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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 1813/25 - 2013 ජූනි මස 07 වැනි සිකුරාදා - 2013.06.07

No. 1813/25 - FRIDAY, JUNE 07, 2013

(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

PAYMENT AND SETTLEMENT SYSTEMS ACT, No. 28 OF 2005

Payment Cards and Mobile Payment Systems Regulations No. 1 of 2013

REGULATIONS made by the President under Section 17 of the Payment and Settlement Systems Act, No. 28 of 2005, read with Section 11 of the said Act and paragraph (2) of Article 44 of the Constitution.

MAHINDA RAJAPAKSA,
President.

Colombo,
30th May 2013.

REGULATIONS

1. These Regulations may be cited as the Payment Cards and Mobile Payment Systems Regulations No. 1 of 2013 (hereinafter referred to as "the Regulations")
2. (a) The Central Bank of Sri Lanka (hereinafter referred to as "the Central Bank") shall function as the regulatory and supervisory authority for payment cards and mobile payment systems and shall be responsible to regulate and supervise all service providers of payment cards and/or mobile payment systems ;
(b) The Central Bank may authorize any of its Officers in writing to carry out the functions of the Central Bank in accordance with the Provisions of these Regulations.
3. In these Regulations "Payment Cards" refers only to debit cards, credit cards, charge cards and stored-valued cards.
4. No person shall engage in the business of or function as a Service Provider except under the authority and in accordance with the terms and conditions of a licence issued by the Central Bank.
5. (a) The following persons shall be eligible to apply for a licence to engage in the business of or function as a Service Provider -
 - (i) a licensed commercial bank ;
 - (ii) a licensed specialized bank ;
 - (iii) a finance company ;



- (iv) an operator who provides cellular mobile telephone services under the authority of a licence issued in terms of the Sri Lanka Telcommunications Act No. 25 of 1991 as amended ;
- (v) a company registered under the Companies Act, No. 7 of 2007 having an unimpaired capital of at least Rupees One Hundred and Fifty (150) Million or such other amount determined by the Central Bank, other than a company limited by guarantee, an offshore company or an overseas company within the meaning of the Companies Act, No. 7 of 2007.
- (b) An eligible person mentioned in paragraph (a) above may engage in the business of or function as a Service Provider in respect of one or more of the following classes of business, under the authority of a licence issued by the Central Bank in terms of these regulations.
- (i) Issuer of payment cards ;
- (ii) Financial acquirer of payment cards ;
- (iii) Operator of a customer account based mobile payment system ;
- (iv) Operator of a mobile phone based e-money system.
- (c) The Central Bank may restrict any one or more of the eligible parties mentioned in paragraph (a) above from engaging in one or more of the classes of business specified in paragraph (b) above.
6. (a) An eligible person who intends to engage in the business of or function as a Service Provider may make an application for a licence in a form of application specified by the Central Bank.
- (b) The Central Bank may issue a licence to engage in the business of or function as a Service Provider on being satisfied of the contents of the application, documents, information, and other particulars that are required to be submitted with the application and any such other documents or information required by the Central Bank.
- (c) The Central Bank may refuse to issue a licence without giving any reason therefor.
- (d) The licence issued under paragraph (b) of this regulation may be subject to conditions specified in the licence itself or in a schedule to the licence.
7. (a) The applicant shall pay a licence fee, upon receiving a notification from the Central Bank after submission of an application as per paragraph (a) of regulation 6.
- (b) Once a licence is issued and until such licence remains in force, an annual fee shall be paid to the Central Bank and such payments shall be made within the month of January of each calendar year.
- (c) The Central Bank may determine the licence fee and the annual fee from time to time.
8. A person issued with a licence under paragraph (b) of regulation 6 is hereinafter referred to as "Licensed Service Provider".
9. Every Licensed Service Provider shall display a copy of the licence issued to it under paragraph (b) of regulation 6 at its principal place of business and each of its branches.
10. Every Licensed Service Provider, subject to paragraph (c) of regulation 5 above, shall ;
- (a) be entitled to engage in the business of or function as a Service Provider only in respect of the class/es of business specified in the schedule to the licence issued to such Service Provider.

- (b) obtain prior written approval of the Central Bank to engage in the business of or function as a Licensed Service Provider in respect of class/es of business other than those specified in the schedule to the licence issued to such Licensed Service Provider. Such Licensed Service Provider shall apply for such approval in a form specified by the Central Bank and the application shall be accompanied with a fee determined by the Central Bank.
11. Every Licensed Service Provider shall inform the Central Bank, in writing, of any change in its name, address of registered Office, board of directors or articles of association with in three days of such change being effective.
12. (a) The Central Bank may, if it is proved to the satisfaction of the Central Bank that a Licensed Service Provider :-
- (i) has failed to commence its business relating to payment cards/mobile payment systems within six months from the date of issuance of the licence ; or
 - (ii) has furnished false or incorrect information or omitted any material information ; or
 - (iii) has failed to comply with any provision of the Act, any regulation, direction, directive, rule, condition, circular, guideline or instruction issued under the Act ; or
 - (iv) has failed to take corrective measures as required by the Central Bank within the period specified by the Central Bank ; or
 - (v) is insolvent or likely to be insolvent ; or
 - (vi) has been convicted of any offence by a Court of Law.
- give notice that the Central Bank will cancel the licence issued to such Licensed Service Provider.
- (b) The Licensed Service Provider who is given the notice under paragraph (a) above may tender objections in writing to the Central Bank against the notice of intended cancellation, within fourteen days of the date of such notice, giving reasons as to why the licence issued to such Licensed Service Provider under paragraph (b) of regulation 6 should not be so cancelled.
- (c) The Central Bank may, within thirty days from the last date for tendering objections under paragraph (b) above, after considering the objections tendered under that paragraph, if any, and after hearing the Licensed Service Provider in support of its objections, either withdraw the notice given under paragraph (a) above with or without conditions or cancel the licence issued to the Licensed Service Provider, and shall notify such Licensed Service Provider in writing accordingly.
13. Where a licence issued to a Licensed Service Provider has been cancelled, the Central Bank shall direct such Service Provider to forthwith cease and discontinue the business relating to payment cards and/or mobile payment systems. The Central Bank may take any action necessary to carry out such decision of the Central Bank in accordance with the Provisions of the Act.
14. The Central Bank may carry out on-site examinations and off-site surveillance on business relating to payment cards and/or mobile payment systems of any Licensed Service Provider.
15. Every Licensed Service Provider shall provide documents, information and other particulars that may be required by the Central Bank or any officer authorized by the Central Bank for the purpose of carrying out on-site examinations and off-site surveillance or to evaluate the capacity of the Licensed Service Provider to continue its operations as a Licensed Service Provider.
16. (a) If it is revealed in an on-site examination and/or off-site surveillance or inspection conducted on any information received, that a Licensed Service Provider,
- (i) is unable to carry out business relating to payment cards and/or mobile payment systems ; or

- (ii) is engaged in unsafe and/or unsound practices in the course of business relating to payment cards and/or mobile payment systems which is likely to affect the financial system stability ; or
- (iii) is conducting business in such manner that may be detrimental to the protection of customers and to the integrity, improvements and smooth functioning of payment systems in Sri Lanka.
- the Central Bank shall direct such Licensed Service Provider to forthwith suspend its business relating to any one or more of the classes of business specified in the schedule to the licence and to take corrective measures in such manner, subject to such conditions and within such period as may be determined by the Central Bank.
- (b) If the Licensed Service Provider fails to implement such corrective measures, the Central Bank may :
- (i) cancel the licence in terms of regulation 12 above ; or
- (ii) withdraw the approval granted to the Licensed Service Provider to engage in any one or more classes of business specified in the schedule to the licence.
17. (a) Where the Board of Directors of any Licensed Service Provider decides to voluntarily discontinue any one or more of the classes of business specified in the schedule to the licence, such Licensed Service Provider shall notify the Central Bank immediately of such decision and within seven days from the date of such decision shall ;
- (i) inform the reasons for discontinuation of business or inability to continue the business relating to payment cards and/or mobile payment systems ; and
- (ii) submit a detailed proposal of the manner of handling of the existing customers' rights and obligations and alternative method for providing the agreed services.
- (b) Upon intimation of the decision to discontinue the business of a Licensed Service Provider, the Central Bank may issue directions as to the manner of termination and conditions subject to which such termination shall take place.
18. The Central Bank may, from time to time, issue directions, directives, rules, conditions, circulars, guidelines or instructions to any one or more Licensed Service Providers, regarding the manner in which any aspect of the business of all or any category of Licensed Service Provider is to be conducted. Without prejudice to the foregoing, the Central Bank may, issue directions, directives, rule, conditions, circulars, guidelines or instructions specifying : -
- (a) governance, risk management and control ;
- (b) capital adequacy and other capital requirements ;
- (c) limits on usage of payment cards/mobile payment systems ;
- (d) fees and charges applicable to customers obtaining services related to payment cards/mobile payment systems ;
- (e) measures necessary for protection of customers and Licensed Service Providers ;
- (f) arrangements with agents, subsidiaries and any outsourced parties in respect of business of payment cards/mobile payment systems ;
- (g) the security features of technology relating to payment cards/mobile payment systems ;
- (h) business and investment limitations ; and
- (i) dissemination of information regarding payment cards/mobile payment systems.

19. Where a licence issued under paragraph (b) of regulation 6 is cancelled under regulation 12, such cancellation shall be notified to the general public by the Central Bank by publication of a notice at least in one Sinhala, Tamil and English newspaper.
20. Where the Central Bank is of the opinion that any advertisement published, transmitted, broadcast, telecast or displayed is in violation of the provisions of the Act, Regulations made thereunder or directions, guidelines or instructions issued under the Act or these Regulations, or is likely to mislead the public, the Central Bank may require the Licensed Service Provider to discontinue the publication, transmission, broadcast, telecast or display of such advertisements or to change such advertisements within a specified period of time.
21. In these Regulations, unless the context otherwise requires :

"Act" means, the Payment and Settlement Systems Act, No. 28 of 2005 ;

"Cardholder" means, any person authorized to use a payment card issued by an Issuer ;

"Central Bank of Sri Lanka" means, the Central Bank of Sri Lanka established under the Monetary Law Act, No. 58 of 1949 (Chapter 422) ;

"Charge Card" means, a payment card which involves a line of credit granted by the issuer to the cardholder where the credit utilized by the cardholder must be settled fully on or before a date specified by the issuer, without any extended credit ;

"Credit Card" means, a payment card which involves a line of credit granted by the issuer to the cardholder where the credit utilized can be settled in full or in part on or before a specified date. The issuer may charge interest or other charges on any amount not settled on the specified date ;

"Customer Account based Mobile Payment System" means, a mobile phone based payment system operated by a licensed Commercial Bank, a licensed specialized bank or a finance company that provides a means of access to the customer accounts maintained with such financial institution ;

"Day" means, a calendar day ;

"Debit Card" means, a payment card that may be used to withdraw cash and/or execute payments for purchase of goods and services, by directly debiting from the credit balance of the cardholder's account ;

"E-money System" means, a system through which monetary value is issued upon receipt of funds and stored electronically for the purpose of using as a means of payment or to settle financial obligations ;

"Finance Company" means, a finance company licensed under the Finance Business Act, No. 42 of 2011 ;

"Financial Acquirer" means, any person who makes arrangements with third parties to accept payment cards of cardholders as a means of payment and reimburses those third parties with the value of the goods or services purchased by the cardholder, and/or who reimburses such third parties for cash advances obtained by the cardholders ;

"Issuer" means, an entity which issues a payment card and thereby enters into a contractual relationship with the cardholder ;

"Licensed Commercial Bank" means, a commercial bank licensed under the Banking Act, No. 30 of 1988 as amended ;

"Licensed Specialized Bank" means, a specialized bank licensed under the banking act No. 30 of 1988 as amended ;

"Service Provider" means, a service provider of payment card and/or a service provider of mobile payment system ;

"Service Provider of Mobile Payment System" means, any person who operates a customer account based mobile payment system and./or any person who operates a mobile phone based e-money system ;

"Service Provider of Payment Card" means, any person who acts as an issuer of payment cards and/or a financial acquirer of payment cards ;

"Stored Value" shall have the meaning assigned to it in Section 18 of the Payment and Settlement Systems Act, No. 28 of 2005 ;

"Stored-value Card" means, a payment card or any other device with access to a stored value that can be used as a means of payment. The term does not include cards that can be used only to settle payment obligations to the issuer of such cards ;

"Unimpaired Capital" shall mean capital on which there is no lien or other charges.

22. The Service Providers of Payment Cards Regulations No. 1 of 2009 published in the Gazette (Extraordinary) No. 1612/32 dated 31st July 2009 are hereby rescinded without prejudice to anything done under them.