

REGULATION ON ELECTRONIC MONEY
IN GUYANA
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(DRAFT)

Contents

Part I – General Provisions	4
1. Definitions.....	4
2. Scope of the Regulation	6
Part II – Requirements for Licensing of Electronic Money Institutions.....	6
3. Prohibition from issuing Electronic Money.....	6
4. Conditions of licensing	7
5. Licensing application.....	8
6. Suspension or Revocation of a licence.....	10
Part III - Responsibilities of Electronic Money Issuers	11
7. Risk management.....	11
8. Operational safeguards (risk).....	11
9. Security safeguards (risk).....	12
10. Disaster Recovery Procedures and Business Continuity Plan.....	12
11. Technology and information security	13
12. Interoperability	13
Part IV – Customer Registration and Electronic-Money Account.....	14
13. Customer registration	14
14. Issuance and redeemability of Electronic Money.....	14
15. Prohibition of treating funds as a deposit	15
16. Prohibition from granting credit.....	15
17. Prohibition of interest.....	15
18. Currency.....	15
19. Funds safeguarding requirements	16
20. Electronic money accounts	16

21.	Imposition (Transaction) limits	17
22.	Dormant account	17
Part V - Custodian Account		17
23.	Custodian Account	17
24.	Custodian Agreement	19
25.	Responsibilities of the Custodian Bank.....	20
26.	Treatment of account in case of insolvency	20
Part VI - Use of Agents.....		21
27.	Use of Agents	21
28.	Appointment of Agents.....	21
Part VII - Reporting and Supervision.....		21
29.	Material changes in funds safeguarding measures	21
30.	Data collection	21
31.	Record keeping	21
32.	Supervision.....	22
33.	Submission of statistics and information.....	22
34.	Material changes in funds safeguarding measures	23

REGULATIONS ON ELECTRONIC MONEY

made under

THE NATIONAL PAYMENTS SYSTEM ACT

IN THE EXERCISE OF THE POWERS CONFERRED UPON THE BANK BY SECTIONS 3, (AND) 49(3), AND 55 OF THE NATIONAL PAYMENTS SYSTEM ACT, THE BANK HEREBY MAKES THE FOLLOWING REGULATIONS:

Part I – General Provisions

1. Definitions

- a. “Bank” means the Bank of Guyana established under the Bank of Guyana Act;
- b. “Bank” shall have the same meaning assigned to it as in the Financial Institutions Act;
- c. “Custodian Account” means a trust account maintained at a Custodian Bank, in which customer’s funds are held for the interest of the customer;
- d. “Custodian Bank” means a bank which maintains a Custodian Account on behalf of the Electronic Money Issuer;
- e. “Customer” means the electronic money holder, which refers to any person to whom the Electronic Money has been issued or any person who uses the Electronic Money to make payments for purchases of goods and services.
- f. “Electronic Money” means monetary value represented by a claim on the issuer, which is:
 - i. stored electronically, including magnetically or in any other tangible or intangible device such as a SIM card or a software;

- ii. issued on receipt of funds for the purpose of making payment transactions of an amount not less in value than the monetary value issued for the purpose of making payment transactions; and
- iii. accepted as a means of payment by persons other than the issuer; but the funds referred to in subparagraph (ii) above shall not be treated as a deposit under this or another enactment;
- g. “Electronic Money Account” means an account maintained by an Electronic Money Issuer. The term includes Custodian Accounts held by Custodian Banks on behalf of Electronic Money Institutions;
- h. “Electronic Money Float” means the total outstanding electronic money liabilities of the electronic money issuer to its customers at any point in time;
- i. “Electronic Money Issuer” means a bank and an Electronic Money Institution;
- j. “Electronic Money Institution” means a legal person that has been granted a licence under section 10 of the Act (Chapter III) to provide (issue) electronic money payment services;
 - a. Custodian Account based payment service is an electronic money payment service that may be offered by an electronic money institution to allow customers to effect payment from pre-funded accounts. A requirement of each Custodian Account Based Payment Service is that the aggregate balances of all customer funds be held in specialized trust accounts with one or more licensed deposit taking financial institutions referred to as a “Custodian Account.”
 - b. Customer Account Based Payment Service is an electronic money payment service that can only be offered by an electronic money issuer other than an electronic money institution i.e. a bank. The payment instruments offered in this category allow customers to effect payments

from deposit balances held with the bank. A bank is not prohibited from offering electronic money services for non-account holders in accordance with the requirements of the Custodian Account Based Service offered by electronic money institutions.

- k. “electronic payment instrument” means any tangible or intangible instrument, device or mechanism that enables a person to make payment(s) for goods or services or to transfer money.” The electronic money issuer will be required to establish some mechanism to facilitate the use of the electronic money to make payments and it is presumed that the issuance of electronic payment instruments would be this mechanism.
- l. “interoperability” means a commercial interconnectivity among different payment systems, payment service providers, including Electronic Money Issuers, and payment instruments including the capability of electronic systems to exchange messages;
- m. “operational risk” means the risk that deficiencies in internal controls and information systems might result in unexpected losses for the institution

2. Scope of the Regulation

This Regulation lays down the rules for the pursuit and conduct of electronic money payment services.

Part II – Requirements for Licensing of Electronic Money Institutions

3. Prohibition from issuing Electronic Money

No person other than a bank shall conduct the business of electronic money payment services unless licensed to do so under section 10 of the Act.

4. Conditions of licensing

- (1) In order to be issued with a licence to conduct the business of electronic money payment services the applicant (electronic money institutions) shall satisfy the following minimum requirements that :
- a. It is registered under the Companies Act (Commercial Code) as a company limited by shares;
 - b. It has a minimum paid up capital of XXX and minimum own funds of XXX
 - c. It has opened a Custodian Account in at least one bank in connection with the provision of Electronic Money Payment Services;
 - d. It has suitable and sufficient technical and organizational skills to issue electronic money, including adequate internal control and risk management systems and procedures;
 - e. It has a mechanism to safeguard funds which have been received from users of a payment instrument for the execution of payment transactions, by not making them commingled at any time with any other funds and making them insulated against the claims of other creditors of the payment instrument issuer, in particular in the event of insolvency;
 - f. It has a detailed strategy and business plan supported by realistic estimations in the budget forecast for five years;
 - g. The material shareholders, board of directors and senior management responsible for the business of issuing electronic money are (shall) at all times be fit and proper persons;
 - h. It is capable of complying with all prudential requirements determined by the Bank, as well as guidelines, circulars, instructions and directives issued by the Bank.;

5. Licensing application

- (1) Notwithstanding the provisions of Title II of the Regulation on Oversight, an application for a licence to provide electronic money payment services shall be submitted in writing to the Bank and shall contain at least the following information:
- a. an attested copy of the Articles of Incorporation (documents of registration, the Memorandum of Association and Articles of Association of the applicant);
 - b. an attested copy of the current licence obtained from the regulatory or supervisory authority of the applicant;
 - c. an attested copy of the resolution adopted by the Board of Directors on the establishment of the issuing of Electronic Money by the applicant;
 - d. a no objection letter from the regulatory or supervisory authority of the applicant that they have no objection with the applicant issuing electronic money;
 - e. registered address and the proposed name under which applicant intends to issue Electronic Money Payment Services;
 - f. the names and permanent addresses of the major shareholders and members of the Board of Directors of the applicant and any other information relating to such persons as may be determined by the Bank;
 - g. a business plan, including a budget forecast, for [five] financial years from the date the applicant intends to commence issuing electronic money and which demonstrates that the applicant is able to employ systems, resources and procedures in the provision of the service that are appropriate, proportionate and sound;
 - h. measures to be taken to safeguard the funds of customers of the Electronic Money Payment Services and measure to be taken for the protection of consumers;
 - i. a description of the applicant's management arrangements and internal control mechanisms, including administrative, risk management and accounting procedures, which demonstrate that these management

arrangements and internal control mechanisms and procedures are appropriate, sound and adequate to issue electronic money;

- j. details of the internal control mechanisms which the applicant has established in order to comply with obligations in relation to anti-money laundering and terrorist financing;
 - k. the applicant's organizational structure including, if applicable, information about proposed Agents, branches, outsourcing arrangements and participation in a national or foreign payment system;
 - l. name and address of the bank or banks proposed for appointment as Custodian Bank;
 - m. details of the custodian arrangements to be entered with each proposed Custodian Bank along with a copy of the proposed agreement to be entered with each such bank and a letter from the respective custodian bank(s) indicating its undertaking to fulfill the relevant conditions and responsibilities given in these regulations; and
 - n. any other document or information the Bank may require.
- (2) In deciding whether to grant or refuse the licence to issue electronic money to the applicant, the Bank shall have regard, in particular, in addition to the satisfaction of the licensing requirements described under regulation (section) 4, to:
- a. the ability of the applicant to issue electronic money safely and efficiently;
 - b. an appropriate and thoroughly tested technology system to be used for issuing electronic money;
 - c. the adequacy of the security policies and measures intended to safeguard the integrity, authenticity and confidentiality of data;
 - d. the existence of an effective audit function to provide periodic review of the security control environment and critical systems;
 - e. adequacy of the accounting systems and reconciliation processes;
 - f. the ability to comply with the requirements on consumer protection established in the Oversight Regulation;

- g. Adequacy of business continuity and disaster recovery plan including reliable back-up systems;
- h. where the applicant is engaged in any other commercial activities, the potential of that activity impairing or otherwise affecting the safety and soundness of the proposed issuing of Electronic Money;
- i. the soundness of the arrangements to be implemented between the applicant and proposed Custodian Bank or Banks; and
- j. any other matter that the Bank may deem necessary.

6. Suspension or Revocation of a licence

- (1) The Bank may decide to withdraw or suspend the licence to issue electronic money granted under the Act if any of the conditions established in Section 16(1) of the National Payments System Act are fulfilled.
- (2) The Bank may, upon revocation of the license, require the Electronic money issuer and its Custodian Bank to:
 - a. distribute the funds held in the Custodian account to the beneficiaries within a prescribed period and submit reports of distribution;
 - b. pay any shortfall in the Custodian Account;
 - c. provide access to or hand over the entire database, electronic records in a readable format and other relevant information to the Bank for investigation purposes;
 - d. cease immediately from carrying out Payment Services licensed under the Act.
- (3) The Bank shall notify the public of the revocation of an electronic money issuer's license in at least two daily newspapers of general circulation and in the electronic media.

Part III - Responsibilities of Electronic Money Issuers

7. Risk management

The Board of Directors of the electronic money issuer shall establish appropriate risk management policies, procedures and infrastructure to address risks that may arise during the provision of Electronic Money Payment Services, including the risk of commingling the electronic money account funds with any other funds or use it for any other operations. The implementation of such policies and procedures shall be the responsibility of the Board of Directors.

8. Operational safeguards (risk)

- (1) Electronic money issuers shall establish adequate operational procedures and internal controls in providing electronic money payment services. Such arrangements and internal control measures shall include, but shall not be limited to, the following:
- a. Measures to ensure safety, security and operational reliability of electronic money payment services including contingency arrangements;
 - b. Rules and procedures setting out the rights, responsibilities and liabilities of the electronic money issuer, its agents and customers, and the risks each person may incur;
 - c. Maintain separate sets of records and accounts for its Electronic Money Payment Services from other business activities and where possible, update records in real time ;
 - d. Ensure no comingling of funds;
 - e. Provision of adequate internal controls for systems and personnel administration;
 - f. Measures to ensure clearing and settlement arrangements are efficient, reliable and secure;

- g. Maintain adequate information and accurate accounting for the purpose of reconciliation of outstanding balance of electronic money accounts against the balance of the custodian account; and
- h. Any other arrangements as may be specified by the Bank.

9. Security safeguards (risk)

Any electronic money issuer shall implement an adequate security risk management framework to actively identify, assess, reduce and monitor security risk. The security system shall at minimum ensure the following:

- a. All confidential information shall be maintained in a secured manner and protected from unauthorized viewing or modification during transmission and storage to safeguard the integrity, authenticity and confidentiality of data;
- b. All information processed, stored or transmitted is accurate, reliable and complete;
- c. Ensure there is a proper authentication process to validate that the electronic money payment is being initiated by an authorized user and adequate arrangements are in place to prevent access to payment and customer information, except by authorized viewers;
- d. Adequate monitoring of the operations of its agents and the manner in which business operations which have been outsourced are being carried out, including adequate arrangements for issuance of approvals pursuant to work carried out by such parties, in instances where an approval is required.

10. Disaster Recovery Procedures and Business Continuity Plan

- (1) Electronic money issuers shall establish adequate procedures to carry out the following in the event of a disaster or incident preventing the provision of Electronic Money Payment Services, with all such procedures to be regularly reviewed and tested:

- a. maintenance of records and other information required for the operation of the business in such a manner that they are not lost or can be recovered without adverse effects to the service;
 - b. recovery from adverse effects to the systems; and
 - c. arrangements for the provision of uninterrupted services and in the event of a disruption of services, the resumption of services within a reasonable timeframe.
- (2) The Electronic Money Issuer shall report any disaster or incidents obstructing or preventing the provision of Electronic Money Payment Services to the Bank.
- (3) In case of a major operational or security incident, the Electronic money issuer shall, without undue delay, also notify them to the Bank.

11. Technology and information security

Matters relating to technology and information security systems utilized by electronic money issuers in the provision of services, shall be maintained according to the standards specified below and in accordance with any standards as determined and instructed by the Bank:-

- a. The technology used for providing electronic money service facilities shall be safe and secure, and the technology shall be capable of maintaining the confidentiality, integrity, authenticity and non-repudiation of the payment related information.
- b. Information security policies established for the adequate maintenance of security of payment transactions made through electronic devices, shall be updated and enforced.
- c. Electronic money issuers shall be ready and vigilant against any possible cyber risks and shall implement security systems to minimize such risks.

12. Interoperability

- (1) Any electronic money issuer shall allow account to account interoperability.
- (2) Account to account interoperability allows customers to:

- a. Transfer money directly and in real-time among accounts from different Electronic Money Issuers; and
 - b. Transfer money directly and in real-time between Electronic Money Accounts and Bank accounts, linking individual Electronic Money Accounts to a Customer's Bank account to accommodate further arrays of products and services for the Customer.
- (3) To ensure account to account interoperability, the Electronic Money Issuer shall use systems capable of becoming interoperable with other payment systems including other electronic money schemes. Restriction to such interoperability is permissible up to [xxx months]. For this purpose, an Electronic Money Issuer may amongst other things, enter into interoperable arrangements;

Part IV – Customer Registration and Electronic-Money Account

13. Customer registration

- (1) Electronic money issuers shall establish a formal system for registration of their customers and until otherwise instructed by the Bank, the registration shall be carried out through signed documents submitted by customers.
- (2) Electronic money issuers, shall at the time of registration of a customer for Electronic Money Payment Services, provide its terms and conditions to the customer. Registration shall be carried out only upon acceptance of the terms and conditions by the customer. The Electronic money issuers can employ various means such as its website or registration form to communicate its terms and conditions to the customer.

14. Issuance and redeemability of Electronic Money

- (1) Any Electronic Money Issuer shall issue electronic money at par value on the receipt of funds.

- (2) Any Electronic Money Issuer shall ensure, upon request by the customers, to redeem, at any moment and at par value, the monetary value in central bank money of the electronic money held.
- (3) Where redemption is requested before the termination of the contract, the customer may request redemption of the electronic money in whole or in part.
- (4) Where redemption is requested by the customer on or up to one year after the date of the termination of the contract, the total monetary value of the electronic money held shall be redeemed.
- (5) The terms and conditions under section 13(2) shall clearly and prominently state the conditions of redemption and the customer shall be informed of those conditions before being bound by any contract or offer.

15. Prohibition of treating funds as a deposit

The issuance of electronic money by Electronic Money Institutions does not constitute a deposit-taking activity, in view of its specific character as an electronic surrogate for coins and banknotes, which is to be used for making payments of limited amount and not as means of saving. The funds received by the Electronic Money Institution in exchange for Electronic Money issued shall not be treated as a deposit.

16. Prohibition from granting credit

An Electronic Money Institution shall not grant credit to the customer from the funds received or held for the purpose of issuing electronic money.

17. Prohibition of interest

An Electronic Money Institution shall not grant interest or any other financial return or benefit related to the length of time during which the customer holds the electronic money.

18. Currency

- (1) Any Electronic Money Issuer shall ensure that electronic money be issued in Guyanese dollar and used only for domestic transactions.

- (2) Notwithstanding subsection (1), an Electronic Money Issuer who is a bank can issue electronic money in foreign currency and provide cross-border transfers with prior approval of the Bank.

19. Funds safeguarding requirements

- (1) Electronic Money Institutions shall safeguard funds that have been received in exchange for electronic money issued by holding the funds in a Custodian Account in the manner prescribed in this Regulation.
- (2) Banks offering electronic money services to customers shall subject the funds received to the same prudential rules that apply to deposits

20. Electronic money accounts

- (1) Any Electronic Money Issuer shall open only one electronic money account per Customer.
- (2) Any Electronic Money Issuer shall open and maintain separate Electronic Money Account/s for each Customer seeking Electronic Money Payment Services,
- (3) Electronic Money Issuers shall perform customer due diligence before opening an electronic money account for a customer. The due diligence measures shall include, but not be limited to, identifying the customer and verifying the identity of the customer.
- (4) Electronic Money Issuers shall provide a statement of the electronic money account to the customer, electronically or in a printed form, periodically or upon request of the customer.
- (5) Electronic Money Issuers shall notify the customer, on a real time basis, of the transactions made from the customer's electronic money account which affects the value of Electronic Money stored in the account.
- (6) At the written request of a customer to close an electronic money account, the Electronic Money Issuer shall do so expeditiously and redeem the monetary value of the Electronic Money held:
- 6.1. to cash and deliver to the customer or
- 6.2. via any other account specified by the customer.

- (7) The right of an electronic money account holder to claim redemption of funds extinguishes in 5 (five) years of the closure of the electronic money account.

21. Imposition of (Transaction) limits

- (1) Electronic money Issuers shall determine transaction limits, which may include, but not limited to, individual account balance limits, daily transaction limits and aggregate monthly Electronic Money load limit, only after obtaining the approval of the Bank.
- (2) The Bank reserves the right to impose on issuers and agents such conditions and limits as it deems necessary. The conditions and limits may include the extent and nature of operations, the payment instruments that may be offered and limits on the monetary values that may be transferred or refunded using the payment instrument.

22. Dormant account

- (1) In case of dormant account, an Electronic Money Issuer shall treat balances in the Electronic Money Account as abandoned property.
- (2) The Electronic Money Issuer shall promptly communicate to the Custodian Bank of any dormant account.
- (3) The Electronic Money Issuer shall transfer to the Bank the balances in the Electronic Money Account that has been dormant consecutively for a period of five years and have not been claimed within such timeframe.
- (4) The Bank shall treat the abandoned property in accordance with the prevailing laws.

Part V - Custodian Account

23. Custodian Account

- (1) An Electronic Money Institution shall not commence to issue Electronic Money without opening and maintaining a Custodian Account at a Custodian Bank, as provided in this Regulation.
- (2) All money accepted by the Electronic Money Institution in exchange for the issuance of Electronic Money shall be deposited in a Custodian Account, to be solely used for depositing funds collected from Customers in exchange of Electronic Money.

- (3) The funds deposited in the Custodian Account do not belong to the Electronic Money Institution, but to the holders of the electronic money accounts with the Electronic Money Institution and funds must be placed in the Custodian Account solely for the benefit of the holders of the electronic money accounts.
- (4) Where an Electronic Money Institution opens multiple Custodian Accounts with more than one Custodian Bank, the Electronic Money Institution shall clearly define the set of electronic money accounts related to each Custodian Account.
- (5) Any Electronic Money Institution shall ensure that the funds deposited in its Custodian Account are at all times equivalent to the total value of Electronic Money issued and outstanding.
- (6) Any Electronic Money Institution shall not have access to funds in the Custodian Account and shall not use the funds in the Custodian Account as security or collateral at any time.
- (7) The Custodian Account shall not be an interest or profit bearing account.
- (8) Notwithstanding subsection (7), a Custodian bank may open an interest bearing custodian account with the authorization of the Bank. However, the interest earned through the Custodian Account shall be credited to a separate account and shall be used for the direct benefit of the Electronic Money holders. The Custodian Account is a deposit liability of the Custodian Bank.
- (9) Any Electronic Money Institution shall provide access to the Custodian Bank to its electronic money system, as and when requested by the Custodian Bank, in order to monitor balances and activities of electronic money account.
- (10) The Bank may at its discretion instruct an Electronic Money Institution to open Custodian Accounts with more than one bank.
- (11) Electronic Money Institutions shall not transfer the money held at the Custodian Account to its own account used for normal business operations.
- (12) A Custodian Bank may, with the approval of the Bank, invest the funds held in the Custodian Account in Government securities and any revenue earned from the investment shall be credited to a separate account.

- (13) Payment for any fees or charges incurred in connection with the administration of the Custodian Account shall not be made from the Custodian Account.

24. Custodian agreement

- (1) An agreement shall be entered into between the electronic money institution and the Custodian Bank in order to open and operate the Custodian Account and to ensure proper and effective funds safeguarding.
- (2) The electronic money institution shall provide a copy of the agreement to the Bank.
- (3) The Custodian agreement shall include, at minimum:
- a. duties and responsibilities of the Custodian Bank and the electronic money Institution included in this Regulation;
 - b. details on how the funds are held and, if permitted by the Bank, invested.
 - c. provisions on discontinuation and/or termination of the Custodian Agreement and subsequent handling of the funds that are in the Custodian Account;
 - d. procedure on handling of dormant accounts and accounts of deceased persons;
 - e. arrangements for daily reconciliation of funds held in the Custodian Account with the cumulative balances of all electronic money accounts held with the Electronic Money Institution;
 - f. provision of sharing of customers' identification information with the Custodian Bank in the event of termination of the business or declaration of insolvency of the Electronic Money Institution;
 - g. any other aspects the Bank may deem necessary.
- (4) An agreement entered into under sub-regulation (section) (3) (of this section) shall not include exclusivity clauses preventing the Custodian Bank from opening Custodian Accounts for other Electronic Money Institutions or the Electronic Money Institution opening a custodian account at another bank.

25. Responsibilities of the Custodian Bank

- (1) Prior to operating as a Custodian Bank, a Bank shall obtain a no-objection letter from the Bank.
- (2) The Custodian Bank shall be responsible for the following in the maintenance and administration of the Custodian account:
 - a. Reconciling of funds held in the Custodian Account with the cumulative value of all electronic money accounts issued by the Electronic Money Institution at least daily.
 - b. Monitoring, at predefined frequencies, all transactions carried out from the Custodian Account by the Electronic Money Institution.
 - c. Complying with all the requirements and obligations under the Law on the Prevention of Money Laundering and regulations issued under it, including reporting requirements.
 - d. Maintaining adequate and complete records of the Electronic Money Float in the Custodian Account.

26. Treatment of account in case of insolvency

In the event of termination of the business or declaration of insolvency of the Electronic Money Institution:

- a. the Custodian Bank shall freeze and block the Custodian Account;
- b. the funds in the Custodian Account shall not be considered an asset of the business of the Electronic Money Institution, and the Electronic Money Institution shall have no claim over the funds in the Custodian Account;
- c. the Custodian Bank shall distribute the funds in the Custodian Account to Customers. The Custodian Agreement should specify that, in such instances, the Electronic Money Institution shall provide the Custodian Bank with the Customer identification documentation.

Part VI - Use of Agents

27. Use of Agents

- (1) Electronic Money Issuers may distribute and redeem Electronic Money through agents.
- (2) Electronic Money Issuers shall not issue Electronic Money through Agents.

28. Appointment of Agents

Any Electronic Money Issuer seeking to provide Electronic Money Payment Services through the use of agents shall do so only after obtaining the approval of the Bank and in accordance with the Regulation on Agents.

Part VII - Reporting and Supervision

29. Material changes in funds safeguarding measures

Electronic Money Issuers shall inform the Bank in advance of a change in the Custodian Bank or Custodian Banks where safeguarded funds are deposited.

30. Data collection

An Electronic Money Issuer shall maintain a sound management information system that:

- a. facilitates efficient collection and processing of statistical information and data; and
- b. is capable of providing accurate and accessible audit trail for its own use, use by internal and external auditors and the Bank.

31. Record keeping

- (1) Electronic Money Issuers shall maintain accurate and complete records of all transactions conducted in the course of business and keep them for a period of not less than 7 seven years from the date of the transaction.
- (2) Records mentioned in sub-regulation (section) (1) shall contain information on the following (information):
 - a. (on) identification of customers and agents;

- b. (on) electronic money accounts, including transactions carried out by customers from their electronic money accounts and outstanding balances of the electronic money accounts;
- c. (on) transactions carried out from each Custodian Account, the outstanding balance held at each Custodian Account, and the aggregate electronic money value; and
- d. any other record that the Bank may specify.

32. Supervision

The Bank shall in respect of the business of providing Electronic Money Payment Services, including Electronic Money Issuers, their Agents and Custodian Banks.

33. Submission of statistics and information

- (1) Every year, within three months of the 31st December, Electronic Money Issuers shall provide to the Bank statistics on electronic money loaded and redeemed values in their financial statements and shall also be able to provide sufficient and reliable information to the Bank to monitor and control the quantity and velocity of Electronic Money supply in the economy.
- (2) Any information shall be furnished to the Bank in the form and details and at the intervals specified by the Bank.
- (3) Subject to subsection (1), the Electronic Money Issuer shall submit at least the following information within ten days of the end of every calendar month:
 - a. the volumes, values and geographic distribution of each Electronic Money Service offered by it; incidents of fraud, theft or robbery;
 - b. material service interruptions and major security breaches; and
 - c. complaints reported, including remedial measures taken, those resolved and those outstanding.
- (4) The Bank may at any time request any information from the Electronic Money Issuer, any of its agents and the Custodian Bank.

34. *Material changes in funds safeguarding measures*

Electronic Money Institutions shall inform Bank in advance of any material change in measures taken for safeguarding of funds that have been received in exchange for electronic money issued.

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