

Statement of the need for, expected impact, and intended operation: Proposed designation of specific activities conducted in the national payment system as not constituting ‘the business of a bank’ under the Banks Act, 1990 (Act No. 94 of 1990)

19 May 2026

(DRAFT)

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1. Introduction

- 1.1 The South African Reserve Bank (SARB) has been encouraged to update the National Payment System Act, 1998 (Act No. 78 of 1998) (NPS Act) to align with international standards and address recent developments in payment systems.** The payments industry has evolved rapidly over the past two decades, with the advent of digital technologies, faster payment methods and new market participants, which have introduced opportunities but also increased risks. Although the current NPS Act provides a strong legal foundation, updated legislation should ensure broader access and enhance regulatory, supervisory and oversight powers.
- 1.2 The SARB has prioritised updating regulations to encourage innovation and maintain safety, efficiency and resilience.** The SARB has made modernising payments and expanding their accessibility a key strategic priority. International recommendations and policy initiatives on financial inclusion, non-bank access, consumer protection and market competition have prompted a review of the regulatory framework.
- 1.3 To expedite necessary updates while legislative changes are pending, the SARB requested the Prudential Authority to issue an Exemption Notice.** This allows certain payment activities involving pooled funds to be exempt from the definition of 'the business of a bank' under the Banks Act, 1990 (Act No. 94 of 1990) (Banks Act), provided appropriate regulatory, supervisory and oversight frameworks are developed.
- 1.4 As such, the SARB has developed an Authorisation Framework, proposing reforms to keep the national payment system (NPS) inclusive, robust and aligned with global best practices amid technological advances.** This framework aims to enhance regulation, supervision and oversight of the NPS to support stability, innovation, competition, financial inclusion and consumer protection.

2. Statement of the need – context and definition of the policy problem

2.1 Lack of competition and restricted access to the NPS

2.1.1 Greater competition in payments brings advantages. Increased competition has the potential to deliver greater efficiencies, improved services, more choice and lower costs for end users of payment activities.¹ Payment activity costs are still unclear and expensive.²

2.1.2 As holders of deposits, banks have historically been the primary providers of payment services. Owing to the nature of their business and the related regulatory environment, banks have historically provided access to clearing and settlement services as well as infrastructure to non-banks.

2.1.3 Globally, regulations have evolved to give non-banks access to payment infrastructures. Additionally, advancements in business models and technology – including new communication methods – are enabling non-bank payment institutions such as financial technology (fintech) firms to enter the market.

2.1.4 Fostering competition requires permitting fintech firms to offer payment services, such as e-money wallets (as demonstrated in other markets such as Singapore and Brazil). Traditionally, non-banks have not been allowed to conduct payment activities that involve pooling funds from the public unless they establish a partnership with a bank. Granting exemptions for activities such as e-money issuance (including mobile money), money remittances, and enabling payment initiation by fintech firms would enhance competition in the payment services sector, as evidenced by experiences in countries such as India.

¹ Bank for International Settlements, Committee on Payments and Market Infrastructures, [Non-Banks in Retail Payments](#), September 2014.

² The World Bank reports that Southern Africa remains one of the highest cost corridors for remittances.

2.2 Insufficient inclusion of underserved communities and financial exclusion

2.2.1 Financial inclusion plays a vital role in achieving the goals of eliminating poverty and reducing inequality, as outlined in the National Development Plan 2030. Financial inclusion not only entails access to digital payment services but also to other services such as savings, credit and insurance.

2.2.2 While South Africa has sophisticated payment systems, a vast majority of people still use cash. Payment systems are key to expanding financial inclusion, enabling all South Africans to access and use formal financial services.

2.2.3 Current regulations restrict non-banks' direct access to payment systems, limiting service options for underserved groups. The existing regulation should therefore be amended to ensure that non-banks can directly participate in the payment system without the need to partner with banks, while ensuring appropriate regulations are in place.

2.3 Lack of interoperability

2.3.1 The proliferation of closed-loop domestic e-money and remittance networks in South Africa highlights the lack of interoperability. Closed-loop products are frequently utilised by consumers, especially those who are unbanked or underbanked, for making payments. The current fragmented landscape of closed-loop e-money and 'send money' products limit consumer choice, as recipients are often compelled to receive funds through the specific payments network selected by the sender.

2.3.2 Promoting interoperability would enable consumers and businesses to benefit from positive payment network effects. The Brazilian PIX fast payment system requires interoperability with e-money providers once a certain threshold is met. Interoperability increases efficiencies, lower costs

and leads to more competition and innovation in payment activities.^{3 4}

2.4 **Vulnerabilities of consumers to abuse by payment service providers**

2.4.1 **The SARB must strengthen regulation and oversight of emerging payment methods to support consumer protection** (under the FSCA's mandate). Fintech firms are introducing innovative services that enhance convenience and speed but also bring new risks not fully addressed by current regulations. Risks include cyber-attacks, fraud, data privacy breaches, money laundering, and terrorism financing. Appropriate and proportionate regulations that correspond with the suggested payment activities would help mitigate these risks.

2.5 **Limited scope of anti-money laundering, combating the financing of terrorism and countering proliferation financing regulations**

2.5.1 **Currently, some payment activities, such as providing third-party payments, fall outside anti-money laundering, counter-financing of terrorism and counter-proliferation financing (AML/CFT/CPF) regulations** because their providers are not accountable institutions. The Authorisation Framework suggests applying AML/CFT/CPF requirements to payment institutions offering these services to reduce money laundering, terrorism and proliferation financing risks.

3. **Statement of expected impact of the draft Exemption Notice**

3.1 **Scope and sample of the impact study**

3.1.1 **The SARB consulted extensively on the proposed changes.** Through both formal and informal engagements with the payments industry, the SARB noted the challenges faced by non-banks in relation to restricted access to the NPS and its impact on competition, innovation and financial inclusion. As previously noted, the SARB published the Authorisation Framework twice in 2025 for

³ World Bank Group, [Interoperability in Fast Payment Systems](#), Focus Note: Part of the World Bank Fast Payments Toolkit, September 2021.

⁴ M Bianchi, et al., '[Mobile payments and interoperability: Insights from the academic literature](#)', *BIS Working Papers* No. 1092, April 2023.

industry consultation. The following costs, benefits and risks of implementing the Authorisation Framework are noted:

3.2 The potential benefits of the Authorisation Framework

3.2.1 *Clear and fair regulatory, supervisory and oversight framework*

- a) **The Authorisation Framework establishes a clear and fair regulatory framework for new and existing payment institutions**, including those that are or have been underregulated or unregulated. It also creates a level playing field by ensuring that the same rules apply to similar payment activities, irrespective of whether the participant is a bank or a non-bank.

3.2.2 *Increased competition and innovation in the NPS*

- a) **Expanding access to the NPS for non-banks will increase competition and innovation in the NPS** as it will allow non-banks to compete on the same level playing field, potentially providing higher quality or a wider range of payment options and possibly penetrating previously underserved markets.
- b) **Non-banks will no longer be required to partner with competitor banks.** Once the Exemption Notice and the Authorisation Framework are implemented, non-bank payment service providers offering e-money and money remittance services will no longer be required to establish a partnership arrangement with a bank to provide payment activities. This may improve their business models and enable them to offer creative payment options that benefit customers.

3.2.3 *Enhanced safety and integrity of the NPS*

- a) **The Authorisation Framework proposes a regulatory approach that is inclusive and robust to promote the safety and efficiency of the NPS**, with proportionate safeguards that aim to mitigate risks, and ultimately contribute to the growth of the financial sector and the economy.

- b) **The Authorisation Framework proposes imposing proportionate AML/CFT/CPF requirements to payment institutions** that are currently excluded from these requirements, including e-money issuers and third-party payment providers. In addition, money remitters providing money remittances independently of banks will now have direct responsibilities for AML/CFT/CPF obligations. These AML/CFT/CPF requirements are common across payment activities and are not applied disproportionately according to the type of payment institution (i.e. whether the payment institution is a bank or a non-bank).
- c) **Extending AML/CFT/CPF requirements to previously excluded payment institutions will support the SARB's mandate of promoting the safety and integrity of the NPS.** Although e-money issuers and third-party payment providers (TPPPs) are not currently included under Schedule 1 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) (FIC Act), the Authorisation Framework establishes comparable requirements for these payments activities without designating them as accountable institutions. Amending Schedule 1 of the FIC Act typically takes several years. To prevent regulatory arbitrage and inconsistent risk controls, the SARB and Financial Intelligence Centre will coordinate supervision and enforcement.
- d) **Customers of payment institutions will benefit from a secure NPS as the Authorisation Framework proposes robust risk mitigation measures,** including the safeguarding of customer funds and measures to reduce the risk of fraud, data breaches and cyberattacks. The extension of AML/CFT/CPF requirements will also enhance public trust in using digital payments as the risk of the NPS being used for financial crime will be mitigated.

3.2.4 *Improved soundness of payment institutions and financial stability*

- a) **The Authorisation Framework will boost the soundness of payment institutions** (particularly non-banks) and contribute to financial stability by imposing authorisation requirements that ensure that only fit and proper entities (including shareholders or owners) are authorised to

provide payment activities. Other key specific requirements to improve the soundness of payment institutions and financial stability include:

- (i) minimum initial capital or ongoing capital requirements;
- (ii) safeguarding and segregating client funds;
- (iii) governance and risk-management requirements;
- (iv) operational and technology risk requirements;
- (v) liquidity and settlement risk management;
- (vi) AML/CFT obligations;
- (vii) ongoing supervision, reporting and enforcement; and
- (viii) outsourcing arrangements

3.2.5 *Increased financial inclusion*

- a) **Consumers will benefit from increased competition as greater access to the NPS by non-banks will potentially lower fees and improve choice on payment activities.** In particular, the provision of e-money and money remittances by non-banks has the potential to deepen financial inclusion as consumers will not require bank accounts to hold wallets. Additionally, when non-bank payment institutions offer payment services, they can reduce costs by offering lower prices than established incumbents.
- b) **Incumbent banks may identify opportunities to offer competing or enhanced services,** giving consumers more options and convenience in retail payments. Small and medium-sized enterprises (SMEs) stand to gain from increased innovation as well as a wider range of payment options.

3.3 **Potential costs and risks of the Authorisation Framework**

3.3.1 *Increased compliance costs for payment institutions.*

- a) **All payment institutions will be required to comply with the Authorisation Framework, subject to exemptions where applicable.** As such, the costs of compliance may influence the extent to which potential new entrants participate in the NPS. These costs can be broken down into the following:

- (i) **Administrative costs:** Applicants will incur costs for the administrative preparation of the application as they may need to appoint qualified people to prepare the application, including seeking legal advice to ensure that they properly meet the requirements outlined in the framework.
- (ii) **AML/CFT/CPF obligations:** The inclusion of AML/CFT/CPF requirements means that payment institutions must invest in systems, infrastructure and additional financial and human resources to ensure compliance. Banks also bear the associated regulatory costs that come with being a regulated entity and a sponsor to e-money issuers, such as the costs regarding consumer protection and prudential requirements. Payment institutions that issue e-money without a sponsoring bank will have to bear these costs themselves, including other costs outlined in the framework such as IT/security, audit and assurance requirements.
- (iii) **Costs of regulatory capital:** Payment Institutions will be required to hold minimum initial capital at the time of application and maintain ongoing capital during its operation. This means that the applicant must source funding to meet initial capital requirements, which may consist of common equity or shares (paid in capital), retained earnings, accumulated comprehensive income or other reserves. Payment institutions will also be required to hold ongoing capital to ensure the payment institution can absorb unexpected losses arising from operational failures, fraud, cyber incidents, legal and compliance breaches as well as business losses during times of stress.
- (iv) **Infrastructure and operational costs:** Payment institutions that apply for e-money issuance without a partnership with a bank must invest in the infrastructure and systems that will enable them to provide e-money in an efficient and secure manner. This infrastructure will enable payment institutions ensure accurate record-keeping, cybersecurity and operational resilience, among

other things. The maintenance of this infrastructure will also come at a cost for payment institutions.

- (v) **Human capital costs:** Payment institutions may need to build, retain and continually deploy qualified personnel to comply with regulatory requirements. This includes the appointment of fit and proper directors and senior managers to run the institution, who may command high salaries. Staff may also have to undergo training so that they can meet the required and evolving regulatory standards.

3.3.2 *Possible non-compliance with AML/CFT/CPF requirements*

- a) **The Authorisation Framework establishes proportionate AML/CFT/CPF requirements to payment institutions that are currently excluded from these requirements**, such as e-money issuers and TPPPs, including non-bank money remitters that previously relied on partnerships with banks. As this will be the first time that these entities must independently meet AML/CFT/CPF requirements, there is a risk some payment institutions may lack sufficient controls to prevent money laundering, terrorist financing or proliferation financing. To mitigate this risk, the SARB will implement a robust risk-based supervisory framework to enforce compliance with the AML/CFT/CPF requirements.

3.3.3 *Regulatory arbitrage and uneven risk controls*

- a) **Participation of non-banks in the NPS could grow rapidly, driven by less stringent prudential requirements (e.g. lower capital requirements) than those for banks.** The maximum capital requirement in the Authorisation Framework is significantly lower than the minimum capital requirement for banks (although not significantly lower than that of mutual banks), making it less onerous to apply for authorisation to provide payment activities. This poses a risk that non-banks may not have the same level of risk control relative to banks. However, the risk profile of payment activities differs significantly from the business of a bank, with clear limitations on on-lending and

investment of funds held for payment activities. The SARB will mitigate this risk in the Authorisation Framework by imposing risk-based and proportionate authorisation requirements. Further, the SARB will develop and implement a robust supervisory framework to enforce compliance with the Authorisation Framework.

3.3.4 *Possible disintermediation of banks*

- a) **IMF (2024)⁵ shows that e-money issuers can either disintermediate or complement banks.** Disintermediation of bank deposits occurs when bank depositors move funds from banks to e-money issuers, keeping funds outside the banking system. The impact on credit intermediation could also occur if banks cannot lend against the deposits backing e-money. In addition, disintermediation could occur if e-money balances start to function as savings rather than transactional flows. However, e-money issuers can complement banks by bringing previously unbanked depositors into the banking system when e-money balances are deposited in bank accounts. The risk of disintermediation could be less material if e-money issuance is targeted at depositors that are outside the banking system (e.g. held in a settlement system). Furthermore, banks can also compete with non-bank e-money issuers by issuing their own e-money.
- b) **The Authorisation Framework requires e-money issuers to deposit e-money balances with banks or be kept in a designated settlement account** (held in a designated settlement system). If e-money issuers prefer to keep e-money balances in the designated settlement account and the e-money balance become too large, the risk of deposit disintermediation increases. This occurs when e-money balances become too large for each e-money wallet holder. This risk could be amplified if e-money balance limits are set high for juristic persons, which may increase the volatility of the wholesale deposit base. Under certain

⁵ IMF (2024), *E-Money and Monetary Policy Transmission*. IMF Working Paper, WP/24/69

circumstances, this could affect bank profitability, credit extension and the overall provision of financial services.

- c) **To mitigate the risk of disintermediation, the Authorisation Framework sets low e-money balance limits for e-money wallet holders.** The tolerance level for disintermediation is set so that e-money balances will not exceed 10% of total banking deposits. This means that the e-money balance limits in the Authorisation Framework are not expected to exceed 10% of total banking deposits.

3.3.5 *Risks to financial stability*

- a) **Rapid growth in non-bank participation in the NPS has the potential to pose financial stability risks if these payment institutions are not properly regulated.** For example, disintermediation of bank deposits caused by sharp increases in e-money could create volatility of wholesale bank deposits, as e-money balances deposited by e-money issuers may shift from the banking sector to the designated settlement system.
- b) **If an e-money issuer fails and confidence drops, wallet holders may seek to redeem their funds, potentially triggering a run on issuers.** This could lead to rapid liquidation of safeguarded client funds, payment disruptions and spillover effects for banks holding these safeguarded client funds.
- c) **Financial stability risks also apply to e-money and funds backing e-money in the event of a bank failure** as e-money issuers may suffer losses, triggering a run on other e-money issuers and creating contagion risk for the banking sector.
- d) **The SARB will mitigate the risk to financial stability by setting low e-money balance limits** and closely apply robust and effective supervisory tools to ensure compliance with the Authorisation Framework.

3.3.6 *Increased staff requirements for the SARB*

- a) **The SARB will assume responsibility for authorisation and supervision of payment institutions, including TPPPs** that are currently registered with the Payments Association of South Africa (PASA). This means that additional capacity in terms of human resource will be required to meet new regulatory, supervisory and oversight responsibilities. The SARB's National Payment System Department has concluded an organisation review to meet the capacity requirements.

4. **Statement of intended operation – implementation and evaluation**

- 4.1 **Once implemented, the amended Exemption Notice and the Authorisation Framework will apply to all payment institutions that provide payment activities**, as listed in Annexure B of the Authorisation Framework. The Authorisation Framework will introduce a new authorisation regime for payment institutions that is clear and proportionate to all payment institutions.
- 4.2 **Payment institutions that provide payment activities listed in Annexure B of the Authorisation Framework will be responsible for complying with the requirements of the Authorisation Framework**, including applicable rules issued by payment schemes and any guidance notes issued by the SARB in terms of the Authorisation Framework.
- 4.3 **The Exemption Notice exempts payment activities that involve the pooling of funds from the public from the Banks Act**, meaning that these payment activities will not be considered as deposit-taking in terms of the Banks Act, and will be regulated under the NPS Act.
- 4.4 **After implementation, the effectiveness of the Exemption Notice and the Authorisation Framework will be monitored on a continual basis.** The SARB will also consider any unintended consequences that may arise and may make further adjustments to the regulatory framework if necessary.

5. Conclusion

- 5.1 The SARB has noted the regulatory constraints and gaps created by the evolving payments landscape in South Africa as well as the need for enhanced regulation, supervision and oversight of the NPS.**
- 5.2 This report outlines the rationale for exempting certain payment activities that involve the pooling of funds** from the public from definition of 'the business of a bank' in the Banks Act. It highlights that the SARB and the payments industry must adapt to the changes that have occurred in the payments ecosystem.
- 5.3 The Exemption Notice, read with the Authorisation Framework, introduces new regulatory, supervision and compliance requirements for payment institutions**, with the aim of to promoting competition, financial inclusion, financial stability, safety, efficiency, integrity and resilience in the NPS.