEES**

(a) Initial Application Fee (Excluding VAT): P 1 000

(b) Licence Fee (excluding VAT): P 10 000

(c) Annual Fee (excluding VAT): P10 000

CAPITAL REQUIREMENTS

	Minimum Core Capital	Ongoing Capital Requirement
(a) Electronic Money Issuance	P 2 000 000	The greater of: (i) P 2 000 000 (ii) 2 % of outstanding electronic money liabilities
(b) Account-Based Payment Services (credit transfer, direct debit, card payments, issuance of payment instruments, acquiring of payment transactions)	P 1 000 000	P 1 million
(c) Non-Account based Payment Services (Money Remittance)	P 100 000	P 100 000

- For the purposes of calculating “outstanding electronic money liabilities”, the electronic payment service providers use the greater of:
 - Outstanding electronic money liabilities at the end of the prior business day; or
 - Average outstanding electronic money liabilities over the previous six months.
- The Bank reserves the right to change the fees indicated in this schedule from time to time, subject to prior notification to electronic payment service providers.
- Payments to be made in favour of Bank of Botswana.

SCHEDULE 3*(Regulation 27)***OPERATING LIMITS****A. Operating Limits for Account Based Payment Services (such as e-money account, execution of card payments, credit transfers and direct debits)**

EPS providers and their agents offering payment services involving the setting up of a payment account for the customer are required to adhere to the following limits.

	Individual Customer (Handset Transaction)		Small & Medium Enterprises (registered Companies)	Retail Agents
Limits	Tier One	Tier Two	Tier Two	Tier Four
Maximum Single Transaction	P 5 000	P 10 000	P 15 000	-
Maximum Daily Transaction	P 10 000	P 15 000	P 25 000	-
Monthly Aggregated Limit	P 20 000	P 30 000	P 50 000	P 1 000 000

- (a) Written requests for account closure must be processed and funds returned within 3 working days from request.
- (b) The Bank reserves the right to change the limits outlined in this schedule subject to prior notifications to issuers.

B Operating Limits for Non-Account Based Payment Services

Electronic payment services providers providing non-account based payment services to their customers are required to adhere to the following limits –

	Operating Limits
Daily / Transaction Limits	P 10 000
Monthly Aggregated Limit	P 200 000

MADE this 18th day of December, 2018.

O. K. MATAMBO,
*Minister of Finance and
Economic Development.*

