



Bangko Sentral ng Pilipinas Payment System Oversight Framework

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The *Bangko Sentral ng Pilipinas* (BSP, the Central Bank of the Philippines) issued on July 7, 2020, Circular No. 1089, which sets out the Payment System Oversight Framework (Oversight Framework). This is in line with the BSP's mandate under Republic Act No. 11127 (National Payment Systems Act) to ensure a safe, efficient, and reliable national payment system through an effective regulatory and governance framework.

Circular 1089 supplements Circular 1049 (dated September 9, 2019), which required registration of operators of payment systems and mandated the creation of a Manual of Regulations for Payment Systems (MORPS). Circular 1089 is the second tranche of regulations that are included in the MORPS.

In adopting the Oversight Framework, the BSP seeks to establish a safe, efficient, interoperable and competitive payment system, which is crucial to the smooth functioning of financial markets and the stability of monetary and financial systems, and is instrumental in attaining and sustaining inclusive economic growth. The Oversight Framework is geared towards having an effective governance of the National Payment System and strengthening cooperation and flow of information among various concerned agencies, including foreign regulators, with regard to the supervision of Financial Market Infrastructures (FMIs) – the multilateral system among participating institutions for clearing, settlement, or recording of payments and other financial transactions. Cooperative oversight is intended to prevent regulatory arbitrage resulting from gaps, inefficiencies, duplications, and inconsistencies in the regulation of FMIs.

As the BSP actively promotes the use of e-payments in the country, it is important to ensure the public's confidence by preventing and managing potential systemic risks. Towards this end, the Circular enables the BSP to designate a payment system either as a Systematically Important Payment System (SIPS), which poses or could pose systemic risk that threatens the stability of the NPS, or a Prominently Important Payment System (PIPS), which does not trigger systemic risk but could undermine public confidence in the NPS or in the circulation of money. The BSP places these systems under strict oversight.

BSP's oversight functions include (i) monitoring of existing and planned payment systems, including registration and licensing, (ii) assessment of payment systems and the NPS against safety, efficiency and reliability standards, including adoption of internationally accepted standards and practices and enforcement actions, and (iii) inducing development and innovation of payment systems.

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Other salient features of the Oversight Framework include the following:

1. BSP's oversight covers activities of Operators of Payment Systems (OPS), FMIs, Payment System Management Body (a BSP-accredited self-regulatory body organized by DPS participants), Payment Service Providers (entities that provide payment services to end-users), and Critical Service Providers (entities that provide process arrangements, technology, service or infrastructure critical to ensuring operational reliability of payment system participants).
2. A payment system is designated as SIPS or PIPS based on the criteria set by the Monetary Board or such other matters as it may deem relevant, including (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 FMIs, and (e) absence of alternative payment system. Once such designation is made, the BSP will initiate a focused review of the payment system's profile including its current and potential impact on the NPS. Participants of the payment system and the public are notified of the designation.
3. The BSP, through the Monetary Board, sets the organizational and operational requirements for an Operator of a Designated Payment System (ODPS). An ODPS must meet the following minimum requirements and is subject to the following rules: (a) certificate of authority issued by the Monetary Board; (b) organized as a stock corporation; and licensed to do business in the Philippines in case of foreign corporations; (c) registration as an OPS, with prior authority from the BSP; (d) prior approval of the Monetary Board for any change in ownership, directly or indirectly, of more than 10% of the voting stock in the ODPS; (e) prior approval from the BSP prior to the implementation of a significant modification in the ODPS' business model; (f) compliance with the fit and proper rule on qualifications and disqualifications of individuals elected or appointed as directors or officers of the ODPS; (g) compliance with governance, risk management and internal control standards set by the BSP; (h) compliance with BSP's outsourcing framework; (i) high degree of security and operational reliability; and (j) compliance with contingency requirements to ensure timely completion of processing commitments. Items (a), (b), and (d) do not apply to payment systems owned and operated by the BSP.
4. When threat to the safety, efficiency, or reliability of a designated payment system exists, the BSP, upon determination of its appropriate payment system oversight department, with prior approval of the Monetary Board, may appoint (without need of a prior court hearing) a manager of recognized competence in payment system to manage the operations of an ODPS.
5. The BSP can revoke the designation of a DPS through the Monetary Board upon determination that the payment system no longer meets the designation criteria of a DPS. Participants of the DPS and the public will be notified of such revocation.

The National Payment Systems Act (NPSA), which took effect in October 2018, gave the BSP regulatory power over the operation of payment systems, with the aim of controlling systemic risks that can threaten the stability of payment systems or financial markets. The NPSA defines an OPS as an entity that "provides clearing or settlement services in a payment system, or defines, prescribes, designs, controls or maintains the operational framework for the system."

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Under the MORPS, an OPS is an entity that: (i) maintains the platform that enables payments or fund transfers within or across institutions; (ii) operates the system or network that enables payments or fund transfers to be made through the use of a payment instrument; (iii) provides a system that processes payments on behalf of any person or the government; or (iv) performs similar activities, as may be determined by the Monetary Board of the BSP. The Oversight Framework also introduces new classes of payment system participants covered by BSP regulations.

Due to the wide net cast by the BSP, entities are expected to conduct a self-assessment to determine if their activities fall within the scope of the expanded definition of an OPS or if they are among the additional entities now subject to regulation under the Oversight Framework. Studying the application of the NPSA as implemented by the MORPS and navigating the multiple registrations required of institutions that are already licensed and supervised by the BSP have become significant concerns for fintech companies and other affected businesses.

For more information about the matters covered by this briefing, please contact the author of this briefing:

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