

LEGAL AND REGULATORY FRAMEWORK

LAWS

Ghana's payment system is supported by various laws in line with the 24 Principles for Financial Market Infrastructures (April 2012) issued jointly by BIS Committee on Payment and Settlement Systems (CPSS) and the Technical committee of the International Organisation of Securities Commissions (IOSCO) where applicable.

The laws which cover payment instruments, institutions, clearing and settlement systems, include the following:

(a) Bank of Ghana Act, 2002 Act 612: The Act makes the BOG the authority responsible for payment and settlement systems in Ghana. This is stated among the functions of BOG as indicated below:

- the promotion, regulation and supervision of payment and settlement systems; and
- the facilitation of the clearing of cheques and other credit instruments for banking institutions.

(b) The Payment Systems Act, 2003, Act 662: is a sound legislative framework which further empowers the BOG to oversee and manage the payment systems as contained in the provisions below:

- to establish, operate, promote and supervise payment, funds transfer, clearing and settlement systems subject to such rules as it may publish; and
- to designate any other payment, funds transfer, clearing and settlement systems operating in the country, which the Bank considers to be in the public interest to supervise.

The Act also provides for the following:

- principles of transparency as applicable to payment systems;
- minimum obligations of participating financial institutions;
- principles required to achieve irrevocability and finality of payment;
- admissibility of electronic evidence in the law courts;
- dispute resolution; and
- miscellaneous provisions covering disputes, offences, penalties and interpretations.

(c) The Bills of Exchange Act, 1961, Act 55: This is an adaptation of the English Bills of Exchange Act 1882 which specifies how cheques are drawn, accepted and paid.

A process has been set in motion by the Bank of Ghana to have this Act reviewed to reflect current trends.

(d) Other laws:

- Foreign Exchange Act 2006, Act 723;
- Credit Reporting Act 2007, Act 726;
- Central Securities Depository Act 2007, Act 733;
- Anti-Money Laundering Act 2008, Act 749; and
- Electronic Transactions Act 2008, Act 772.

RULES, REGULATIONS AND GUIDELINES

In addition to laws, there are rules, regulations and guidelines governing specific systems such as:

- Cheque Codeline Clearing with Cheque Truncation Guidelines and Operational Procedures;
- Ghana Bankers' Clearing House Rules; and
- Ghana Automated Clearing House Direct Credits & Debits Guidelines and Operational Procedures.

These Rules and Guidelines provide an operational framework within which clearing and settlement is handled efficiently. They cover among others

- payment instruments standards and security features;
- processing procedures at the collecting bank;
- processing at the clearing house gateway;
- processing at bank's in-house clearing systems;
- management of the clearing house;
- membership; and
- sanctions and settlement of disputes.

The Ghana Inter-bank Settlement (GIS) System's Terms and Conditions also provide the contractual basis for the operation of the large value funds transfer system.

New regulations and relevant laws are being crafted in line with developments in the ecosystem. Existing ones that have become outdated due to enhancements as well as new deployments and technological advancements are also being reviewed.