

REGULATION ON AGENTS

JUNE 2018

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REGULATIONS ON AGENTS

made under

THE NATIONAL PAYMENTS SYSTEM ACT

IN THE EXERCISE OF THE POWERS CONFERRED UPON THE BANK BY SECTIONS 3 AND 55 OF THE NATIONAL PAYMENT SYSTEM ACT, THE BANK HEREBY MAKES THE FOLLOWING REGULATIONS:

PART I - GENERAL PROVISIONS

1. Definitions

- a. "Agent" means a natural or legal person who acts on behalf of a Payment Service Provider to provide payment services.
- b. "Agent payment services" means the provision of payment services to customers by an agent on behalf of a Payment Service Provider as prescribed in this Regulation.
- c. "Basic account" means an account with the following features:
 - i) the minimum initial deposit will be [...].
 - ii) will be non-remunerative account.
 - iii) no minimum monthly balance.
 - iv) no fee for maintaining a basic account
 - v) maximum two deposit transactions and two cash withdrawals are allowed, free of charge, per month.
 - vi) unlimited, free of charge, ATM withdrawals from the Payment Service Providers' own ATMs.
- d. "Electronic receipt" means receipt by i) electronic mail messages, ii) personal message center at the Payment Service Provider website, iii) SMS text message or any other electronic device the Payment Service Provider mention in the agency contract.

- e. “Exclusivity condition” means a condition where a Payment Service Provider allows its Agents to offer its payment services only on condition that they do not offer any other service either proprietary or on behalf of other companies.
- f. “Outlet” means a place of business of the Agent directly responsible to the head office, used for carrying out a commercial activity of the Agent.
- g. “Outsourcing” means use of a third party by a Payment Service Provider to provide on a continuing basis one of the services in respect of its Agent payment services business in accordance with this Regulation that would normally be undertaken by the Payment Service Provider.
- h. “Premises” means the physical location or place used by the agent to conduct business.
- i. “Sub-Agent” is a person to whom some or all aspects of the agent payment services have been delegated by an Agent.
- j. “Third party service provider” means the person that is undertaking the outsourced activity on behalf of either the Payment Service Provider or the agent specifically relating to the existing agent payment services relationship.

2. Scope of the Regulation

This Regulation shall apply to Payment Service Providers that conduct agent payment services as set out in this Regulation.

PART II – APPLICATION AND APPROVAL PROCESS

3. Application for Agent payment services

- (1) A Payment Service Provider seeking to provide agent payment services under section (33) of the National Payments System Act shall prior to the commencement of such business submit an application to the bank in accordance with Form 1 for approval to carry out such services.
- (2) Subsequent approval of each Agent by the Bank is not required.
- (3) The application in subsection (1) shall be supported by the following information:
 - a. proposed number of Agents per region over a [three year] period;

- b. services to be provided through Agents;
 - c. a copy of the standard agency contract;
 - d. policies and procedures for Agents, including:
 - 1. policy and procedures for Agent Due Diligence;
 - 2. Anti-money laundering/Counter Financing of Terrorism policies and procedures.
 - 3. operational policy and procedures;
 - e. description of the technology to be used;
 - f. a risk assessment report of the Agent payment services, including the mitigating measures to be adopted in order to control the risks identified, in accordance with risk management policies currently in force and established under this Regulation;
 - g. internal audit report regarding the adaptation of internal controls performed in readiness for Agent payment services;
 - h. the delivery channel strategy of the Payment Service Provider and how Agents fit in this strategy;
 - i. details on how it intends to oversee Agents especially those which are far from any of its branches;
 - j. a feasibility study of the development of the Agent business for a minimum period of [three years] from the date of the application
 - k. A business strategy for Agent payment services.
- (4) The application in sub-regulation (1) shall be accompanied by the additional information as may be required by the Bank from time to time.
- (5) The duly completed application, including the information specified in paragraph (1) and all supporting documents, together with the payment of the applicable prescribed fees shall be submitted to the Bank.

4. Approval process

- (1) Within [thirty] days following the receipt of the application specified in regulation (section) 3 or, where further information has been required, after receipt of such information, the Bank shall either approve or reject the application.

- (2) The Bank may, in any case where it grants its approval, impose such terms and conditions as it may deem appropriate.
- (3) Where the Bank rejects the application or any part thereof, the Bank shall provide the Applicant a written explanation of the grounds upon which the rejection is based.
- (4) An Applicant whose application has been rejected may re-apply, if the deficiencies that formed the basis for rejection of the initial application or subsequent review have been corrected or otherwise addressed.

PART III - APPOINTMENT OF AGENTS AND SUB-AGENTS

5. Eligible entities

[The following persons shall be eligible for appointment as an Agent or Sub-agent under this Regulation:

- a. Limited liability companies
- b. Cooperatives.
- c. Public entities.
- d. Partnerships.
- e. Post Offices
- f. Non-governmental organizations
- g. Individuals
- h. Any other entity which the Bank may prescribe.]

6. Agent Due Diligence

- (1) Any Payment Service Provider shall, for initial and ongoing assessment of persons that seek to be appointed as Agents, vet and satisfy itself as to the suitability of such persons through clear and well documented Agent Due Diligence policies and procedures.
- (2) Agent Due Diligence policies and procedures shall at a minimum contain:
 - (a) Definition of agent selection criteria,
 - (b) Initial due diligence
 - (c) Regular due diligence checks to be performed at specified intervals

- (d) List of early warning signals
- (e) Roles and responsibilities of various functions of the Payment Service Provider with regard to agent management.
- (f) Corrective actions to ensure effective agent management.

7. Approval of Agents

- (1) Any entity that seeks to be appointed as an Agent by a Payment Service Provider shall furnish the Payment Service Provider with the following documentation as applicable:
 - a. certificate of incorporation or certificate of registration whichever is applicable;
 - b. valid business license or permit for any lawful commercial activity carried on for at least [eighteen months] prior to the date of the application,
 - c. physical location, postal address and telephone number and working hours;
 - d. evidence of availability of funds and source of funds to cover Agent payment services; and
 - e. any other information the Payment Service Provider may request.
- (2) In assessing the suitability of an entity that seeks to be appointed as an Agent, the Payment Service Provider shall consider all relevant factors, as applicable, including but not limited to:
 - a. the entity has an existing, well established, lawful commercial activity which has been operational for at least [eighteen months] immediately preceding the date of the suitability assessment;
 - b. the entity does not contravene any written law, the parent statute, memorandum and articles of association by its carrying out of agent payment services.
 - c. the business track record of the entity in the last [three years] where applicable.
 - d. negative information in possession of credit reference bureaus or gathered from other sources;
 - e. the consent of the regulatory authority or the appropriate oversight authority prior to being appointed an agent, where applicable.

- f. the entity possesses appropriate physical infrastructure and human resources to be able to provide services with the necessary degree of efficiency and security;
 - g. the entity has no criminal record in matters related to finance, fraud, honesty or integrity or criminal convictions and has a good/acceptable reputation;
 - h. audited financial statements at least for the last year, where applicable;
 - i. liquidity position of the entity to entertain deposit and withdrawal request of customers;
 - j. the entity has not been insolvent or entered bankruptcy;
 - k. is tax and NIS compliant; and
 - l. any other matter which negatively or positively impacts on the entity.
- (3) The Payment Service Provider shall keep the information provided under subsection (3) in a confidential manner and shall submit it to the Bank as and when required.
- (4) The Payment Service Provider shall be responsible for the accuracy of the information provided by an Agent.
- (5) Any entity which or whose proprietors, partners, officers or employees furnish a Payment Service Provider with false or inaccurate information shall be disqualified from conducting agent payment services business.

8. Sub-Agents

- (1) Any Agent may appoint a person by contract in writing as its Sub-Agent to provide agent payment services on behalf of the agent where:
- (a) a contract between the Agent and the Payment Service Provider has allowed the Agent to manage a number of Sub-Agents.
 - (b) the sub-agency arrangements are not contrary to or in conflict with this Regulation and the conditions of operation and statutory obligations established in the contract under (a);
 - (c) the sub-agency arrangements are confined solely and specifically to facilitating agent payment services and ensuring that payments are done in accordance with written instructions issued by the Payment Service Provider and the Agent to the Sub-Agent and in respect of the transfers concerned.

- (2) Appointment of Sub-Agents should be notified to the Bank jointly by the Payment Service Provider and its Agent.

9. Outlets

- (1) Any outlet of an Agent, whose operations or activities are managed, controlled, supervised or is subject to the direction of the head office of the Agent and has no separate legal existence from that of the head office of the Agent, shall be deemed to be part of the Agent for purposes of Agent Due Diligence.
- (2) Any act or omission of an outlet of an Agent shall be deemed to be the act or omission of the Agent.

10. Permissible activities

- (1) An Agent may provide any or all of the following activities as may be specifically agreed between it and the Payment Service Provider:
- a. Opening of basic accounts (subject to deposit and transactional limits)
 - b. Cash deposit and cash withdrawal.
 - c. Cash disbursement and cash repayment of loans.
 - d. Payment of utility bills.
 - e. Payment of retirement and social benefits.
 - f. Payment of salaries.
 - g. Transfer of funds (including international remittances).
 - h. Balance enquiry.
 - i. Generation and issuance of a statement with the last few transactions on the customer account.
 - j. Collection of documents in relation to account opening, loan application, credit and debit card application, including customer due diligence for AML/CFT purposes.
 - k. Debit and credit cards transactions.
 - l. Mobile payment services.
 - m. Cheque book request.

- n. Cheque book collection by customers.
 - o. Collection of the payment service provider mail/correspondence for customers.
 - p. Financial education of customers
 - q. Management of Sub-agents, provided the Payment Service Provider is ultimately responsible for payment services rendered and
 - r. Any other activity the Bank may approve.
- (2) Any Payment Service Provider shall be responsible to determine, based on Agent risk assessment, which services a particular Agent should provide.
- (3) Payment Service Providers shall set limits for each Agent in relation to the volume of cash moved by the Agent and the risks associated with the Agent's locality and, where applicable, for each type of transaction.
- (4) In allowing Agents to carry out Customer Due Diligence, the Payment Service Provider shall set limits:
- a. for specific type of accounts and/or
 - b. the number and value per day of customer transactions.

11. Prohibited activities

- (1) An Agent shall not:
- a. operate or carry out an electronic transaction when there is network connectivity problem in the system;
 - b. carry out a transaction when a transactional receipt or acknowledgement cannot be generated;
 - c. charge any fees for their services directly to the customers;
 - d. carry out agent payment services when, in the opinion of the Payment Service Provider, the initial commercial activity has ceased or is significantly diminished.
 - e. offer any type of guarantee in favor of any Payment Service Provider or customer;
 - f. provide payment services on its own account;
 - g. continue with agent payment services when it has a proven criminal record involving fraud, dishonesty, integrity or any other financial impropriety;
 - h. provide any payment service which is not specifically permitted in the contract;

- i. open accounts, grant loans or carry out any appraisal function for purposes of opening an account or granting of a loan or any other facility except as may be permitted by any other written law to which the Agent is subject;
 - j. undertake cheque deposit and encashment of cheques;
 - k. transact in foreign currency;
 - l. provide cash advances;
 - m. be run or managed by a Payment Service Provider's employee or employee's family member
- (2) A Payment Service Provider may specify in the contract other activities which the Agent is prohibited from undertaking.

PART IV – AGENCY CONTRACT

12. Agency contract

- (1) A Payment Service Provider shall enter into a written contract with an Agent for the provision on its behalf of any of the payment services specified in this Regulation.
- (2) Any contract entered into between a Payment Service Provider and an Agent shall comply with this Regulation and any other law in force.

13. Minimum requirements

- (1) Any contract between a Payment Service Provider and an Agent shall contain at least the following provisions:
- a. specific payment services to be provided by the Agent;
 - b. rights, expectations, responsibilities and liabilities of both parties;
 - c. a statement that the Payment Service Provider is fully responsible and liable for all actions or omissions of the Agent. This responsibility extends to actions of the Agent even if not authorized in the contract so long as they relate to payment services or matters connected therewith;
 - d. measures to mitigate risks associated with Agent payment services including limits, customer transactions, cash management, cash security, security of Agent premises and insurance policies;

- e. a statement that the Bank shall be granted full and timely access to the internal systems, documents, reports, records, staff and premises of the Agent in so far as Agent payment services are concerned and shall exercise such powers as it may deem necessary;
- f. AML/CFT requirements;
- g. a statement that all information or data that the Agent collects in relation to Agent payment services, whether from the customers, the Payment Service Provider or from other sources, is the property of the Payment Service Provider;
- h. adequate safeguards for the Payment Service Provider to address instances of noncompliance by the Agent with the stipulated obligations;
- i. prohibition from charging the customer any fees;
- j. business hours of the Agent;
- k. suitable limits on:
 - 1. account opening
 - 2. cash holding by the Agent and
 - 3. on individual customer payments and receipts.
- l. confidentiality of customer and user information;
- m. technical description of electronic devices;
- n. differentiation of services offered by one Agent for different Payment Service Providers;
- o. remuneration of the Agent;
- p. specify that all transactions carried out by the Agent shall be accounted for and shown in the books of the Payment Service Provider by the end of the next working day;
- q. a statement to the effect that employees of an Agent shall not be treated as employees of the Payment Service Provider and their rights and duties shall be agreed upon between the Payment Service Provider and the Agent;

- r. a framework for changing the terms of the contract and for changing the stipulations for default and termination of the contract, including the circumstances under which an Agent can terminate a contract;
 - s. a statement that the Bank can at any time terminate the contract in the exercise of its powers, duties and responsibilities;
 - t. A transition clause on the rights and obligations of the Payment Service Provider and the Agent upon termination of the agency contract;
- (2) The Payment Service Provider and the Agent may provide for other terms as they may consider necessary for engaging in agent payment services.

14. Termination

- (1) In addition to the provisions for termination of the agency contract as may be set out in the contract, an agency contract shall be terminated if an Agent:
- a. carries on agent payment services when the Agent's principal commercial activity has ceased;
 - b. is guilty of a criminal offence involving fraud, dishonesty or other financial impropriety;
 - c. sustains a financial loss or damage to such a degree which, in the opinion of the Payment Service Provider, makes it impossible for the Agent to gain its financial soundness within [three months] from the date of the loss or damage;
 - d. is being dissolved or wound up;
 - e. in case of an individual, dies or becomes mentally incapacitated;
 - f. transfers, relocates or closes its premises without the prior written consent of the Payment Service Provider;
 - g. fails to hold or renew a valid business license;
 - h. violates any provision of this Regulation as may, in the opinion of the Payment Service Provider, warrant termination of the agency contract.
- (2) Termination under paragraph (1) may be initiated by the Payment Service Provider or the Bank. The Payment Service Provider shall ensure that an Agent does not

continue with agent payment services when it is affected by any of the provisions under paragraph (1) of this Regulation.

- (3) Where an agency contract is terminated, the Payment Service Provider shall publish a notice of the termination within the locality of the premises where the Agent was operating or in any other way so as to inform the public of the termination of the agency contract.

15. Exclusivity conditions

- (1) An Agent may provide Agent payment services for more than one Payment Service Provider provided that:
- a. the Agent has separate contracts for the provision of such services with each Payment Service Provider;
 - b. the Agent has the capacity to manage the transactions for different Payment Service Providers and
 - c. the Agent makes it transparent for the customer on behalf of which Payment Service Provider he is acting for any specific activity.
- (2) A Payment Service Provider seeking to contract a person which has already been contracted by another Payment Service Provider to carry out agent payment services shall assess the capacity of the Agent to manage transactions for different Payment Service Providers in terms of space, technological capacity and adequacy of funds of the Agent.

PART V – RESPONSIBILITIES OF THE PAYMENT SERVICE PROVIDER

16. Liability

- (1) The Payment Service Provider shall be responsible and liable for any action or omission of its Agent, or person to which activities have been outsourced by the Agent or Sub-Agent, and this responsibility shall extend to their actions even if not authorized in the contract so long as they relate to agent payment services.
- (2) The Bank may consider, in any action or other proceeding against a Payment Service Provider, the extent to which the Payment Service Provider has established and

maintained policies or procedures for compliance, including policies, procedures, or other appropriate oversight measures designed to assure compliance by an Agent acting for such Payment Service Provider.

17. Management of Agent Payment Services

- (1) The Payment Service Provider shall be responsible for developing and implementing agent payment services strategy.
- (2) The Payment Service Provider shall be responsible for establishing effective management of agent payment services, which shall encompass:
 - a. review and approval of key aspects of the Payment Service Provider’s security control policies, processes and infrastructure and
 - b. a comprehensive process for managing risks associated with reliance on third parties.
- (3) The Payment Service Provider shall ensure that the scope and coverage of its internal audit function is expanded to be commensurate with the increased complexity and risks inherent in agent payment activities and that the audit department is appropriately staffed with personnel having sufficient technical expertise to perform the expanded role.
- (4) The Payment Service Provider shall take steps to ensure that it has updated and modified where necessary its risk management policies and processes to cover agent payment services.
- (5) A Payment Service Provider shall provide Agents with sufficient training to enable the Agents to adequately provide the services agreed upon, including training relating to the proper identification of customers, customer service, confidentiality of information, cash security, record keeping and financial education.

18. Risk management

- (1) A Payment Service Provider shall ensure a risk management framework to provide Agent payment services is in place through:

- a. developing a risk-management program for Agent payment services, recognizing, addressing and managing services-related risks in a prudent manner according to the peculiarities of each service;
- b. paying special attention to credit risk, operational risk, legal risk, liquidity risk, reputation risk and compliance with rules for combating money laundering and financing of terrorism;
- c. undertaking due assessment of Agent suitability and set limits for Agents' various activities commensurate with the assessment;
- d. devising product programs, procedure manuals and customer limit structures taking into account the implications for operational and liquidity risks for Agent;
- e. monitoring the safety, security and efficiency of equipment being used by Agents, including the IT platform;
- f. recognizing, addressing and managing electronic payment related risks in a prudent manner;
- g. properly identifying and mitigating technology risks regarding information and data security;
- h. developing a business continuity management plan to mitigate any significant disruption, discontinuity or gaps in Agents' functions;
- i. developing lines of communication to ensure timely dissemination of Agent payment services policies and procedures and other relevant information to all individuals involved in the process; and
- j. reporting to the board on the operation and effectiveness of the Agent payment services arrangements, as comprehensively and frequently as required by the board;
- k. having in place systems and personnel to adequately monitor and control Agent payment services operations on an ongoing basis.

19. Customer due diligence

- (1) Payment Service Providers shall ensure that Agents carry out, within the limits established in the agency contract, Customer Due Diligence.
- (2) Factors to be considered in carrying out Customer Due Diligence include:
 - a. know Your Customer requirements;
 - a. transactional limits per day, month and year commensurate with customer's profile;
 - b. maximum balance limits on debit and credit;
 - c. minimum technological security requirements;
 - d. two factor authentication per customer per transaction.
- (3) In carrying out Customer Due Diligence, Agents shall comply with all applicable AML/CFT laws and requirements of Guyana, including reporting to the Payment Service Provider all suspicious activities.

PART VI - POWERS OF THE BANK AND REPORTING

20. Reporting requirements

Any Payment Service Provider shall submit to the Bank at the end of every calendar month, and not later than the [10th] day of the next month, information on Agent operations including information on:

- a. nature, value, volume and geographical distribution of operations or transactions;
- b. total number of agents in operation during the reporting period;
- c. number of agents added during the last month, if any;
- d. incidents of fraud, theft or robbery;
- e. customer complaints;
- f. remedial measures taken to address customer complaints.

21. Annual report

Any Payment Service Provider shall submit to the Bank not later than [XXX] of each year an annual report on its Agent payment services operations including names, number and other information on Agent operations related to the previous year.

22. Notifications to the Bank

- (1) Any Payment Service Provider shall inform the Bank immediately of any changes in the list of Agents and Sub-agents.
- (2) Any Payment Service Provider shall notify to the Bank of any change in name, ownership, beneficial ownership, directorship, management and location of the business of its Agents and Sub-agents.
- (3) Any Payment Service Provider shall disclose to the Bank the nature of any other business in which the beneficiary owners of its Agents are engaged.

23. Supervisory powers of the Bank

Notwithstanding the responsibility imposed on Payment Service Providers to monitor and supervise their Agents, the Bank may at any time, in addition to the powers conferred under section 33 (8) of the National Payments System Act, exercise its regulatory and supervisory powers under sections 3 of the National Payments System Act and may request such data or information or carry out such inspection as it deems necessary.

PART VII - CUSTOMER AWARENESS AND PROTECTION

24. List of Agents and Sub-Agents

- (1) The Payment Service Provider shall publish an updated list of Agents and Sub-Agents in the Payment Service Provider's website and such other publications or as the Payment Service Provider may deem appropriate.
- (2) The publications containing the list of Agents and Sub-Agents shall be disseminated to all the branches of the Payment Service Provider.

25. Measures to inform customers of their rights and responsibilities

- (1) Customers can use the Payment Service Providers' channel for communication of customer complaints, such as dedicated customer care telephone lines, for reporting or lodging a complaint with the Payment Service Provider related to agency payment services, including for verifying the authenticity and identity of the agent, its physical location and the validity of its agent payment services.
- (2) Agents shall issue receipts or acknowledgements for transactions carried out through them. Payment Service Providers shall provide their agents with the equipment necessary for that purpose. In this regard, electronic receipts or acknowledgements are permissible and can be either stored or printed according to contractual terms.
- (3) Where an agent acts as a receiver and deliverer of documents, an acknowledgement shall be provided for all documents received or delivered by the agent from or to the customer.
- (4) In case an entity is engaged as agent by more than one Payment Service Provider, it shall be ensured that the customer database and account details are kept separate and there is no comingling of data.
- (5) In the provision of agent payment services, Payment Services Providers shall use secure systems that ensure customer information confidentiality.
- (6) The customer should be made aware of the fact that he is not supposed to carelessly store his PIN and other critical information or share such information with other parties including agents.
- (7) Payment Service Providers must implement measures to ensure customers are adequately informed of their rights and responsibilities established under this Part.

26. Disclosure on Agent premises

- (1) An Agent shall disclose to the Payment Service Provider's customers in a conspicuous place on the Agent's premises:

- a. name of the Payment Service Provider and, when applicable, the Payment Service Provider's logo;
 - b. a certified copy of the certificate of agency issued by the Bank under section 33 (6) of the Act.
 - c. list of payment services provided;
 - d. a written notice to the effect that if the electronic system is down, no transaction shall be carried out;
 - e. a written notice to the effect that payment services shall be provided subject to availability of funds;
 - f. list of charges or fees applicable for each service which are payable to the Payment Service Provider by the customers;
 - g. name, telephone, mobile, email, and location of the Payment Service Provider's branch to which the Agent reports its Agent activities;
 - h. documents mentioned in subsection (2).
- (2) Upon request by a customer, any Agent shall show a copy of the agency contract, a copy of the appointment letter from the Payment Service Provider and the current permission for the activity being undertaken by the Agent.

27. *Relocation and closure of business*

- (1) No Agent shall relocate, transfer or close its Agent payment services business without prior written notice to the Payment Service Provider.
- (2) Notice of intention to relocate, transfer or close Agent payment services business shall be served on the Payment Service Provider at least [thirty days] before such relocation, transfer or closure.
- (3) Within thirty days prior to relocation or closure of agent premises, the Payment Service Provider shall notify the Bank of the Agent's intention.
- (4) A Payment Service Provider shall ensure that a notice of not less than [fourteen] days is provided to customers in the event of relocation or closure of the Agent payment services business of a specific Agent.

- (5) The notice of intended relocation or closure shall be conspicuously affixed on the Agent payment services business' premises and it shall state the date the relocation or closure shall take effect.

PART VIII - MISCELLANEOUS

28. Settlement of transactions

- (1) All payment transactions from or to an account shall be in real time.
- (2) Payment Service Providers shall ensure that Agents are able to carry out real time transactions.

29. Outsourcing

- (1) A Payment Service Provider may enter into a written contract with a third party service provider for the provision of the following services in respect of its Agent payment services business:
- a. cash handling;
 - b. provision and maintenance of all technological platforms and devices;
 - c. agent selection;
 - d. agent training;
 - e. equipment provision;
 - f. equipment maintenance.
- (2) A service agreement shall be signed for all third-party service arrangements.
- (3) A third-party service provider shall not perform activities that are attributed to Agent payment services unless he signs a separate agreement with a Payment Service Provider to become an Agent as provided in this Regulation.

30. Administrative sanctions

If a Payment Service Provider fails to comply with this Regulation, the Bank may pursue any or all of the following administrative sanctions against a Payment Service Provider, its board of directors, officers or Agents:

- a. prohibition from engaging in any further Agent payment services business;
- b. prohibition from contracting new Agents;

- c. revocation of Agent approval;
- d. termination of agency contract;
- e. withholding corporate approvals.

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