

Rwanda

Regulation of the National Bank of Rwanda relating to the Licensing Criteria of Operating Payment and Securities Settlement Systems Regulation 8 of 2015

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Regulation of the National Bank of Rwanda relating to the Licensing Criteria of Operating Payment and Securities Settlement Systems

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Pursuant to Law n° 55/2007 of 30/11/2007 governing the Central Bank of Rwanda, especially in articles 6, 9, 56, 57 and 72;

Pursuant to Law n° 03/2010 of 26/02/2010 concerning the Payment System, especially in its article 5;

Having reviewed the Regulation n°05/2010 of 27/12/2010 of the National Bank of Rwanda relating to the licensing criteria of operating payment and securities settlement systems;

The National Bank of Rwanda, hereinafter referred to as “the Central Bank”, decrees:

Chapter One General provisions

Article one – Purpose

This regulation sets forth the rules relating to the licensing criteria of operating payment and securities settlement systems.

Article 2 – Definitions

Terms and expressions used in this regulation have the following meaning:

“**Access regime**”, in relation to a payment and settlement system, means a formal arrangement or a framework of conditions of the entitlement or eligibility of a person to become a participant in the payment and settlement system, as a user of the system, on a commercial basis on terms that are fair and reasonable.

“**Addressee**” includes the payment services provider, the operator of a payment and settlement system, participants and other persons who are subject to oversight;

“**Capital**”: permanent shareholders equity in form of issued and fully paid-up shares of common stock plus all disclosed reserves, less goodwill and any other intangible assets (excluded computer software);

“**Operator**”: the entity that is in charge of the operation or administration of the payment and settlement system;

“**Participant**”: an entity that has a role in the payment and settlement system or one of the parties to an arrangement that establishes a System, including its Operator. There may be an entity that has a direct role with rights in the Payment System and the other with indirect rights that is able to settle only through the accounts of a direct Participant;

“**Payment and settlement system or system**”: includes a payment system, a clearing system or a securities settlement system.

Chapter II

Licensing procedure

Article 3 – Licensing

No entity may establish or operate a payment and settlement system, unless it is in possession of a license for this purpose, obtained from the Central Bank.

Article 4 – Application for a license

In order to obtain a license, an institution will provide to the Central Bank an application letter accompanied by at least the following documentation:

- a) description of the organization of the system and its business rationale;
- b) A certified copy of memorandum of agreement of shareholders or articles of association for the company formed to operate the payment and settlement system and details on the ownership and governance of such company;
- c) business plan for the following five years;
- d) description of policies and/or procedures of the system, including:
 - i. the criteria established for direct and indirect participation into the system, to be safe and non-discriminatory;
 - ii. the principle of operation of the system (real time, net, etc.),
 - iii. the rules of the system and service levels to be provided to the participants;
 - iv. an analysis of the risk and measures to limit risks in the system arising from illiquidity or insolvency of (direct and indirect) participants, including capacity to manage such risks;
 - v. the measures employed to safeguard technical operations, including a contingency plan in the event of any operational disruption should cause the ordinary system fail to function;
 - vi. the measures taken to secure the protection of electronic processing and the storage of data relating to the system against disclosure, misuse, damage, destruction, loss or theft.
- e) Details of the internal audit function including structure, scope, reporting lines and the regularity of reporting;
- f) Outsourcing arrangements and monitoring measures according to this regulation;
- g) overview of the information technology functions, including scope, structure and reporting lines with an attached organizational chart, as well as evidence that the Regulator of information and communication technology certified the technology infrastructure operating the system;
- h) human resources plan to ensure adequate resources to the operation of the System;
- i) Any other documents deemed as necessary by the Central Bank.

Article 5 – Further licensing requirements

An Institution wishing to operate a system shall further prove to the Central Bank that:

- a) The Operator of the System is registered in Rwanda;

- b) A License to operate in the home/base country where the applicant is a subsidiary of a foreign company, accompanied with the letter of no objection from the home regulatory authority recommending the applicant to establish a company operating payment system in Rwanda;
- c) Evidence that the applicant holds a capital of a minimum paid up cash capital as prescribed under this Regulation;
- d) List of the owners and the percentages of shares owned by each;
- e) Latest audited financial statements of Parent Company if any;
- f) Current tax compliance certificate from tax authorities in Rwanda;
- g) The operator of the system has suitable and sufficient technical as well as organizational skills to operate the system, including the proper mechanisms to achieve internal control and risk management as related to the operation of the System;
- h) The persons proposed as members of the management body and the operator are professionally qualified and persons of probity.

Article 6 – Capital requirement

The applicant for license shall hold a minimum paid up cash capital of not less than 500,000,000 Frw.

Where an operator of payment and settlement system is licensed under these Regulations, it shall at all times maintain a minimum capital as provided under paragraph (1) of this article.

The amount as provided under paragraph (1) is subject to change with appropriate notification from the Central Bank.

Article 7 – Approval of directors or senior managers

No director general, managers or authorities to similar positions of operator of the payment and settlement systems shall start the activities without prior approval of the Central Bank.

The Central Bank approves the authorities specified under paragraph one (1) after assessing their suitability.

The Central Bank shall, for the purposes of assessing suitability of directors or senior managers in control of payment and settlement system, have regard to the criteria prescribed under the Annex I.

The Central Bank may specify other criteria for assessing suitability as and when necessary.

Article 8 – Letter of information

Upon receipt of an application letter together with supporting documents in accordance with provisions of this Regulation, the Central Bank shall, within seven working days, notify the applicant that the application has been received and that all required documents are provided, or a letter of deficiency as the case may be.

A notification of complete application shall constitute official notice that the documents submitted were found to be complete and that the processing or evaluation may commence.

A letter of deficiency shall outline deficiencies in the application; provide a deadline for rectification of the deficiencies. No further action shall be taken by the Central Bank unless the deficiencies are rectified within the period prescribed and a letter of acknowledgment is submitted to the applicant.

Article 9 – Central Bank’s decision on granting a license

The Central Bank shall, within one month after receipt of a complete application, investigate; prepare a response to the applicant.

The investigation may require direct contacts and clarifications by the applicant, to be provided either in writing or verbally. In this second case, the Central Bank shall draft minutes of the meeting to be signed by the applicant.

The response specified under the paragraph (1) of this article shall indicate whether the application satisfies all requirements as established by law and/or regulation, as well as whether the granting of the license could be subject to the fulfillment of certain conditions that the Central Bank may deem necessary.

The Central Bank shall inform the applicant, in writing, of its decision to grant or refuse to grant the license. A notice communicating the decision not to grant a license shall state the grounds upon which it is based.

The applicant can resubmit the application after addressing any issues identified by the Central Bank.

The Central Bank shall, upon receiving a complete application and all information required, and is satisfied that the applicant has met all the application requirements, and upon satisfaction of the post application procedures, advise the applicant to pay the prescribed license fees.

Article 10 – Live demonstration process

The Central Bank may require, prior to granting the license, that the applicant conduct a live demonstration of the services.

In the event the live demonstration process is required; the payment of the license fees shall be suspended until the applicant satisfies with the post application requirements.

The live demonstration process of the service shall not exceed the period of six months.

Article 11 – Risk management

For the purposes of risk management, an operator of payment and settlement system shall:

- a. Have Business continuity plan to mitigate the operational failure;
- b. Comply with any technical standards that may be issued by the Central Bank from time to time through a directive;
- c. Comply with any other regulatory risk management requirements which may be established by the Central Bank from time to time.

Article 12 – Access regime

The Central Bank may through a directive impose an access regime in respect of a system on the person who determines access to the System, regardless of whether he is a participant, an operator or a settlement agent, on such terms and conditions as the Central Bank may consider appropriate.

In considering whether to impose an access regime under paragraph (1), the Central Bank shall take into consideration the following:

- a) whether the imposition of the access regime in respect of the System would be in the public interest;
- b) the interests of the current participants, operator and settlement agent;
- c) the interests of persons who, in the future, may require or desire access to the System; and
- d) such other matters as the Central Bank may consider to be relevant.

The Central Bank, in imposing an access regime under paragraph 1, shall ensure that the access regime is fair and not discriminatory.

The Central Bank will have the authority to make variations to and to revoke the access regime based on assessment of the aforementioned items as stated in paragraph (2).

Article 13 – License fees

A non-refundable license fee of five million Rwandan francs (5,000,000 Frw) shall become due and payable upon the notice by the Central Bank that the analysis of the application for license is satisfactory.

There shall be no proration of the license fee paid in the course of the year.

No person shall be allowed to have the certificate of license without evidencing that he/she paid the amount prescribed under paragraph one at the account notified by the Central Bank.

Article 14 – Oversight fee

The licensed operators of payment systems shall pay an annual oversight fee of 5,000,000 Frw every year not later than the month of January.

A licensee who fails to pay the prescribed oversight fees shall pay double the oversight fee, if payment is made within ninety days after the deadline for provided under the paragraph one of this article.

A licensee, who fails to pay the oversight fee as prescribed under this Regulation, shall have the license revoked after ninety days following the deadline as provided under the paragraph one of this article.

Article 15 – Nature of a license

The licence granted by the Central Bank under this Regulation is perpetual unless revoked in accordance with this regulation. It shall not be transferable, assignable or encumbered in any way.

Article 16 – Renewal of the existing license

The operators of payment and settlement system that are licensed in conformity with the regulation n°05/2010 of 27/12/2010 of the National Bank of Rwanda relating to the licensing criteria of operating payment and securities settlement systems, shall apply for renewal of their licenses.

The application for renewal of a license to operate payment and settlement systems shall be submitted to the Central Bank at least one month before the expiry of the license.

A licensee, who fails to submit an application for renewal of license, shall have the license revoked.

Where the licensee submits an application for renewal of a license as provided under paragraph (1), the license shall be deemed to continue in force until the application for renewal is determined.

Article 17 – Requirements for renewing the license

The Central Bank may renew a license where:

- a. it is satisfied that the licensee has been operating in conformity with these Regulations and other relevant Laws and regulations;
- b. the licensee has paid the oversight fee and all outstanding penalties imposed on the licensee under these regulations and other relevant Laws and regulations;
- c. the licensee, its shareholders and directors have not defaulted in repayment of any credit facilities granted to them by any institution as indicated in the credit reports or any other source as the Central Bank may from time to time determine;

Article 18 – Withdraw or suspension of license

The Central Bank may decide to withdraw or suspend the license granted to an operator at any time if:

- a) the system has not commenced operations within 12 months of the date on which the license was granted to it;
- b) the system has ceased to operate for a period of more than one month;
- c) the operator has obtained the license through incorrect statements or any other irregular means;
- d) the conditions or requirements described in this regulation are not met;
- e) the operation of the system endangers the stability of the financial system of Rwanda;
- f) the Operator of the System is insolvent without possibility of recovery;
- g) if in the opinion of the Central Bank, the system is no longer in the public interest or no longer represents the interest of the participants.

The Central Bank shall, immediately after its decision on the withdrawal or suspension of the license; notify its decision to the addressee.

The Central Bank shall, immediately after the withdrawal or suspension of the license; publish a public notice in such manner as it deems appropriate.

A shareholder, a Board Member and a senior management member in control of payment system whose license was revoked for administrative or operational reasons may be authorized to operate payment and settlement system after a period of 5 years from the revocation of the license.

Article 19 – Discontinuing operating the system

In the case where any operator of system wishes to discontinue its services, the operator shall notify it to the Central Bank in writing, together with the report regarding the discontinuation, at least sixty days before its expected discontinuation of the services.

Article 20 – Action of the Central Bank

When received the notification under article 19, the Central Bank shall have power to order the operator and its participants to take any action prior to discontinue.

Article 21 – Merger

In the case where the Operator wishes to merge with the others, the provision of article 19 and 20 shall be applied *mutatis mutandis*.

Article 22 – Return of the license

Any operator of system planning to discontinue shall return its license to the Central Bank.

The Central Bank shall, immediately after receiving the license as specified under paragraph (1) of this article, publish a public notice in such manner as it deems appropriate. The public notice shall indicate that the license of the person returning the license or merging with others is not valid from a specific date as per determined by the Central Bank.

Article 23 – Liquidation

The process of liquidation of the operator of the payment and settlement system shall be in conformity with the law relating to companies and the law relating to commercial recovery and settling issues arising from insolvency.

An operator of payment and settlement system shall seek the non-objection from the Central Bank before it enters into the process of the voluntary liquidation.

Article 24 – Cooperation with other licensing authorities

The Central Bank may undertake cooperation agreements including the establishment of joint licensing with other relevant authorities should existing legislation so require. This shall be done in respect of the provisions of this Regulation.

Chapter III Final provisions

Article 25 – Repealing provisions

The Regulation N°05/2010 of 27/12/2010 of the National Bank of Rwanda relating to the licensing criteria of operating payment and securities settlement systems is hereby repealed.

All prior regulatory provisions inconsistent with this Regulation are hereby repealed.

Article 26 – Commencement

This Regulation shall come into force on the date of its publication in the Official *Gazette* of the Republic of Rwanda.

Appendix I

Forms

[Editorial note: The forms have not been reproduced.]