



HOUSE OF REPRESENTATIVES

H. No. 5000

BY REPRESENTATIVES MACAPAGAL-ARROYO, EVARDONE, TAMBUNTING,
ONG (H.), OAMINAL, ALMONTE, COLLANTES, LIMKAICHONG,
FERRER (J.), SALON, CORTUNA, TURABIN-HATAMAN, CAMINERO,
VILLARIN, PRIMICIAS-AGABAS AND DALIPE, PER COMMITTEE REPORT
NO. 102

AN ACT PROVIDING FOR THE REGULATION AND SUPERVISION OF PAYMENT SYSTEMS

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assembled:*

1 SECTION 1. *Short Title.* – This Act shall be the known as the
2 “Payment Systems Act”.

3 SEC. 2. *Declaration of Policy.* – The State recognizes that payment
4 systems are crucial parts of the financial infrastructure of the country and it is
5 essential that they function safely and efficiently for the stability and
6 effectiveness of the monetary and financial system. The State shall promote,
7 through the Bangko Sentral ng Pilipinas (BSP) the safe, efficient and reliable
8 operation of payment systems in order to control systemic risk and provide an
9 environment conducive to the sustainable growth of the economy.

10 SEC. 3. *Definition of Terms.* – As used in this Act:

11 (a) *Clearing* shall refer to the process of transmitting, reconciling, and
12 in some cases, confirming payment orders prior to settlement, and the
13 establishment of final obligations for settlement.

1 (b) *Director* shall refer to any member of the board of directors of a
2 participant to the payment system, or a person considered as such under BSP
3 regulations.

4 (c) *End-user* shall refer to any person who originally initiates the
5 instruction to pay or the ultimate receiver of funds in a payment system.

6 (d) *Fund* shall include any unit of value that forms the consideration or
7 object of transactions.

8 (e) *Issuer* shall refer to any person who provides the means or the
9 instrument to hold or transfer funds.

10 (f) *Manager* shall refer to any person of recognized competence in
11 payment system designated by the BSP to manage the operations of the
12 operator of a designated payment system as provided under Section 17 hereof.

13 (g) *Netting* shall refer to an agreed offsetting of obligations by
14 participants of payment systems.

15 (h) *Officer* shall refer to any person who is an employee holding a
16 management position in any of the participants to the payment system, or a
17 person considered as such under BSP regulations.

18 (i) *Operator* shall refer to any person who provides clearing or
19 settlement services in a payment system, or defines, prescribes, designs,
20 controls or maintains the operational framework for the system.

21 (j) *Participant* shall refer to the operator, issuer, service provider, or
22 any person involved in the payment system other than the end-user.

23 (k) *Payment instrument* shall refer to any instrument, whether tangible
24 or intangible, that enables a person to transfer funds.

25 (l) *Payment order* shall refer to an order or message requesting the
26 transfer of funds to the order of the payee.

27 (m) *Payment system* shall refer to the set of payment instruments,
28 processes, procedures and participants that ensures the circulation of money or
29 movement of funds.

1 (n) *Designated payment system* shall refer to a payment system that has
2 been determined by the BSP as posing a systemic risk, or having the potential
3 to be such, or when there is necessity to protect the public interest.

4 (o) *Payment system management body* shall refer to the entity
5 organized by participants of the designated payment system for the purpose of
6 self-regulation.

7 (p) *Service provider* shall refer to an entity that provides process
8 arrangements, technology or infrastructure to operators of a payment system.

9 (q) *Settlement* shall refer to an act that discharges obligations in respect
10 of fund transfers between two or more parties.

11 (r) *Systemic risk* shall refer to the risk that the failure of one participant
12 in a payment system, or in financial markets generally, to meet its required
13 obligations will cause other participants or financial institutions to be unable to
14 meet their obligations, including settlement obligations in a payment system,
15 when due: *Provided*, That, such failure could threaten the stability of the
16 system or financial markets.

17 The Monetary Board may, by regulation, further define or clarify terms
18 used in this Act consistent with the declared State policy.

19 SEC. 4. *Authority of the BSP.* — The BSP shall oversee the payment
20 systems in the Philippines and exercise supervisory and regulatory powers for
21 the purpose of ensuring the safety, efficiency and reliability of payment
22 systems, and the stability and effectiveness of the monetary and financial
23 system.

24 SEC. 5. *Powers of the BSP.* — In the performance of its mandate
25 under this Act, the BSP shall have, in addition to its powers under existing
26 laws, the following powers:

27 (a) Determine a payment system to be a designated payment system if
28 it finds that the payment system poses or has the potential to pose a systemic
29 risk or when there is necessity to protect the public interest. Any such

1 determination by the BSP shall be conclusive. The designation of a payment
2 system by the BSP shall be effective until revoked. The BSP may revoke such
3 designation if it finds that the designated payment system no longer poses any
4 systemic risk or it is no longer in the public interest that the system be
5 designated.

6 (b) Require the participants of the designated payment system to
7 comply, within a reasonable period, with the provisions of this Act and its
8 implementing rules and regulations, giving due consideration to the orderly
9 transition of the operations of the newly designated payment system to ensure
10 that it operates in a safe, efficient and reliable manner.

11 (c) Accredite or require, when deemed necessary, a payment system
12 management body organized by participants of the designated payment system
13 for the purpose of self-regulation.

14 (d) Issue, through the Monetary Board, rules and regulations governing
15 the following:

16 (1) The standard of operation of payment systems and the conduct of
17 examination of the participants of the designated payment systems to
18 determine compliance with laws and regulations;

19 (2) The adequacy of resources of operators of the designated payment
20 systems to ensure that the designated payment systems have a high degree of
21 security and operational reliability and have contingency requirements for
22 timely completion of daily processing commitments;

23 (3) The qualifications and disqualifications of individuals elected or
24 appointed as directors or officers of operators of the designated payment
25 systems with particular regard to their integrity, experience, education, training
26 and competence. The Monetary Board may suspend, disqualify or remove any
27 director or officer found unfit for the position;

1 (4) The appropriate measures to ensure the confidentiality of payment
2 information which, under the provisions of this Act and other existing laws is
3 considered confidential;

4 (5) The necessary measures to ensure the compliance of designated
5 payment systems with Republic Act No. 9160, as amended, otherwise known
6 as the "Anti-Money Laundering Act of 2001", and other related laws;

7 (6) The mechanism for the protection of the rights of the end-users and
8 participants to the designated payment systems;

9 (7) Principles on setting prices or pricing mechanisms in payment
10 systems;

11 (8) Submission of reports by participants of payment systems on their
12 operations for regulatory, statistical, and policy development purposes;

13 (9) Guidelines applicable to payment system management bodies,
14 including the grant and revocation of accreditation; and

15 (10) Other pertinent matters as may be determined by the Monetary
16 Board.

17 (e) Assess and collect from the participants of the designated payment
18 systems an annual fee in such amount as may be necessary to cover expenses
19 related to or incidental to the conduct of supervisory functions over such
20 entities.

21 (f) Such other powers as may be reasonably necessary to meet the
22 objectives of this Act.

23 SEC. 6. *Adoption of International Standards and Practices.* – In the
24 exercise of its authority under this Act, the BSP shall be guided by
25 internationally accepted standards and practices.

26 SEC. 7. *Protection of Confidential Information.* – Information
27 obtained by the BSP in the course of its oversight of payment systems and
28 supervision and regulation of participants thereof are considered confidential,
29 and such confidential information may only be disclosed upon prior

1 authorization from the Monetary Board or the Governor as may be necessary
2 in the course of its coordination with other Philippine and foreign regulators as
3 provided under Section 9 of this Act or when ordered by the courts: *Provided,*
4 *however,* That, the collective data may be released to interested persons or
5 entities.

6 SEC. 8. *BSP Authority to Own and Operate a Payment System.* – The
7 BSP shall have the authority to own and operate payment systems as may be
8 deemed necessary by the Monetary Board. It shall have the authority to
9 determine who shall be allowed to participate in payment systems owned and
10 operated by it and who shall be allowed to open an account with the BSP for
11 settlement purposes. The BSP shall adopt internal safeguards to ensure
12 appropriate independent oversight of its operator functions.

13 SEC. 9. *Coordination with Other Government Agencies and Foreign*
14 *Regulators.* – The BSP shall coordinate with other regulators and other
15 concerned government agencies to avoid gaps, inefficiencies, duplications and
16 inconsistencies in the regulation of other systems that are related to or
17 interconnected with payment systems. The grant, suspension or revocation of
18 any government license necessary for the conduct of business of a payment
19 system operator must be done only with prior consultation with the BSP.

20 The BSP shall endeavor to coordinate with the regulators or overseers
21 of payment systems of other countries to facilitate safe, efficient and reliable
22 cross-border payment transactions.

23 SEC. 10. *Registration of Payment System Operators.* – Within six (6)
24 months from the effectivity of this Act, all operators of payment systems as
25 defined under Section 3 of this Act shall register with the BSP. Operators of
26 payment systems which shall commence business or operations subsequent to
27 the effectivity of this Act shall register with the BSP in such manner and
28 within such reasonable period as may be prescribed by the Monetary Board.

1 SEC. 11. *Operators of Designated Payment Systems.* – No person or
2 entity shall be allowed to act as an operator of a designated payment system
3 without prior authority from the BSP. The determination of whether a person
4 or entity is acting as an operator of a designated payment system without BSP
5 authority shall be made by the Monetary Board.

6 In granting the authority, the BSP shall take into consideration the
7 capability of an operator in terms of its financial resources, technical expertise,
8 and reputation. The licensing process shall include an assessment of
9 the ownership structure, governance, key personnel, business model, risk
10 management and financial resources.

11 Operators of the designated payment system, except payment systems
12 operated by the BSP, shall be required to incorporate as stock corporations
13 for the purpose of operating a payment system, and shall meet the
14 minimum requirements as may be prescribed by the Monetary Board.
15 Operators of designated payment systems, so long as they continue to be
16 authorized by the BSP to operate as such, shall not be covered by the
17 definition of a debtor under Republic Act No. 10142, otherwise known as the
18 “Financial Rehabilitation and Insolvency Act (FRIA) of 2010”.

19 SEC. 12. *Certificate of Authority to Register Operators of Designated*
20 *Payment System.* – The Securities and Exchange Commission (SEC) shall not
21 register the articles of incorporation of any operator of a designated payment
22 system, or any amendment thereto, or otherwise issue a license to do business
23 in the Philippines, unless accompanied by a certificate of authority to register
24 issued by the Monetary Board, under its seal. The SEC shall also not register
25 the bylaws of any operator of a designated payment system, or any amendment
26 thereto, unless accompanied by a certificate of authority from the BSP.

27 SEC. 13. *Transfer and Acquisition of Substantial Shareholdings.* – No
28 person shall acquire shares in an operator of a designated payment system that
29 will result in ownership or control, directly or indirectly, of more than ten

1 percent (10%) of the voting stock of such operator, without obtaining the prior
2 approval of the Monetary Board. Prior to Monetary Board approval, no such
3 transfer or acquisition of shares shall have legal effect nor shall the same be
4 recognized in the stock and transfer books of the operator or in the records of
5 any government agency.

6 *SEC. 14. Responsibilities of the Operator of a Designated Payment*
7 *System.* – The operator of a designated payment system shall be primarily
8 responsible for the maintenance and operation of a safe, efficient and reliable
9 payment system in accordance with rules and regulations. This includes the
10 development of a process, which shall be subject to BSP review, for the
11 selection, monitoring and disciplining of participants to its system.

12 *SEC. 15. Finality of Settlement.* – Notwithstanding the provisions of
13 existing laws to the contrary, settlement effected in accordance with the agreed
14 procedures of a payment system shall be final and irrevocable and shall not be
15 subject to reversal for any reason whatsoever: *Provided, That,* if it is shown
16 and established that any such fund so paid and transferred was not legally due,
17 the settlement shall remain and such amount shall constitute a new monetary
18 obligation owed by the payee to the person who caused the payment.

19 *SEC. 16. Notification in Case of Insolvency of Participant in a*
20 *Payment System.* – The participant of a payment system shall notify in
21 writing the operator of such payment system upon the issuance of a stay order
22 or the declaration of insolvency, bankruptcy, rehabilitation or placement under
23 receivership or liquidation of the participant on the day of the receipt of the
24 order or resolution issued by the court or quasi-judicial agency. Upon receipt
25 by the operator of such notice, the operator shall immediately stop the
26 processing of any pending payment order involving said participant.

27 The operator of a payment system shall notify in writing its participants
28 and the BSP upon the issuance of a stay order or the declaration of its
29 insolvency, bankruptcy, rehabilitation or placement under liquidation on

1 the day of the receipt of the order or resolution issued by the court or
2 quasi-judicial agency.

3 SEC. 17. *Designation of a Manager to Manage the Operations of the*
4 *Operator of a Designated Payment System.* — In order to avert disruptions in
5 payment systems which may adversely affect the country's monetary and
6 financial stability, the BSP may, upon determination of the existence of any of
7 the circumstances enumerated herein, based on the report of the head of the
8 supervising or examining department, and with prior approval of the Monetary
9 Board, designate without need for prior hearing a manager of recognized
10 competence in payment systems to manage the operations of the operator of a
11 designated payment system, as may be necessary or expedient. For this
12 purpose, a personnel of the BSP may be designated as manager.

13 The following circumstances may be considered as threats to the safety,
14 efficiency and reliability of a designated payment system:

15 (a) The violation of existing laws, rules and regulations by the
16 operator;

17 (b) The failure of the operator to comply with any order of the
18 Monetary Board;

19 (c) The assets of the operator are not sufficient to give adequate
20 protection to its participants or users;

21 (d) The capital of the operator has reached a level or is eroding in a
22 manner that may detrimentally affect its participants, users or the public in
23 general; or

24 (e) Any other financial or business condition of the operator which
25 may be considered by the Monetary Board to be prejudicial to the interests of
26 its participants, users or the public in general.

27 The actions of the Monetary Board taken under this section shall be
28 final and executory, and may not be restrained or set aside by the court except
29 on petition for *certiorari* on the ground that the action taken was in excess of

1 jurisdiction or with such grave abuse of discretion as to amount to lack or
2 excess of jurisdiction. The petition for *certiorari* may only be filed by the
3 stockholders of record representing the majority of the capital stock within
4 ten (10) days from receipt by the board of directors of the operator of the
5 designated payment system of the notice from the BSP advising of the
6 designation of a manager to manage the operations of such operator.

7 The designation of a manager who will manage the operations of the
8 operator of a designated payment system shall only be for such period during
9 which any of the aforementioned circumstances exists. The Monetary Board,
10 however, may replace the manager as it may deem necessary.

11 The manager so designated shall immediately control, manage, and
12 administer the activities of the operator of a designated payment system.
13 Effective immediately upon the designation of the manager, the powers,
14 functions, and duties, as well as allowances, remunerations and perquisites of
15 the incumbent directors shall be suspended. The suspension shall also apply to
16 the officers of such operator of a designated payment system, unless the
17 manager authorizes any officer, in writing, to continue acting as such under
18 such terms and conditions as the manager may determine. The relevant
19 provisions of the articles of incorporation and bylaws of such operator shall
20 likewise be suspended.

21 The manager so designated shall determine within the period prescribed
22 by the Monetary Board, but not to exceed one (1) year from the designation,
23 whether any of the aforementioned circumstances still exists, or whether the
24 operator of a designated payment system may be permitted to resume
25 management with safety to its payment system participants and end-users:
26 *Provided*, That any determination for the resumption of management of the
27 operator of a designated payment system shall be subject to prior approval of
28 the Monetary Board.

1 If the manager so designated determines that the operator of a
2 designated payment system cannot continue its operations without causing
3 damage or prejudice to its participants, end-users, or the public in general, the
4 manager so designated shall notify the Monetary Board of its findings, in
5 writing, and recommend the revocation of the certificate of authority of an
6 operator of a designated payment system. Once the certificate of authority is
7 revoked by the Monetary Board, the provisions of Republic Act No. 10142
8 shall apply. For this purpose, the BSP may initiate the appropriate action
9 under the law.

10 The costs and expenses in managing the activities of the operator of a
11 designated payment system, including the remuneration of the designated
12 manager, shall be paid out of the funds and properties of the operator of a
13 designated payment system, and shall take precedence over other claims.

14 The Monetary Board shall issue implementing guidelines to govern the
15 management by the designated manager of the activities of the operator of a
16 designated payment system, which shall include the following matters:

17 (1) The responsibilities of the designated manager;

18 (2) The information required to be given by the operator, its directors
19 and officers to the designated manager to facilitate the management of the
20 operations of the operator;

21 (3) The circumstances, terms and conditions when the assets of the
22 operator may be sold or disposed of; and

23 (4) Other matters related to the effective exercise of management by
24 the operator and the appropriate performance of the duties of the designated
25 manager.

26 **SEC. 18. Netting.** – Notwithstanding the provisions of existing laws
27 to the contrary, when an operator receives from the participant a notice
28 pursuant to Section 16 hereof, the operator may effect the netting of all
29 payment orders received before such notice in accordance with the agreed

1 procedures of the payment system. The insolvency, bankruptcy, rehabilitation,
2 receivership or liquidation proceedings shall recognize any such netting as
3 valid.

4 SEC. 19. *Self-Regulation.* - The accredited payment system
5 management body may issue and enforce its rules and regulations and impose
6 appropriate sanctions among participants of the designated payment system.
7 Such rules and regulations shall be subject to BSP review and approval.

8 SEC. 20. *Administrative Sanctions.* - (a) Without prejudice to the
9 penalties and sanctions provided in Section 21 of this Act, the Monetary Board
10 may, at its discretion, impose upon any participant of a designated payment
11 system, its directors and officers, including any person or entity determined by
12 the Monetary Board to be acting as an operator without the requisite authority
13 from the BSP, for violations of this Act or rules and regulations issued by the
14 Monetary Board or any order or instruction of the Governor of the BSP, fines
15 in amounts as may be determined by the Monetary Board to be appropriate,
16 but not to exceed one million pesos (P1,000,000.00) for each transactional
17 violation, or one hundred thousand pesos (P100,000.00) a day for each
18 continuing violation, depending on the nature and gravity of the violation or
19 irregularity: *Provided,* That, in case profit is gained or loss is avoided as a
20 result of the violation, an additional fine of no less than the profit gained or
21 loss avoided, but no more than three (3) times the profit gained or loss
22 avoided, may be imposed.

23 (b) The Monetary Board may suspend, disqualify, or remove any of the
24 directors or officers of the operator of a designated payment system for any of
25 the following acts and omissions:

26 (1) Willful violation of the charter or bylaws of the operator of the
27 designated payment system;

1 (2) Willful delay in the submission of reports or publications thereof as
2 required by the rules and regulations to be issued by the Monetary Board
3 pursuant to this Act;

4 (3) Refusal to permit examination into the affairs of the operator of the
5 designated payment system;

6 (4) Willful making of a false or misleading statement to the Monetary
7 Board or BSP examiners;

8 (5) Willful failure or refusal to comply with any provision of this Act,
9 rule or regulation or any order or instruction issued by the Monetary Board
10 pursuant to this Act, or any order or instruction of the Governor of the BSP;
11 and

12 (6) Willful commission of irregularities or the conduct of business that
13 threatens the safety, efficiency or reliability of a payment system as may be
14 determined by the Monetary Board.

15 The suspension of directors and officers of the operator of a designated
16 payment system shall be for a period not exceeding one (1) year, depending on
17 the nature and gravity of the violation or irregularity. Resignation or
18 termination from office shall not exempt such director or officer from
19 administrative or criminal sanctions.

20 (c) Notwithstanding the institution or pendency of an administrative
21 proceeding, if the participant of a designated payment system and its directors
22 and its officers concerned continue with or otherwise persist in the
23 commission of the cited practice or violation, the BSP may issue an order
24 requiring such participant and its directors and officers concerned to cease
25 and desist from the cited practice or violation, and may further order
26 that immediate action be taken to correct the conditions resulting from
27 such practice or violation. The cease-and-desist order shall be immediately
28 effective upon service on the respondents.

1 (d) The revocation of the certificate of authority of an operator of a
2 designated payment system may be ordered by the Monetary Board on the
3 following grounds:

4 (1) The operator violated or has not complied with the provisions of
5 this Act or the rules and regulations or orders and instructions issued by the
6 Monetary Board or any order or instruction of the Governor of the BSP,
7 involving acts or violations which amount to fraud, or expose its participants
8 or the public to material loss or damage; or

9 (2) The operator violated or has not complied with the provisions of
10 this Act or the rules and regulations or orders and instructions issued by the
11 Monetary Board or any order or instruction of the Governor of the BSP, or
12 failed to implement the rules of the payment system or a cease-and-desist
13 order issued by the BSP, and such violation or failure has been determined by
14 the Monetary Board to be a threat to the safety, efficiency or reliability of the
15 payment system or poses a risk to the stability of the monetary and financial
16 system.

17 (e) The cancellation of the registration of any operator of a payment
18 system may be ordered by the Monetary Board, if it finds that the payment
19 system operates to facilitate fraud and other transactions contrary to law, good
20 morals and public policy.

21 The Monetary Board may also order the suspension or revocation of the
22 certificate of authority or the registration with the BSP of an operator of a
23 payment system on the basis of the suspension or revocation of its permits or
24 licenses by other issuing government agencies.

25 SEC. 21. *Other Penalties and Sanctions.* - Whenever any person or
26 entity willfully violates this Act, rule or regulation, directives or orders duly
27 promulgated by the Monetary Board pursuant hereto, the person or persons
28 responsible for such violation shall be punished by a fine of not less than
29 two hundred thousand pesos (P200,000.00) or more than two million pesos

1 (P2,000,000.00) or by imprisonment of not less than two (2) years nor more
2 than ten (10) years, or both, at the discretion of the court.

3 SEC. 22. *Implementing Rules and Regulations.* – The BSP shall
4 promulgate the necessary rules and regulations for the effective
5 implementation of this Act.

6 SEC. 23. *Transitory Provision.* – Payment systems existing on the day
7 of the effectivity of this Act shall be given sufficient time, as may be
8 determined by the BSP, to comply with the requirements of this Act.

9 SEC. 24. *Separability Clause.* – If any provision or section of this Act
10 or the application thereof to any person or circumstance is held invalid, the
11 other provisions or sections of this Act, and the application of such provisions
12 or sections to other persons or circumstances, shall not be affected thereby.

13 SEC. 25. *Repealing Clause.* – All laws, decrees, executive orders,
14 rules and regulations or parts thereof which are inconsistent with this Act are
15 hereby repealed, amended or modified accordingly.

16 SEC. 26. *Effectivity.* – This Act shall take effect fifteen (15) days
17 following its publication in the *Official Gazette* or in a newspaper of general
18 circulation.

Approved,

O