



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA



South African Reserve Bank

Invitation to comment on the National Payment System Act Review policy paper

National Treasury and the South African Reserve Bank (SARB) today published a policy paper titled 'Review of the National Payment System Act 78 of 1998' for public comment. A national payment system (NPS) is a set of arrangements and infrastructures that enables consumers, businesses and other entities to transfer funds to one another.

A number of developments prompted a rethink of the comprehensiveness and relevance of the existing payments regulatory framework. These include global policy developments relating to financial inclusion, financial stability, effectiveness, integrity and competition; and international standards, best practice and recommendations from global policy and standard setting bodies such as Committee on Payments and Market Infrastructures as well as assessment institutions such as World Bank and the International Monetary Fund.

As the payments industry moves towards a digital age and becomes increasingly innovative, and financial technology becomes more advanced, the emergence of new payment methods, technologies, services, risks, participants and 'payment systems' have become increasingly prominent and challenge the traditional payments regulatory landscape. The regulatory and legislative framework thus needs to be flexible and adaptable to these changes, and provide an enabling environment for innovation to thrive.

The NPS Act has become outdated and does not provide an adequate framework for the effective regulation of the NPS. This may be problematic as payment systems are a gateway to economic activity between consumers and businesses, and contribute to the well-being of South Africans. It is therefore crucial that payment systems are adequately regulated to ensure their continued safety and efficiency.

The framework should remain robust and resilient to risks that may pose a threat to the safety and efficiency of the NPS.

The review is aligned with the global trend of regularly reviewing perimeters of regulation to strengthen them or, where necessary, extend the regulatory net to previously unregulated sectors of the economy.

Section 15 of the National Payment System Act 78 of 1998 (NPS Act) requires the SARB to review the NPS Act and to make recommendations to the Minister of Finance.

The review of the NPS Act was governed through the following structures:

- Standing Committee on the review of the NPS Act;
- Expert Group; and
- Working Group.

Summary of recommendations of the review of the NPS Act:

- Adoption of overarching principles
- Adoption of international and domestic financial sector regulatory standards
- Inclusion of public policy objectives
- Clarify the role of the SARB as payments regulator, supervisor and overseer
- Specify the mandate and objectives of the SARB
- Provide for powers and functions of the SARB
- Designation, regulation, supervision and oversight of systemically important financial institutions (SIFIs), systemically important payment systems (SIPS – also known as systemically important FMs) and non-systemically important payment systems (also known as prominent payment systems – PPSs)
- Designation of critical service providers
- Provide clarity on the regulatory approach, including the consideration of delegation and outsourcing
- Provide for functions of operators of payment, clearing and settlement systems (including SIPS and PPS operators)
- Provide for settlement in central bank money
- Clarify conduct regulation in the NPS
- Provide for transformation of the payment, clearing and settlement services
- Provide requirements for regional or international payment, clearing and settlement services
- Allow/enable new or unregulated service providers, services, systems and instruments (e.g. virtual currencies, distributed ledger technologies and fintech companies)
- Prescribe settlement finality and value date
- Provide for risk management provisions
- Enhance clearing provisions
- Provide for enforcement/dispute resolution powers
- Provide for resolution, recovery, curatorship, judicial management or liquidation (section 8 of the NPS Act)
- Prescribe various forms of regulatory instruments

Submission

Comments on the policy paper are invited until 28 February 2019. Comments can be sent to npsactreview@treasury.gov.za

The National Treasury and SARB will also schedule workshops on the report and its recommendations to facilitate engagement. Details on these workshops will be communicated in due course.