

FIJI INTERCHANGE NETWORK (PAYMENTS) ACT 2017
(ACT NO. 7 OF 2017)

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ACT NO. 7 OF 2017



I assent.

J. K. KONROTE
President

[14 February 2017]

AN ACT

TO PROVIDE FOR THE REGULATION OF PAYMENT SYSTEMS AND SERVICES THROUGH THE FIJI INTERCHANGE NETWORK AND FOR RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji—

PART 1—PRELIMINARY

Short title and commencement

- 1.—(1) This Act may be cited as the Fiji Interchange Network (Payments) Act 2017.
- (2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

Interpretation

2. In this Act, unless the context otherwise requires—

“agent” means a person who has been contracted by a payment service provider to provide a payment service on behalf of the payment service provider in the manner specified in this Act;

- “Authority” means the Fiji Interchange Network Authority established under section 5;
- “bank” has the meaning in the Banking Act 1995;
- “Board” means the Fiji Interchange Network Authority Board established under section 8;
- “central counter-party” means an entity that is the buyer to every seller and the seller to every buyer in a settlement system;
- “clearing” means the process of transmitting, reconciling or confirming funds or securities transfer instructions prior to settlement, and includes the netting of instructions and the establishment of final positions for settlement;
- “clearing house” means any entity that provides clearing or settlement services for a system, including the Authority;
- “electronic fund transfer” means any transfer of funds which is initiated by a person by way of instruction, authorisation or order to a bank to debit or credit an account maintained with that bank through electronic means, and includes point of sale transfers, automated teller machine transactions, direct deposits or withdrawal of funds and transfers initiated by telephone, mobile network operators, internet, card or other devices;
- “electronic money” means electronically, including magnetically, stored monetary value as represented by a claim on the issuer, which is issued for the purpose of making payment transactions and which is accepted as a means of payment by persons other than the issuer;
- “financial institution” has the meaning in the Banking Act 1995;
- “licensed payment system” means a payment system operated by a payment system operator;
- “licensee” means a person licensed to provide a payment service or operate a payment system in accordance with section 21;
- “Minister” means the Minister responsible for the administration of this Act;
- “multilateral netting” means an arrangement amongst parties to net their obligations;
- “net termination value” means the net amount obtained after setting-off or otherwise netting the obligations amongst the parties in accordance with settlement rules issued by the Authority or a netting arrangement entered into between the parties;
- “netting” means the determination of the net payment obligations or the net termination value amongst participants within a system;

“netting arrangement” means an arrangement in writing to convert several claims or obligations into one net claim or one net obligation and includes bilateral netting, multilateral netting, netting by novation, close-out netting, payments netting or a combination of any of these;

“netting by novation” means a netting arrangement between the parties to a series of transactions where an account of amounts due is kept and the rights and obligations of the parties in respect of the account are continuously extinguished and replaced by a new single amount payable by one party to the other;

“Network” means the Fiji Interchange Network implemented under section 18;

“participant” or “party” means a person who is recognised in the rules of a system as eligible to exchange, clear and settle through the system with other participants either directly or indirectly;

“payment card” means any card, coupon book or other device, including a code or any other means of access to an account, that may be used from time to time to obtain money or to make payment, and includes a debit, credit and stored-value card;

“payment instrument” means any instrument, whether tangible or intangible, that enables a person to obtain money, goods or services or to otherwise make payment or transfer money, and this includes, but is not limited to cheques, fund transfers initiated by any paper or paperless device such as automated teller machines, electronic fund transfers at points of sale, internet, telephone, mobile and payment cards, including those involving the storage of electronic money;

“payment service” means a service enabling cash deposits or withdrawals, execution of payment transactions, issuance or acquisition of payment instruments and any other services functional to the transfer of money; and this also includes the issuance of electronic money and electronic payment instruments and electronic money services provided by mobile network and other operators; but does not include the provision of solely on-line or telecommunication services or network access;

“payment service provider” means any entity providing payment services;

“payment system” means any system or arrangement for the processing, clearing and settlement of funds, but excludes—

- (a) a clearing house recognised under any other written law;
- (b) an in-house system operated by a person solely for the person’s own administrative purposes, that does not transfer, clear or settle funds for third parties; and