



# Implementation **BULLETIN**



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## **RA 11127: AN ACT PROVIDING FOR THE REGULATION AND SUPERVISION OF PAYMENT SYSTEMS**

*Approved on October 30, 2018, this law authorizes the Bangko Sentral ng Pilipinas (BSP) to oversee and exercise supervisory and regulatory powers over payment systems in the country. This is to ensure the stability and effectiveness of the monetary and financial system. It defines a payment system as “the set of payment instruments, processes, procedures and participants that ensures the circulation of money or movement of funds.”*

*In addition to its powers under existing laws, BSP shall (a) have the authority to designate a payment system; (b) require payment system operators to secure prior authority from BSP; (c) accredit or require, if necessary, a payment system management body; (d) through the Monetary Board, issue relevant rules and regulations; and (e) if deemed necessary, own and operate its own payment systems, among other powers. This law also outlines the responsibilities of operators of payment systems, and the penalties and sanctions meted out to violators.*

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The Financial Stability Report H1 2018-2019<sup>1</sup> of the Financial Stability Coordination Council noted that payment systems are systematically important. The risk that one participant fails to meet their payment obligations will reverberate to all other players in the system, leading to weak confidence in the country’s financial infrastructure. Thus, participants in the system may incur credit or liquidity problems. “The delay or non-payment at one end, specifically large value transactions, will affect the other end. In this context, intraday liquidity facilities and overdraft credit lines are important to facilitate RTGS [real-time gross settlement],” it said.

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<sup>1</sup> Financial Stability Coordination Council (2019). *2018 H1-2019 H1 Financial Stability Report*. Bangko Sentral ng Pilipinas

BSP Governor Benjamin E. Diokno provided the Senate with the following updates on the implementation of this law.

### Implementing rules and regulations

BSP has issued the following Circulars, Memorandum and Circular Letter to implement this law:

- BSP Circular No. 1049 dated September 9, 2019 on Rules and Regulations on the Registration of Payment Systems<sup>2</sup>
- BSP Memorandum No. M-2019-023 dated September 25, 2019 providing for Guidelines on the Registration and Notification Requirement of Operators of Payment Systems (OPS)<sup>3</sup>
- BSP Circular No. 1068 dated December 26, 2019 on the Extension of the Period for Registration/Notification of Operators of Payment Systems<sup>4</sup>
- BSP Circular No. 1089 dated July 7, 2020 on Payment System Oversight Framework<sup>5</sup>
- Circular Letter No. CL-2020-036 dated August 3, 2020 on the Accreditation of the Philippine Payments Management, Inc. (PPMI) as a Payment System Management Body (PSMB) under the National Payment Systems Act (NPSA)<sup>6</sup>.

### Designation of payment system

BSP Circular No. 1089 dated 7 July 2020<sup>5</sup> on Payment System Oversight Framework provided the criteria for the designation of a payment system. It said that a payment system shall be designated as Systemically Important Payment System (SIPS) if it “poses or has the potential to pose systemic risk that could threaten the stability of the NPS [national payment system]”. Meanwhile, a Prominently Important Payment System (PIPS) “may not trigger or transmit systemic risk but could have a major economic impact or undermine the confidence of the public in the NPS or in the circulation of money”. The following criteria are used to determine whether a payment system is classified as SIPS or PIPS: (a) market share; (b) aggregate settlement risk based on volume and value of transactions; (c) nature and complexity of transactions that the system processes; (d) interdependence with other payment systems or financial market infrastructures (FMI); and (e) absence of alternative payment system.

## Box A: BSP Role in Payment and Settlements System

- Operator and user of the real time gross settlement (RTGS) system called PhilPaSS
- Provider of credit facilities to banks as a lender of last resort
- Overseer of the payments and settlements system (through the Payment Systems Oversight Department of the Supervision and Examination Sector)
- Conducts studies/research on payment systems to aid in initiating changes/reforms

Source:

[http://www.bsp.gov.ph/payments/payment\\_roles.asp](http://www.bsp.gov.ph/payments/payment_roles.asp)

<sup>2</sup> <http://www.bsp.gov.ph/downloads/regulations/attachments/2019/c1049.pdf> (accessed October 7, 2020)

<sup>3</sup> <http://www.bsp.gov.ph/downloads/regulations/attachments/2019/m023.pdf> (accessed October 7, 2020)

<sup>4</sup> <http://www.bsp.gov.ph/downloads/regulations/attachments/2019/c1068.pdf> (accessed October 7, 2020)

<sup>5</sup> <http://www.bsp.gov.ph/downloads/regulations/attachments/2020/c1089.pdf> (accessed October 7, 2020)

<sup>6</sup> <http://www.bsp.gov.ph/downloads/regulations/attachments/2020/cl036.pdf> (accessed October 7, 2020)

## Overall exercise of powers granted to BSP

BSP has so far issued the following Circulars, Memoranda and Circular Letters as part of the exercise of its overall powers under this law:

- BSP Memorandum M-2019-020 dated July 19, 2019 on Lifting of Moratorium on Automated Teller Machine (ATM) Fees<sup>7</sup>
- BSP Circular No. 1089 dated July 7, 2020 on Payment System Oversight Framework<sup>5</sup>
- Circular Letter No. CL- 2020-036 dated August 3, 2020 on the Accreditation of the Philippine Payments Management, Inc. (PPMI) as a Payment System Management Body (PSMB) under the National Payment Systems Act (NPSA)<sup>6</sup>.

### BSP authority to own and operate a payment system

The following issuances pertain to the BSP's authority to own and operate a payment system under Section 8 of the law:

- BSP Circular No. 1089 dated July 7, 2020 on Payment System Oversight Framework<sup>5</sup>
- BSP Memorandum No. M-2020-031 dated April 25, 2020 on Fees on Interbank and ATM Transactions<sup>8</sup>.

Meanwhile, BSP will consider other inputs from its Payment and Settlement Office for initiatives on policies on membership, fees, and other requirements for the use of PhilPaSS.

### Adoption of international standards and practices

The following issuances pertain to the BSP's mandate under Section 9 of the law:

- BSP Memorandum No. M-2019-002 dated January 23, 2019 on Adoption of the ISO 20022 on Retail Payment Systems and on the Real-Time Gross Settlement System<sup>9</sup>
- Issuance of BSP Circular Letter No. CL-2019-053 dated August 5, 2019 on Mandatory Adoption of ISO 20022 as the Message Standard for Electronic Retail and High-Value Payments that Settle in the Next-Generation Philippine Payment and Settlement System (PhilPaSS)<sup>10</sup>
- BSP Circular No. 1055 s. 2019 dated October 17, 2019 on Adoption of a National Quick Response (QR) Code Standard<sup>11</sup>
- BSP Circular No. 1089 s.2020 dated July 7, 2020 on Payment System Oversight Framework<sup>5</sup>.

<sup>7</sup> <http://www.bsp.gov.ph/downloads/regulations/attachments/2019/m020.pdf> (accessed October 7, 2020)

<sup>8</sup> <http://www.bsp.gov.ph/downloads/regulations/attachments/2020/m031.pdf> (accessed October 7, 2020)

<sup>9</sup> <http://www.bsp.gov.ph/downloads/regulations/attachments/2019/m002.pdf> (accessed October 7, 2020)

<sup>10</sup> <http://www.bsp.gov.ph/downloads/regulations/attachments/2019/cl053.pdf> (accessed October 7, 2020)

<sup>11</sup> <http://www.bsp.gov.ph/downloads/regulations/attachments/2019/c1055.pdf> (accessed October 7, 2020)

### Box B:

## Philippine Payment and Settlement System (PhilPaSS)

PhilPaSS is a real time gross settlement (RTGS) system owned and operated by BSP that processes and settles interbank high value payment transactions of banks through the demand deposit accounts of the bank maintained with the BSP.

RTGS is a fund transfer system where transfer of money or securities takes place from one bank to another on a real-time and on gross basis. Settlement in real time means that payment transaction does not require any waiting period. The transactions are settled as soon as they are received/entered/processed into the system. Gross settlement means the transaction is settled on one to one basis without netting with any other transaction. Once processed, payments are final and irrevocable.

Source:

[http://www.bsp.gov.ph/payments/philpass\\_overview.asp](http://www.bsp.gov.ph/payments/philpass_overview.asp)

Meanwhile, BSP carried out the following activities to help ensure the compliance of PhilPaSS with international standards:

To comply with the ***Principles for Financial Market Infrastructures (PFMI)*** issued by the Bank for International Settlements (see Box C), BSP goes through an annual self-assessment. In August 2019, the BSP Payment and Settlements Office (PSO) went through a third-party assessment performed by the World Bank, under the Financial Sector Assessment Program. The over-all objective was to comprehensively assess the compliance of PhilPaSS against PFMI, and to identify and address gaps in compliance.

To comply with the ***Customer Security Controls Framework*** issued by the Society for Worldwide Interbank Financial Telecommunications (SWIFT), PSO fulfilled all requirements to re-attest the BSP's full compliance with the framework, which includes a set of mandatory and advisory security controls for SWIFT customers.

To comply with the ***ISO 9001:2015*** of the International Organization for Standardization, PSO participated in audit procedures, particularly those in coordination with the Internal Audit Office, Risk and Compliance Office (including business continuity plans), and the Systems and Methods Office. In September 2019, TUV SUD PSB Philippines, the Certifying Body for Quality Management [Systems] (QMS), conducted its surveillance audit of PSO's QMS covering the operations of PhilPaSS and its critical components. It reported no significant audit findings while noting that PSO consistently implements the system in accordance with the requirements of ISO 9001:2015. Additionally, the commitment of PSO's top management to guarantee the continuous compliance to the said standard as well as to sustain its operation was seen with "high confidence".

ISO 9001:2015 "specifies requirements for a QMS when an organization: a) needs to demonstrate its ability to consistently provide products and services that meet customer and applicable statutory and regulatory requirements, and b) aims to enhance customer satisfaction through the effective application of the system, including processes for improvement of the system and the assurance of conformity to customer and applicable statutory and regulatory requirements."<sup>12</sup>

Finally, BSP has approved the mandatory adoption of ***ISO 20022 International Messaging and Communication Standard*** as the standard for electronic retail and high-value payments that settle in the next generation PhilPaSS, which is scheduled for implementation in June 2021. This is in line with BSP's goal

### Box C: Principles for Financial Market Infrastructures (PFMI)

PFMI covers standards for systemically important payment systems essential in strengthening and preserving financial stability. The standards detail the 24 principles on General Organization, Credit and Liquidity Risk Management, Settlement, Exchange-of-Value Settlement Systems, Default Management, General Business and Operational Risk Management, Efficiency and Transparency. Also included are the responsibilities of financial regulators.

PFMI was issued by the Committee on Payments and Market Infrastructures and the International Organization of Securities Commissions in April 2012.

Source: BSP report to Senate EARD

<sup>12</sup> <https://www.iso.org/standard/62085.html> (accessed October 7, 2020)

to support greater interoperability and integration among domestic and global payment systems. The policy was formalized through BSP Circular Letter No. CL-2019-053<sup>13</sup> dated August 5, 2019.

### **Coordination with government agencies and other foreign regulators**

To comply with Section 9 of the law, BSP Circular No. 1089 dated 7 July 2020 on Payment System Oversight Framework<sup>5</sup> has a provision on Cooperative Oversight wherein the BSP “shall conform to the arrangements entered into by the Philippines through regional and global affiliations”. Conversely, BSP will coordinate with foreign regulators or overseers of payment systems in cases where a payment system participant in the Philippines also operates in other jurisdictions, or a domestic payment system interacts with financial market infrastructures in other countries.

BSP, primarily through its Payment System Oversight Department (PSOD), held the following activities to implement this provision of the law:

- Coordination with the World Bank on various policy initiatives and personnel education
- Serve as member of the Technical Working Group that provides inputs to the Philippine Mission in Geneva for the World Trade Organization (WTO) Joint Statement Initiative in relation to WTO negotiations on eCommerce Agreement (through Department of Trade and Industry (DTI)-Bureau of International Trade Relations)
- Served as member of the Technical Working Group for the Implementation of the ASEAN eCommerce Agreement (through DTI-Bureau of International Trade Relations)
- Served as member of the Working Group on Payments and Market Infrastructures of the Executives’ Meeting of East Asia Pacific Central Banks
- Serves as member of the Working Committee on Payment and Settlement Systems of the Association of South East Asian Nations
- Participated in consultations by the Department of Transportation on the Automatic Fare Collection System
- Provided inputs to the Department of Information and Communications Technology on its Payment Gateway project.

### **Registration of payment system operators**

The following issuances pertain to the BSP’s mandate under Section 10 of the law:

- BSP Circular No. 1049<sup>2</sup> dated September 9, 2019 on Rules and Regulations on the Registration of Payment System
- BSP Memorandum No. M-2019-023<sup>3</sup> dated September 25, 2019 providing for Guidelines on the Registration and Notification Requirement of Operators of Payment Systems (OPS)
- BSP Circular No. 1068<sup>4</sup> dated December 26, 2019 on the Extension of the Period for Registration/Notification of Operators of Payment Systems.

As of October 8, 2020, 104 payment system operators have acquired a Certificate of Registration (COR).<sup>14</sup>

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<sup>13</sup> <http://www.bsp.gov.ph/downloads/regulations/attachments/2019/cl053.pdf> (accessed October 7, 2020)

<sup>14</sup> <http://www.bsp.gov.ph/payments/cor.pdf> (accessed October 7, 2020)



*Under this law, BSP is mandated to oversee and exercise supervisory and regulatory powers over payment systems in the country (PNA photo)*

### **Designating a manager to manage the operations of the operator of a designated payment system**

BSP Circular No. 1089 dated 7 July 2020<sup>5</sup> on Payment System Oversight Framework provided guidance on implementing Sec. 17 of the law. It said that “when a threat to the safety, efficiency and reliability of a designated payment system exists, the Bangko Sentral, upon determination of its appropriate payment system oversight department, and with prior approval of the Monetary Board, shall appoint without need for prior court hearing, a manager of recognized competence in payment systems to manage the operations of the ODPS [operator of a designated payment systems]”.

### **Other accomplishments**

Governor Diokno reported the following additional accomplishments of BSP in implementing this law:

***Issuance of rules for enforcement of oversight powers (Phase III of the National Payment Systems Act implementation).*** This process includes drafting, holding public consultation, and issuing regulations to implement the NPSA provision authorizing BSP to designate a manager to manage the operations of a designated payment system. This phase likewise includes issuance of rules and regulations on Corporate Governance for Designated Payment Systems and licensing framework.

***Issuance of rules for resolution of payment system issues (Phase IV of the National Payment Systems Act implementation).*** This process includes drafting, holding public consultation, and issuing regulations on entities that can directly participate in the Next-Generation PhilPaSS operated by BSP.

***Promotion and adoption of e-payments in government collections and disbursements.*** This process includes the evaluation of the results of the pilot run of government e-payment initiatives as well as issuance of appropriate rules/guidelines. This also includes activities that seek to increase the number of new participants in government e-payments.

**Continuous monitoring and evaluation** of condition of payment systems and progress of payments initiatives to facilitate transition of the country to a “cash-lite” economy

**Interim reporting requirements** to facilitate oversight and monitoring activities of BSP were issued to some participants of payment systems

**Coordination with the Securities and Exchange Commission and the Bureau of the Treasury** on the arrangement and implementation of cooperative oversight over linked Financial Market Infrastructures (FMIs) to BSP’s Real-Time Gross Settlement System (PhilPass), particularly on Delivery versus Payment transactions.

### Issues and concerns

Governor Diokno highlighted the following issues in the implementation of this law, as well as the proposed actions to address them:

Issue	Proposed action
Requests for extension of time to file for application for registration of Operators of Payment Systems (OPS)	Determine if extension of time to file for applications for registration as operator of payment systems is warranted
Lack of/Inadequate public information about this law and the BSP’s role in its implementation	Educational campaign on this law through brownbag sessions, and providing resources speakers in the events sponsored by other BSP Departments (i.e., Center for Learning Inclusion and Advocacy, Economic and Financial Learning Center, and Payments and Settlements Office, etc.) and finance/trade sector associations
Lack of/Inadequate number of personnel for the registration and oversight of payment systems	Engagement and capacity building of additional oversight personnel
Need for capacity building of personnel tasked with the implementation of the law	Review of organizational structure of payment system oversight department
The complexity of work required to oversee payment systems	Adoption of a phased approach in the implementation of the law

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