



MONTSERRAT

CHAPTER 11.31

PAYMENT SYSTEM ACT

Revised Edition

showing the law as at 1 January 2019

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

PAYMENT SYSTEM ACT

Act 5 of 2008 .. in force 1 September 2009 (S.R.O. 39/2009)

Amended by Act 9 of 2011 .. in force 27 September 2011 (S.R.O 40/2011)

PAYMENT SYSTEM (EASTERN CARIBBEAN AUTOMATED CLEARING HOUSE SYSTEM) RULES— Section 12

S.R.O. 63/2014 .. in force 30 April 2013

Amended by S.R.O. 21/2015 .. in force 1 April 2015

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CHAPTER 11.31

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CHAPTER 11.31

PAYMENT SYSTEM ACT

(Acts 5 of 2008 and 9 of 2011)

AN ACT TO ADVANCE OPERATION AND REGULATION OF THE PAYMENT SYSTEM GENERALLY AND PARTICULARLY TO CODIFY PROCEDURES GOVERNING THE PAYMENT SYSTEM AND TO PROVIDE FOR RELATED MATTERS.

Commencement

[1 September 2009]

PART 1

PRELIMINARY

Short title

1. This Act may be cited as the Payment System Act.

Interpretation

2. (1) In this Act—

“**access**”, in relation to a funds transfer system or settlement system, means the entitlement or eligibility of a person to become a participant in the system, as a user of the system, on a commercial basis on terms that are fair and reasonable;

“**access regime**”, in relation to a designated funds transfer system, means an access regime that has been established by the Central Bank under section 15;

“**banking business**” means the business of receiving funds through—

- (i) the acceptance of monetary deposits which are repayable on demand or after notice or any similar operation;
- (ii) the sale or placement of bonds, certificates, notes or other securities and the use of such funds, either in whole or in part, for loans or investment,

and includes, any other activity recognised by the Central Bank as banking practice and which a financial institution may additionally be authorised to do;

“**Central Bank**” means the Eastern Caribbean Central Bank established by the Eastern Caribbean Central Bank Agreement Act;

“**central counter-party**” means an entity that is the buyer to every seller and the seller to every buyer in a net settlement system;

“clearing” means the process of transmitting, reconciling or confirming payment orders or security transfer instructions prior to settlement and includes the netting of instructions and the establishment of final positions for settlement;

“clearing house” means—

- (a) an arrangement between two or more system participants governing the clearing or netting of payment instructions between those system participants; and
- (b) a central location or central processing mechanism through which financial institutions agree to exchange payment instructions or other financial obligations;

“collateral” means an asset or third-party commitment that is provided by the collateral provider to the collateral taker and accepted by the collateral taker to secure an obligation of the collateral provider;

“Currency Union” refers collectively to the territories of Anguilla, Antigua and Barbuda, The Commonwealth of Dominica, Grenada, Montserrat, Saint Christopher and Nevis, Saint Lucia and Saint Vincent and the Grenadines which use the Eastern Caribbean currency as their official currency;

“designated”, in relation to a funds transfer system or a settlement system, means a system which is classified as being systemically important and meeting prescribed standards established by the Central Bank in accordance with the provisions of this Act;

“document” means a document in any form and includes—

- (a) any writing or printing on any material;
- (b) any record of information or data, however compiled, and whether stored in paper, electronic, magnetic or any non-paper based form;
- (c) any storage medium, including discs and tapes;
- (d) books and drawings; and
- (e) a photograph, film, tape, negative or other medium in which one or more visual images are embodied so as to be capable (with or without the aid of equipment) of being reproduced,

and without limiting the generality of the foregoing, includes any Court application, order and other legal process and any notice;

“electronic funds transfer” means funds transfer by electronic means, and includes the use of computer-telecommunications systems;

“financial institution” includes any person doing banking business, and all offices and branches of a financial institution in Montserrat shall be deemed to be one financial institution;

“funds transfer system” means a formal arrangement, based on private contract or statute law among participants, with common rules and standardised arrangements for the transmission and settlement of money obligations arising among the participants;

“Governor” means the Governor acting on the advice of Cabinet; (*Amended by Act 9 of 2011*)

“large value electronic funds transfer system” means the large value electronic funds transfer system established under section 4(1)(a) through which large-value and high priority funds transfers are made between participants in the system for their own account or on behalf of their customers;

“Minister” means the Minister responsible for Finance;

“money services business operator” means a person holding a licence under the Money Services Business Act to conduct money services business;

“netting” means the determination of net payment obligations between two or more settling participants within a payment clearing house or the determination of the net settlement obligations between two or more settling participants within the payment system;

“operator” means a person authorised or appointed to operate a funds transfer system or settlement system;

“payment” means the payer’s transfer of a monetary claim to a party acceptable to the payee and includes clearing and settlement;

“payment obligation” means an indebtedness that is owed by one settling participant to another as a result of the clearing of one or more payment instructions;

“payment system” means—

(a) a network of competing and complementary services that facilitate transactions involving the exchange of payment in return for goods, services, real and financial assets, including the instruments, rules, institutions, technical processes and procedures that facilitate the circulation of money and the transfer of value to discharge payment obligations; and

(b) several funds transfer systems and settlement systems that ensure the circulation of money;

“prescribed” means prescribed by regulation;

“retail funds transfer system” means the retail funds transfer system established under section 4(1)(b) which handles a large volume of payments of relatively low value in such forms as cheques, credit transfers, direct debits by various means including through Automated Teller Machines and Electronic Funds Transfer systems;

“settlement” means the act of discharging obligations in respect of funds or securities transfers by two or more parties;

“**settlement obligation**” means an indebtedness by one settling participant to another as a result of one or more settlement instructions;

“**settlement rules**” means the rules which determine how payment obligations are calculated, netted or settled and includes rules prescribing corrective, punitive or other action in the event that a settling participant is unable or is likely to become unable to meet its obligations to the clearing house, central counter-party or other settling participants;

“**settlement system**” means a system used to facilitate the settlement of transfers of funds or financial instruments;

“**settling participant**” means a participant who can settle transactions on his own account and for other participants;

“**systemically important**” means of fundamental importance to the—

- (a) proper functioning of the Currency Union’s financial system; or
- (b) maintenance of the Currency Union’s economic stability;

“**system participant**” means a party who participates in a funds transfer system or settlement system, which is operated, designated or regulated by the Central Bank.

PART 2

AUTHORITY OF THE CENTRAL BANK

Establishment of payment system and Central Bank’s exclusive authority

3. (1) The Central Bank shall establish a payment system in Montserrat.

(2) The payment system established under subsection (1) shall be the sole payment system operating in Montserrat.

(3) The Central Bank shall, subject to the Money Services Business Act have exclusive authority for the operation, supervision and administration of the payment system established under subsection (1) and may issue guidelines and directives to govern its operation and regulation.

PART 3

THE PAYMENT SYSTEM

Characteristics of the payment system

4. (1) The payment system established under section 3(1), shall consist of the—

- (a) large value electronic funds transfer system; and
- (b) retail funds transfer system.

- (2) The large value electronic funds transfer system consists of the—
 - (a) interbank funds transfer system operated and administered by the Eastern Caribbean Central Bank; and
 - (b) securities settlement system.
- (3) The retail funds transfer system consists of—
 - (a) the cheque clearing system operated and administered by the Eastern Caribbean Central Bank;
 - (b) the debit transfer system;
 - (c) the credit transfer system; and
 - (d) any other funds transfer system designated by the Central Bank.
- (4) The retail funds transfer system handles the following types of transactions—
 - (a) business to business;
 - (b) business to person;
 - (c) person to person;
 - (d) person to business.
- (5) Only the Central Bank and financial institutions which satisfy the eligibility criteria and comply with other requirements laid down in the rules of a funds transfer system may be members of that funds transfer system.

The large value electronic funds transfer system

5. (1) The large value electronic funds transfer system shall be the sole system for large value payments and settlement.
- (2) Subject to subsection (3), the operational design of the large value electronic funds transfer system shall facilitate the expeditious transmission of instructions to permit payments to be made between parties to transactions—
 - (a) from and to accounts held at the Central Bank for that purpose; or
 - (b) from incoming transfers.
- (3) The Central Bank may establish and administer a net settlement system in respect of a funds transfer system operated by it.
- (4) The Central Bank shall be the central counter-party of a net settlement system established pursuant to subsection (3).

Cheque clearing system

6. The cheque clearing system referred to in section 4(3)(a) is the sole cheque clearing system in Montserrat for cheques drawn on licensed financial institutions carrying on business in the Currency Union.

Settlement for systems not operated by the Central Bank

7. (1) The Central Bank may provide settlement facilities in respect of—

- (a) a funds transfer system designated under this Act; and
- (b) any part of a retail funds transfer system established or operated by another person.

(2) In giving effect to subsection (1) the Central Bank shall consider whether the system—

- (a) is or is likely to be a systemically important system having regard to the function, volume or value of that system; or
- (b) involves or might involve material risks which the Central Bank can abate or help to manage.

(3) The Central Bank may—

- (a) provide payments facilities to effect the settlement of securities transactions including transactions of the securities system operated by the Eastern Caribbean Central Securities Depository Limited licensed under section 45 of the Securities Act by—
 - (i) direct participation; or
 - (ii) participation of the Eastern Caribbean Central Securities Depository Limited through the real time gross settlement or otherwise; and
- (b) make rules and enter into agreements respecting the systems and processes referred to in paragraph (a).

Participation in systems not operated by the Central Bank

8. The Central Bank may participate in—

- (a) net settlement systems, securities settlement systems or any part of a retail funds transfer system established and operated by another person; and
- (b) non-currency union payment systems,

on terms and conditions it considers necessary or desirable to accomplish its purposes.

Technical assistance to funds transfer systems

9. The Central Bank may, on terms and conditions it considers appropriate, provide technical, financial or any other assistance to another person for the establishment or operation of a funds transfer system.

Netting arrangements

10. (1) The discharge of settlement obligations between system participants is effected by means of entries processed through the settlement system in accordance with procedures described in the Schedule or any rules issued by the Central Bank.

(2) The obligation of a settling participant or central counter-party to make payment to and the corresponding right of a participant or central counter-party to receive payment from another settling participant or central counter-party shall be netted and a net settlement or close-out amount determined, entered and cleared in accordance with settlement rules.

(3) A settlement that is effected by means of an entry to the credit of an account maintained by the central counter-party is final and irrevocable and may not be reversed or set aside.

(4) An entry to or payment out of the account of a settling participant to settle a payment or settlement obligation in a settlement system is final and irrevocable and may not be reversed or set aside.

(5) The Governor may at any time amend the Schedule by Order published in the *Gazette*.

PART 4

DESIGNATION OF FUNDS TRANSFER SYSTEM AND SETTLEMENT SYSTEM

Designation of funds transfer system and settlement system

11. (1) The Central Bank may designate a funds transfer system or settlement system—

- (a) where that designation is in the public interest;
- (b) on receipt—
 - (i) from the Financial Services Commission, of a copy of a licence issued to a money services business operator accompanied by a recommendation for designation of that money services operator pursuant to section 6(4) of the Money Services Business Act;
 - (ii) of information which establishes that a money services business operator who is licensed under the provisions of the Money Services Business Act is managing a systemically important funds transfer system or settlement system; or
- (c) where—

- (i) systemic disruption in the financial system could result if the operator or a participant of the system becomes insolvent or goes into bankruptcy; and
- (ii) any other matter specified in the regulations warrants designation of the funds transfer system.

(2) The Central Bank shall inform the operator of its decision to designate the funds transfer system or settlement system and shall publish notification of its decision in the *Gazette* and any other media it deems appropriate.

(3) The Central Bank may, in respect of any designation made under subsection (1)—

- (a) impose restrictions or conditions to which the designation is subject;
- (b) amend or revoke any condition to which the designation is subject; or
- (c) make the designation subject to a new condition or new conditions.

(4) A variation of the conditions to which a designation is subject or a revocation of designation—

- (a) shall have retroactive effect; and
- (b) shall not affect—
 - (i) the validity or enforceability of the rules of the designated system;
 - (ii) any payment to or out of the account of a system participant or netting; or
 - (iii) any settlement that took place prior to the date on which the variation or revocation comes into force.

(5) The Central Bank—

- (a) may vary or revoke a designation made under subsection (1) by giving written notice to the designated operator;
- (b) shall publish in the *Gazette* a notice of its decision to vary or revoke a designation made under subsection (1); and
- (c) may publish notice of its decision in any other appropriate media.

Central Bank to establish standards for Designated Systems

12. (1) The Central Bank may establish standards to be complied with by the operator or participants of a designated funds transfer system or designated settlement system where it is in the public interest.

(2) Standards established under subsection (1)—

- (a) shall be published in the *Gazette* and any other appropriate media;
- (b) shall come into force—
 - (i) subject to sub-paragraph (ii), on the day on which the standards are published in accordance with paragraph (a); or
 - (ii) on a date specified in the standards;
- (c) may be varied as provided in section 13.

Variation or revocation of standards

13. (1) The Central Bank may vary or revoke any standards or any of them if the Central Bank considers it is appropriate to do so, having regard to—

- (a) whether the variation or revocation would be in the public interest;
 - (b) the interests of the current participants in the system;
 - (c) the interests of people who, in the future, may desire access to the system; and
 - (d) any other matters the Central Bank considers relevant.
- (2)** The Central Bank—

- (a) shall publish in the *Gazette* details of its decision to vary or revoke the standards and particulars of the variation or revocation; and
- (b) may publish notice of its decision in any other media.

(3) Failure by the Central Bank to comply with subsection (2) does not invalidate the variation or revocation.

Cessation of Standards

14. The standards established in respect of a designated funds transfer system or designated settlement system cease to be in force on—

- (a) the prescribed expiry date if any, of such standards;
- (b) revocation of the standards by the Central Bank;
- (c) voluntary cessation of operations of the designated funds transfer system or designated settlement system;
- (d) dissolution of the designated funds transfer system or designated settlement system; or
- (e) revocation or suspension of designation of the funds transfer system or settlement system.

Establishment of access regime

15. (1) The Central Bank may establish an access regime for the participants of a designated funds transfer system or designated settlement system.

(2) The access regime must be one that the Central Bank considers appropriate, having regard to—

- (a) the public interest;
- (b) the interests of the current participants in the system;
- (c) the interests of persons who, in the future, may desire access to the system; and
- (d) any other matters the Central Bank considers relevant.

(3) The Central Bank shall publish in the *Gazette*—

- (a) details of its decision to establish an access regime; and
- (b) particulars of the access regime.

(4) Failure to comply with subsection (3) does not invalidate the access regime.

Commencement and cessation of access regime

16. (1) An access regime—

- (a) comes into force—
 - (i) subject to subparagraph (ii), on the day on which the particulars are published in accordance with section 15; or
 - (ii) on the date specified in the particulars establishing the access regime; and
- (b) may be varied as provided in section 17.

(2) An access regime established in respect of a designated funds transfer system or designated settlement system ceases to be in force on—

- (a) the prescribed expiry date, if any, of the access regime;
- (b) revocation of the access regime;
- (c) voluntary cessation of operation of the designated funds transfer system or designated settlement system;
- (d) dissolution of the designated funds transfer system or designated settlement system; or
- (e) revocation or suspension of designation of the funds transfer system or settlement system.

Variation of access regime

17. (1) The Central Bank may vary an access regime if the Central Bank considers it is appropriate to do so, having regard to—

- (a) whether the variation would be in the public interest;
 - (b) the interests of the current participants in the system;
 - (c) the interests of people who, in the future, may desire access to the system; and
 - (d) any other matters the Central Bank considers relevant.
- (2) The Central Bank—
- (a) shall publish in the *Gazette* details of its decision to vary an access regime and the particulars of the variation; and
 - (b) may publish notice of its decision in any other media.

(3) Failure by the Central Bank to comply with subsection (2) does not invalidate the variation.

Commencement of Variation

18. Variation of an access regime comes into force—

- (a) subject to subparagraph (b), on the day on which the decision to vary the access regime is published in accordance with section 17; or
- (b) on the date specified in the decision to vary the access regime.

Revocation of access regime

19. (1) A participant in a designated funds transfer system or designated settlement system may apply to the Central Bank in the prescribed form for revocation of the access regime.

(2) The Central Bank may revoke an access regime in the public interest or for other compelling reasons.

Effective Date of Revocation

20. Revocation of an access regime takes effect on the date specified in the decision to revoke the access regime.

PART 5

INSOLVENCY AND BANKRUPTCY OF
SYSTEM PARTICIPANT OR AN OPERATOR**Bankruptcy and insolvency of operator and system participant**

21. (1) A system participant or an operator must notify the Central Bank if it becomes insolvent or becomes bankrupt and must give the notice as soon as practicable after proceedings are instituted.

(2) A system participant or an operator does not contravene subsection (1) if it takes reasonable steps to comply with that subsection.

(3) Subject to subsection (2), a system participant or an operator who contravenes subsection (1) commits an offence.

Utilisation of deposits, in event of bankruptcy or insolvency

22. (1) Notwithstanding anything to the contrary in the Bankruptcy Act, the Companies Act or the Banking Act any asset of a settling participant which is provided prior to the issue of any bankruptcy, winding-up or receivership order against that settling participant to—

- (a) the Central Bank;
- (b) an operator; or
- (c) a central counter-party,

as security in respect of its payment or settlement obligations, may be utilised by the Central Bank, the operator or the central counter-party to the extent required for the discharge of those settlement obligations of the system participant.

(2) Notwithstanding anything in the Bankruptcy Act, or the Companies Act or the Banking Act if a settling participant goes into bankruptcy, receivership or is wound up—

- (a) any provision contained in a netting agreement to which that system participant is a party;
- (b) any provision contained in the rules of the settlement system or in clearing, netting and settlement agreements to which that settling participant is a party; or
- (c) any rules and practices applicable to the settling participant,

is binding upon the liquidator, receiver or administrator in respect of any payment or settlement obligation—

- (i) that has been determined through netting prior to the issuance of the bankruptcy, winding-up or receivership order; and

- (ii) that is to be discharged on or after the date of the winding-up, receivership or bankruptcy, or the discharge of which was overdue on the date of the winding-up, receivership or bankruptcy order.

(3) A settling participant against which a bankruptcy, winding-up or receivership application has been lodged is prohibited from clearing or participating in any settlement system other than for the purposes of discharging payment obligations.

(4) Notwithstanding section 10 of the Bankruptcy Act, the rights and remedies of a participant, clearing house, central counter-party or the Central Bank to realise any collateral granted to it as security for a payment or the performance of an obligation incurred in a net settlement system may not be the subject of any stay provision or court order.

(5) A settling participant who participates in any settlement system in violation of subsection (3) commits an offence and is liable on conviction to a fine of \$50,000.

PART 6

EXAMINATION, AUDIT AND INFORMATION

Validity of electronic data

23. (1) Information stored, disseminated or used by system participants and operators shall not be denied legal effect solely on the ground that—

- (a) it is in the form of an electronic record; or
- (b) it is not contained in the electronic record purporting to give it legal force and validity, but is referred to in another electronic record.

(2) Information recorded in electronic format may be produced in evidence in accordance with procedures established in the Evidence Act or applicable law.

Retention of records

24. (1) The Central Bank and system participants shall retain records obtained by them during the course of operation and administration of a funds transfer system or settlement system for a period of at least six years from the date of their creation.

(2) The retention of records under subsection (1) may be affected by electronic means.

Central Bank examination of books of an operator

25. (1) The Central Bank shall examine or cause an examination to be made of each designated funds transfer system and designated settlement system from time to time or whenever in its judgment such an examination is necessary or expedient in order to determine that the funds transfer system or

settlement system is in a sound financial condition and that the requirements of this Act have been complied with in the conduct of its business.

(2) The operator of a designated funds transfer system or designated settlement system shall produce for the inspection of an examiner appointed by the Central Bank, at such time as the examiner specifies all books, minutes, accounts, cash, instruments, securities, documents and vouchers relating to its business as requested by the examiner for the purpose of this Act.

(3) If any books, minutes, accounts, cash, instruments, securities, documents and vouchers are not provided or information is not supplied in accordance with subsection (1), the defaulting operator commits an offence and is liable on conviction to a fine of \$50,000 and in the case of a continuing offence to a further penalty of \$1,000 for each day on which the offence is continued after conviction.

(4) Where an operator of a designated funds transfer system or designated settlement system knowingly supplies information or produces any item pursuant to subsection (2) which is false in any material particular, the operator commits an offence and is liable on conviction to a fine of \$50,000.

(5) The Central Bank may assess a designated funds transfer system or designated settlement system for the reasonable expenses of conducting an examination under this section.

Disclosure and access to books and records

26. (1) An operator of a designated funds transfer system or designated settlement system shall produce for the inspection of any examiner appointed by the Central Bank at such time as the examiner specifies all books, minutes, accounts, cash, instruments, securities, documents and vouchers relating to its business and the business of its affiliates as requested by the examiner for the purpose of this Act.

(2) If any books, minutes, accounts, cash, instruments, securities, documents and vouchers are not provided or information is not supplied in accordance with subsection (1), the defaulting operator commits an offence and is liable on conviction to a fine of \$50,000.

(3) Where the operator knowingly supplies information or produces an item pursuant to subsection (2) which is false in any material particular, the operator of the designated funds transfer system or designated settlement system commits an offence and is liable on conviction to a fine of \$50,000.

System participant and operator to provide information

27. (1) A system participant and an operator shall provide any information requested by the Central Bank relating to the volumes or values of payment and settlement instructions or payment and settlement obligations.

(2) Any information obtained by the Central Bank in response to a request made under subsection (1) is confidential and shall not be disclosed to any third party by the Central Bank, its servants or agents except—

- (a) with the written consent of the system participant or operator;
 - (b) in the course of performance of his duties within the scope of his employment;
 - (c) when lawfully required to make disclosure by any court of competent jurisdiction within Montserrat;
 - (d) under the provisions of any law of Montserrat; or
 - (e) as deemed necessary by the Central Bank to protect the integrity, effectiveness or security of the payment system.
- (3) Any person who contravenes the provisions of subsection (1) or (2) commits an offence.

Annual audit, report and publication of financial statements

28. (1) An operator of a designated funds transfer system or designated settlement system shall appoint annually an auditor satisfactory to the Central Bank whose duties—

- (a) shall be to examine the books and records and to make a report on the annual financial statements and financial position, and in every such report the auditor shall state whether in the auditor's opinion the balance sheet and profit and loss account give a true and fair view of the state of affairs of the funds transfer system or settlement system and of its results for the period then ended; and
- (b) include all or any of the following duties as may from time to time be imposed on the auditor by the operator of the designated funds transfer system or designated settlement system at the request of the Central Bank—
 - (i) to submit such additional information in relation to the audit of the funds transfer system or settlement system as the Central Bank considers necessary;
 - (ii) to carry out any other examination or establish any procedure in any particular case;
 - (iii) to submit a report on any of the matters referred to in subparagraphs (i) and (ii);
 - (iv) to submit a report on the financial and accounting systems and risk management controls of the funds transfer system or settlement system; and
 - (v) to certify whether suitable measures to counter money laundering and to combat the financing of terrorism have been adopted by the funds transfer system or settlement system and are being implemented in accordance with the Act.

(2) The operator shall remunerate the auditor in respect of the discharge by the auditor of all or any of the duties set out in subsection (1).

(3) Where in the course of the performance of his duties an auditor is satisfied that—

- (a) there has been a serious breach of or non-compliance with this Act or any regulation, notice, order, guideline or direction issued under the Act; or
- (b) there is evidence that a criminal offence involving fraud or other dishonesty may have been committed,

the auditor shall immediately report the matter to the operator and the Central Bank.

(4) The Central Bank may request copies of reports submitted to the operator by both its internal and external auditors.

(5) An auditor shall simultaneously with its report to an investigative, regulatory or other institution on a funds transfer system or settlement system, report to the Central Bank any matter it is required to report to such institution.

(6) An operator who fails to secure compliance with a request under subsection (1)(b) commits an offence and is liable on conviction to fine of \$50,000 for each such failure to comply.

(7) If an operator fails to appoint an auditor satisfactory to the Central Bank, the Central Bank may appoint an auditor for such funds transfer system or settlement system and the remuneration of the auditor so appointed shall be determined by the Central Bank and paid by the operator.

(8) The Central Bank may appoint an auditor to conduct an independent audit of a funds transfer system or settlement system, in accordance with the instructions of the Central Bank, and to report the findings or results to the Central Bank.

(9) An auditor appointed under subsections (1) and (8) is not liable for breach of any duty solely by reason of compliance with subsections (1), (3) or (5), or any other request for information by the Central Bank.

(10) For the purposes of this Act—

- (a) no person having an interest in any funds transfer system or settlement system otherwise than as a depositor and no director, manager, secretary, employee or agent of a funds transfer system or settlement system is eligible for appointment as auditor for such funds transfer system or settlement system.
- (b) a person appointed as auditor who shall, after an appointment, acquire any interest in a funds transfer system or settlement system otherwise than as a depositor, or become a director, manager, secretary, employee or agent of such funds transfer system or settlement system shall immediately cease to be such auditor.

PART 7

COMPLIANCE, ARBITRATION AND REGULATION

Management's duty to comply with the law

29. (1) A director, manager, secretary or other officer concerned in the management of a system participant shall take all reasonable steps to secure compliance by the participant with the requirements of this Act.

(2) A director, manager, secretary or other officer concerned in the management of a system participant who contravenes subsection (1) commits an offence and is liable on conviction to a fine of \$50,000 or to imprisonment for a term of six months or to both.

Settlement of disputes by arbitration

30. (1) Any dispute between system participants concerning any matter arising under this Act shall be submitted to arbitration by a tribunal of arbitrators appointed pursuant to subsection (2).

(2) If the dispute is—

- (a)* between only two parties, each party shall be entitled to appoint one arbitrator, and the two parties shall together appoint a third arbitrator, who shall be the Chairman of the tribunal.
- (b)* if the dispute is between three or more parties, each party shall be entitled to appoint one arbitrator and all the parties shall together appoint an additional arbitrator, who shall be the Chairman of the tribunal.

(3) If within thirty days of receipt of the request for arbitration, any party has not appointed an arbitrator or if within thirty days of the appointment of the arbitrators the parties have not appointed the third arbitrator or, as the case may be, the additional arbitrator, any party to the dispute may request that the High Court make the required appointment.

(4) The procedure of the tribunal shall be fixed by the arbitrators, but the Chairman of the tribunal shall have full power to settle all questions of procedure in any case of disagreement.

(5) A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding on the parties.

(6) The Chairman of the tribunal shall be entitled to vote, and in the event of a tie, shall have a casting vote.

Directives by Central Bank

31. (1) The Central Bank may issue directives to any person regarding a designated funds transfer system or designated settlement system regarding the application of the provisions of this Act and may in such directive require any person to—

- (a) cease or refrain from engaging in any conduct or perform such other acts as are necessary to remedy the situation;
- (b) perform such acts as are necessary to comply with the directive or to effect the changes; or
- (c) provide the Central Bank with such information and documents, relating to the matter as specified in the directive.

(2) In considering whether to issue a directive the Central Bank may have regard to any or all of the following matters—

- (a) that reasonable grounds exist to believe that any person is engaging or is about to engage in any conduct with respect to the payment system, that results or is likely to result in systemic risk;
- (b) that reasonable grounds exist to believe that any person is engaging or is about to engage in any conduct with respect to the payment system, that is or will be contrary to the public interest relative to the integrity, effectiveness, efficiency or security of the payment system;
- (c) the public interest;
- (d) the integrity, effectiveness, efficiency or security of the payment system;
- (e) national or Currency Union stability; and
- (f) any other matters that the Central Bank considers appropriate.

(3) Any person who neglects, refuses or fails to comply with a directive issued under subsection (1) commits an offence.

(4) Without prejudice to any proceedings which may be instituted, the Central Bank may apply to the High Court for an order directing a system participant to comply with a directive issued under subsection (2)(a).

(5) The Central Bank may impose restrictions against an operator or system participant who acts in contravention of this Act or Regulations, rules or directives issued pursuant to this Act.

(6) In this section “**systemic risk**” refers to a scenario in which the failure of one or more settling participants to meet their payment obligations or their settlement obligations is likely to cause any or all of the other system participants to be unable to meet their respective payment or settlement obligations.

Regulations

32. The Governor may, on the recommendation of the Central Bank, make Regulations for giving effect to this Act, and, without limiting the generality of the foregoing, may make Regulations respecting—

- (a) reports or other information to be supplied by designated funds transfer systems or designated settlement systems and any other matter associated with their use;
- (b) records to be kept, returns and reports to be made to the Central Bank or the Minister by persons who are appointed auditors under the Act;
- (c) form of reports and returns to be made by designated funds transfer systems or designated settlement systems and the times when such reports and returns shall be made;
- (d) forms necessary for the administration of this Act;
- (e) penalties that may be imposed for violations of Orders or Regulations made under this Act not exceeding a fine of \$50,000 or imprisonment for a term of twelve months;
- (f) minimum criteria for fit and proper persons; and
- (g) any other matter required for the efficient administration of this Act.

Authority to make rules

33. (1) The Central Bank may make rules to give effect to the provisions of this Act.

(2) Notwithstanding the generality of subsection (1) the Central Bank may make rules respecting—

- (a) accounts at the Central Bank, including—
 - (i) access (including by virtual private network), and
 - (ii) balances;
- (b) conditions for the interconnection to and participation in the Payment System, large value electronic funds transfer system or other funds transfer systems or settlement systems operated, or designated by the Central Bank;
- (c) features of the cheque clearing system, settlement systems, and funds transfer systems;
- (d) finality of payment and settlement, netting, loss allocation and apportionment;
- (e) bank records and processes, and documents, including electronic documents and signatures;
- (f) collateral in all its forms, nature, effectiveness and means of realisation;
- (g) payment instruments such as cheques (including certified cheques) and electronic transfers, including arrangements respecting authenticity and integrity;

- (h) security, reliability, identification, authentication and contingency arrangements;
- (i) administration;
- (j) expenses and fees;
- (k) payment system planning;
- (l) designated funds transfer systems or designated settlement systems;
- (m) establishment of a framework for administration of truncated cheques or cheques held either at the institution of deposit or afterwards;
- (n) alternative dispute resolution machinery; and
- (o) appointment of auditors.

(3) The Rules shall be published in the *Gazette*.

(4) The Central Bank may at any time amend or replace Rules made under this section and such amendment or replacement shall be published in the *Gazette* or in any other media.

Prudential guidelines

34. The Central Bank may issue to operators and system participants prudential guidelines as may be necessary for administering the provisions of this Act, and without limiting the generality of the foregoing, may issue guidelines respecting—

- (a) policies, practices and procedures for evaluating financial soundness of operators and participants;
- (b) policies, procedures and systems for identifying, monitoring and controlling country risk, institutional risk, market risk, liquidity risk, operational risk and such other risks as the Central Bank shall specify;
- (c) liquidity requirements;
- (d) corporate governance;
- (e) auditors;
- (f) disclosure; and
- (g) anti-money laundering and combating the financing of terrorism matters.

PART 8

MISCELLANEOUS

Offence and penalty

35. A person who contravenes or fails to comply with any provision of this Act, where the provision does not expressly create an offence or provide for a penalty, commits an offence and is liable on conviction to a fine of \$100,000.

Act to bind the Crown

36. This Act binds the Crown.

SCHEDULE

(Section 10)

NETTING ARRANGEMENT ESTABLISHED BY THE CENTRAL BANK

1. Notwithstanding any other law—

- (a) in a netting arrangement obligations may be terminated, termination values may be calculated and a net amount become payable and be paid in accordance with the netting arrangement;
- (b) paragraph (a) applies notwithstanding—
 - (i) any disposal of rights that may be netted under the netting arrangement;
 - (ii) the creation of any encumbrance or other interest in relation to those rights; or
 - (iii) the operation of any encumbrance or any other interest in relation to those rights, in contravention of the netting arrangement.

2. For the purposes of any law the assets and liabilities of a party to the netting arrangement shall include any net obligation owed to a party under the netting arrangement and does not include obligations terminated under the netting arrangement.

3. If a system participant goes into insolvency or bankruptcy—

- (a) the party may do anything permitted or required by the netting arrangement in order to net obligations incurred before or on the day on which the bankruptcy or insolvency order is made; and
- (b) subject to paragraph 5 the obligations that are or have been netted under the netting arrangement are to be disregarded in the bankruptcy or insolvency;

- (c) any net obligation owed by the party under the netting arrangement that has not been discharged is provable in the bankruptcy or insolvency;
 - (d) any net obligation owed to the party under the netting arrangement that has not been discharged may be recovered by the receiver or administrator for the benefit of creditors; and
 - (e) the netting and any payment made by the party under the netting arrangement to discharge a net obligation is not to be voidable in the bankruptcy or insolvency.
4. Paragraphs 1 and 3 have effect despite any other law.
5. The receiver or administrator may recover from the bankrupt or insolvent party for the benefit of creditors an amount equal to the amount of the obligation if—
- (a) a party to a netting arrangement becomes bankrupt or insolvent;
 - (b) an obligation owed by the bankrupt or insolvent party to another party to the netting arrangement has been netted under the netting arrangement; and
 - (c) a direct payment by the bankrupt or insolvent party owing the obligation to the other party would have been voidable in accordance with bankruptcy or insolvency proceedings if it had been made to settle the obligation on the day the netting occurred.
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**PAYMENT SYSTEM (EASTERN CARIBBEAN
AUTOMATED CLEARING HOUSE SYSTEM) RULES**

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**PAYMENT SYSTEM (EASTERN CARIBBEAN
AUTOMATED CLEARING HOUSE SYSTEM) RULES – SECTION 33**

(S.R.O.s 63/2014 and 21/2015)

Commencement

[30 April 2013]

PART 1

PRELIMINARY

Short title

1. These Rules may be cited as the Payment System (Eastern Caribbean Automated Clearing House System) Rules.

Definitions

2. In these Rules—

“**acceptance**” means the moment at which a transaction is validated as compliant, passes the tests to determine whether there is sufficient collateral for the transaction to proceed and is no longer revocable by the originating participant;

“**Act**” means Payment System Act;

“**authenticated fax**” means a fax bearing a code or a signature that can be used as confirmation that the source of the fax is authentic and that the recipient can therefore act on its instructions with confidence that the instructions are genuine;

“**block**” means an action taken by the ECACH, which prevents a specific system participant from sending and receiving transactions to and from the ECACH system;

“**business day**” means a day on which a system participant is operating to process payments;

“**Central Bank**” means the Eastern Caribbean Central Bank as established by the Eastern Caribbean Central Bank Agreement 1983;

“**collateral**” means an asset or third-party commitment that is provided by the collateral provider to the collateral taker and accepted by the collateral taker to secure an obligation of the collateral provider;

“**direct credit**” means a payment instruction initiated by an originator for onward credit to a receiver for a payroll credit, dividend payment, wire transfer or any other such instrument that allows a person to arrange a credit transaction in favour of another;

- “**direct debit**” means a payment instruction of an amount agreed under a direct debit mandate, collected from a receiver’s account on advance notice by an originating participant on request, under a standard contract;
- “**disable**” means an action taken by the ECACH, which prevents a specific system participant from being able to access the ECACH system;
- “**ECACH**” means the Eastern Caribbean Automated Clearing House as established by the Central Bank pursuant to Article 36 of the Eastern Caribbean Central Bank Agreement 1983 for clearing cheques and retail electronic transactions within the Eastern Caribbean Currency Union;
- “**ECACH system**” means the components of the automated clearing house application, which is operated at the ECACH operator site that manage the daily clearing sessions and carry out file processing, net position calculation and submission of the net settlement instruction to the Central Bank;
- “**effective date**” means the date when actual value shall be passed to the receiver of an item;
- “**electronic funds transfer**” means funds transfer by electronic means, and includes the use of computer-telecommunications systems;
- “**end of day**” means the time indicated on the ECACH processing schedule at which the processes, which take place to conclude the business day, are carried out for the system;
- “**end of day processing**” means the time of day when the system generates all end of day reports and closes the processing queues for that processing day;
- “**funds transfer system**” means a formal arrangement, based on private contract or statute law among participants, with common rules and standardised arrangements for the transmission and settlement of money obligations arising among the participants;
- “**item**” means a transaction presented by a system participant for exchange and settlement using the ECACH;
- “**magnetic ink character recognition**” means special machine-readable characters;
- “**NACHA**” means the National Automated Clearing House Association of the United States of America;
- “**NACHA Standards**” means the standards and requirements, as published by the NACHA from time to time, for the organisation and exchange of financial data between an originating participant and a receiving participant;
- “**net settlement instruction**” means an instruction which contains the net credit and net debit postings, summed to zero, which the Central Bank shall process for the ECACH system participants in order to settle their indebtedness to each other with respect to that clearing;
- “**originating participant**” means a system participant that originates a transaction to be sent to a receiving participant;
- “**originator**” means a person who authorises an originating participant to send an item for the account of that person;

- “payment instruction”** means any instrument enabling the customer to transfer funds;
- “receiving participant”** means a system participant that receives a transaction from an originating participant;
- “receiver”** means a person that has authorised an originator to initiate an item to the receiver’s account;
- “routing number”** means a numeric identifier that consists of a system participant’s unique identification number and branch number;
- “settlement”** means the mechanism by which obligations in respect of funds transfer or in respect of payments in securities transactions between two or more parties are finally discharged;
- “settlement account”** means a system participant’s designated account at the Central Bank, which is maintained for settlement;
- “settlement date”** means the date on which an originator intends to pass value to the receiver of an item;
- “settling participant”** means a system participant who can settle transactions on his own account and for other system participants;
- “settlement system”** means a system used to facilitate the settlement of transfers of funds or financial instruments;
- “system participant”** means a party who participates in a funds transfer system or settlement system which is operated, designated or regulated by the Central Bank;
- “third party agent”** means a system participant or a company that provides payment services to another system participant;
- “value date”** means the date requested by the originator or originating participant for a receiving participant to take action on an item.

Purpose

3. The purpose of these Rules is to articulate the standards and principles governing the operation of the ECACH.

International standards

4. (1) All system participants shall comply with the Canadian Payments Association Code 006 Standards for magnetic ink character recognition encoded payment items for all paper based payment items cleared through the ECACH.

(2) All system participants shall comply with the ANSI X9.100-187 Standards, as published by the American National Standards Institute from time to time, for image exchange except as modified in Schedule 1.

(3) All system participants shall comply with the NACHA Standards for electronic funds transfer except as modified in Schedule 1.

Compliance with Anti-Money Laundering and Combating the Financing of Terrorism Legislation

5. All system participants shall meet the requirements and comply with all applicable Anti-Money Laundering and Combating the Financing of Terrorism legislation, as well as regulations and guidelines issued by the Central Bank to this end.

Application

6. These Rules govern—

- (a) paper-based payment items that are eligible for cheque truncation and electronic cheque presentment using the ECACH;
- (b) the use of imaging and the transmission of electronic information between system participants, to create new options for storage and retrieval of images and associated information; and
- (c) electronic transactions transmitted through the ECACH.

Rule binds system participants and third party agents

7. The Rules are binding on all system participants and third party agents who—

- (a) send items to the ECACH;
- (b) receive items from the ECACH; or
- (c) are obligated to settle for items exchanged in the ECACH.

PART 2

PARTICIPATION, ACCESS AND RESPONSIBILITIES

General

8. (1) This Part describes and governs the clearing and settlement of credit and debit items for system participants of the ECACH.

(2) Any cheque image or electronic funds transfer item sent to the ECACH for processing and settlement is subject to the provisions of this Part.

(3) All time indications in these Rules relate to the time at the place where the head office of the ECACH is located.

Direct or Indirect Settlement

9. The Central Bank in consultation with the ECACH may allow a system participant to settle—

- (a) directly in the ECACH using the system participant's settlement account held at the Central Bank; or
- (b) indirectly in the ECACH using the designated settlement account of a system participant who is allowed to settle directly under paragraph (a) above.

Admission of system participants

10. (1) The Central Bank, in consultation with the ECACH may authorise the admission of a new system participant into the ECACH.

(2) Admission to the ECACH shall be subject to the applicant meeting the eligibility criteria and completing the required application form as set out in Schedule 5, and executing a Participant Collateral and Settlement Agreement.

(3) At the commencement of the ECACH, the Central Bank and all financial institutions licensed to do banking business pursuant to Part II of the Banking Act, and who meet the requirements for admission to the ECACH shall be deemed to be system participants.

Suspension of a system participant

11. The Central Bank in consultation with the ECACH, may suspend the access of a system participant, by blocking or disabling the system participant for a specified period in the following circumstances—

- (a)* by agreement with the system participant concerned;
- (b)* when a system participant fails to comply with a requirement for participation set out in these Rules;
- (c)* where an interceding event materially affects the system participant's established pattern of sending and receiving payments for a period of time, but only during the continuance of that event;
- (d)* a system participant materially breaches its obligations under these Rules or the applicable procedures and fails to rectify the breach.

Grace period under suspension

12. The Central Bank, in consultation with the ECACH, prior to the suspension of a system participant, may determine, on a case by case basis—

- (a)* whether a grace period should be granted; and
- (b)* the duration of the grace period granted under rule 12(a)..

Access to data under a suspension

13. A system participant whose access to the ECACH is suspended under rule 11 is not entitled to participate in the ECACH but may retain the right to access its data outside the system upon request to the ECACH.

Notification of suspension

14. The ECACH shall immediately notify all system participants of a suspension made under rule 11 through the use of email, telephone contact or any other means available and shall confirm the suspension of a system participant by notice in writing within twenty four hours.

Reinstatement of a suspended system participant

15. (1) The Central Bank, in consultation with the ECACH, may reinstate a suspended system participant.

(2) The ECACH shall, within forty eight hours of the decision to reinstate a suspended system participant under rule 15(1), notify system participants of that decision and the reactivation date for that system participant.

Cessation of a system participant

16. A system participant ceases to be a system participant on—

- (a) resignation;
- (b) becoming insolvent or making an arrangement or composition with creditors generally;
- (c) being wound-up, dissolved or otherwise ceasing to exist except in the case of a winding up for the purpose of reconstruction or amalgamation the terms of which have been approved by the ECACH; or
- (d) being terminated by the Central Bank in accordance with these Rules.

Resignation in writing

17. A system participant who resigns from the ECACH shall give at least sixty days notice in writing to the ECACH.

Termination

18. The Central Bank may terminate access to the ECACH by giving at least thirty days written notice of termination to a system participant on the following conditions:

- (a) the system participant has been suspended under rule 11;
- (b) the Central Bank has consulted with the ECACH regarding such termination; and
- (c) the system participant has been allowed a period of at least fourteen days following receipt of the written notice, within which to make written submissions to the Central Bank regarding its termination.

Grace period under termination

19. The Central Bank, in consultation with the ECACH, prior to termination of a system participant, may determine, on a case by case basis —

- (a) whether a grace period should be granted; and
- (b) the duration of the grace period granted under rule 19(a).

Effective date of termination

20. The termination served pursuant to rule 18 shall take effect on a date the Central Bank shall determine.

Revocation of termination

21. The Central Bank may revoke a notice issued under rule 18 at any time before it becomes effective.

Discharge of obligations on suspension and cessation

22. A person who is suspended or ceases to be a system participant shall continue to be bound by these Rules in respect of—

- (a) any act, matter or event occurring prior to the time such cessation takes effect, or as a result of such suspension or cessation; and
- (b) any fees, costs, charges and expenses which may have been levied on the system participant prior to suspension or cessation.

Discharge of monies owed on cessation

23. Subject to any rights of set-off, counterclaim or combination thereof, upon any cessation of a system participant—

- (a) the person who ceases to be a system participant shall immediately pay all sums of money owed by it to any other system participant in respect of obligations arising from the exchange of payments; and
- (b) all sums of money owed to the system participant who ceases to be a system participant by any other system participant in respect of all payments exchanged shall be paid by that other system participant to the system participant who ceases to be a system participant.

Cessation of access

24. A person who ceases to be a system participant pursuant to rule 17 shall immediately cease to effect exchanges in the ECACH.

Notice to system participants of cessation

25. The Central Bank shall immediately notify all system participants by the most expeditious means available of any cessation under rule 17.

Entrance and exit fees

26. A person who ceases to be a system participant pursuant to rule 17—

- (a) is not entitled to be reimbursed any part of any entrance, operating or other fee paid; and
- (b) shall pay the exit fee set out in column II of Schedule 4.

Collateralisation

27. A system participant shall maintain sufficient aggregate collateral as set out in the Participant Collateral and Settlement Agreement, to cover a minimum period as the Central Bank may determine from time to time, to ensure prompt settlement of ECACH transactions.

Calculating the minimum collateral amount and the credit limit

28. (1) The collateral amounts required by a system participant shall be based on a multiple of the average daily gross obligations over a period determined by the Central Bank in consultation with the ECACH and the system participants of the ECACH from time to time.

(2) The collateral amounts shall be recalculated at least annually by the Central Bank.

(3) The credit limit shall be a percentage of the collateral amount as shall be determined by the Central Bank from time to time.

Settlement failure

29. (1) The ECACH shall only accept payment instructions that are fully collateralised, from system participants to prevent settlement failure.

(2) Collateral held in relation to instructions accepted by the ECACH shall not extend to items settled bilaterally under rules 85(4), 90, 92, and 93.

Sending credit and debit items

30. (1) An originating participant may send an item to the ECACH once the item is drawn on a receiving participant.

(2) An originating participant shall send an item under rule 30(1) in accordance with the standards prescribed in rule 4.

Security procedures

31. (1) All files originated by a system participant for processing shall be digitally signed and encrypted by the system participant before transmission to the ECACH.

(2) All outgoing ECACH files from the ECACH shall be digitally signed and encrypted by the ECACH before being transmitted to the system participant.

(3) A system participant shall not disclose any aspects of the security procedures offered by the ECACH except to a third party agent designated under rule 46(1).

(4) The originating participant or the receiving participant shall notify the ECACH immediately where the confidentiality of the security procedures is compromised, and shall act to prevent the security procedures from being further compromised.

Processing of items

32. (1) The ECACH shall process all items in accordance with these Rules.

(2) The ECACH may reject, or may impose conditions for the processing of, any item for reasons specified in these Rules.

(3) The ECACH shall only act on instructions in an item that provides information in accordance with the standards described in rules 4(1), 4(2) or 4(3) as modified in Schedule 1.

Duplicate items

33. Where the ECACH notifies an originating participant of the receipt of a suspected duplicate file or any other problem, the ECACH shall not process the file without approval of the originating participant or its third party agent.

ECACH not responsible for system participants' failure

34. The ECACH is not responsible for a system participant's failure to comply with these Rules.

Recording of communication

35. The ECACH may record any communication relating to an item by using any recording device.

Acknowledgement for electronic transmissions

36. (1) The ECACH shall provide an acknowledgment of receipt to an originating participant, for files sent by the originating participant by electronic transmission, within thirty minutes of receiving the files.

(2) An acknowledgment of receipt by the ECACH is not a confirmation of acceptance or an indication of rejection of the items contained in the files by the ECACH.

Verification of acknowledgement

37. A system participant shall be responsible for verifying the information in the acknowledgment and notifying the ECACH immediately of any discrepancy.

Notification for non-receipt of acknowledgment

38. A system participant shall notify the ECACH promptly of the non-receipt of an acknowledgment.

Designation by routing number

39. An originating participant shall designate the receiving participant by a routing number.

Processing by routing number

40. The ECACH may process an item on the basis of the routing number of a receiving participant appearing in any form on the item when received.

No obligation for use of routing number

41. The ECACH shall not be responsible for any loss or delay resulting from acting on the routing number, whether or not the routing number is consistent with any other designation of the receiving participant as identified on the item.

Delivery of items to receiving participants

42. (1) The ECACH shall deliver items by electronic means to a receiving participant or to the third party agent designated under rule 46(1).

(2) The delivery of items by electronic means may include making them available on the ECACH system for the system participant or its third party agent to retrieve.

(3) In an emergency situation—

(a) a system participant shall immediately advise the ECACH of its alternate third party agent in writing; and

(b) the ECACH may send items to and receive items from the alternate third party agent which the system participant assigned under paragraph *(a)*.

Items deemed delivered

43. Where an item has been placed on the ECACH storage device and made available to the system participant or its agent to retrieve, or is sent using an agreed arrangement with the system participant, the item shall be considered delivered.

Advice of non-receipt of items

44. A **system** participant shall promptly advise the ECACH when it does not receive items by the expected date and time.

Receipt of items in a timely manner

45. (1) A system participant shall manage its electronic connection to allow it to receive items in a timely manner throughout the business day.

(2) Where a system participant does not receive items in a timely manner because of its own action or omission regarding the management of its electronic connection, or because of any emergency circumstances not attributable to a fault of the ECACH, it shall settle for the items with the ECACH on the settlement date.

Designation of a third party agent

46. (1) A system participant may with the prior approval of the ECACH, designate a third party agent to send and receive items on the system participant's behalf.

(2) Where a system participant chooses to designate a third party agent under rule 46(1), the system participant shall ensure that its third party agent complies with the system participant's obligations under these Rules.

(3) Where a system participant designates a third party agent, the designating system participant shall ensure that the third party agent meets the following criteria—

(a) is registered under a Companies Act in the Currency Union;

(b) the owners and operators of the company are fit and proper persons as outlined under section 97 of the Banking Act;

- (c) the company has sufficient capital and or risk insurances, commensurate with the levels of transactions to be processed, to provide warranties for any liability that may arise from processing transactions under these Rules;
 - (d) the company has the adequate tools and capacity to ensure compliance with these Rules.
- (4) The ECACH shall act upon items, information, and instructions sent to the ECACH by the third party agent designated by the system participant under rule 47(1).

Use of credentials by third party agent

47. The ECACH on the written instructions of a system participant shall grant the system participant's third party agent credentials authorising its access to the ECACH's systems to act—

- (a) on behalf of the system participant; and
- (b) on behalf of other system participants who use the same third party agent, if the system participant agrees that the third party agent may act.

Establishment of controls for third party agents

48. It is the responsibility of a system participant and its third party agent to establish controls sufficient to ensure that the third party agent properly segregates the items, information, and instructions of a system participant from any items, information, or instructions of other system participants.

ECACH not responsible for proper identification by third party agent

49. The ECACH shall not take, any measures to ensure that a system participant's work is properly identified or segregated by a third party agent.

System participant bound by acts or omissions of third party agent

50. A system participant is bound by the acts or omissions of its third party agent with respect to items that are handled by the ECACH pursuant to these Rules.

System participant to authorise settlement to ECACH

51. A system participant authorises the ECACH to—
- (a) settle for items sent to or received from the ECACH by the system participant's third party agent; and
 - (b) obtain from the system participant payment as provided in these Rules for any fees owed to the ECACH in connection with items sent to the ECACH or received from the ECACH by the system participant's third party agent.

Delivery to third party agent

52. The ECACH may send items to the system participant by delivering or transmitting such items to the system participant's third party agent.

Reliance on third party agent designation

53. The ECACH may rely on the third party agent designation until it is revoked in writing and the ECACH has had thirty days to respond to the revocation.

System participants responsibility for items on termination of third party agent

54. A system participant shall be responsible for the settlement of items that exist at the time of any termination of the third party agent designation and these obligations shall survive the termination of the third party agent designation.

Indemnity for acts of third party agent

55. A system participant indemnifies the ECACH against any claim, loss, cost, or expense resulting from—

- (a) the acts or omissions of the system participant's third party agent;
- (b) the ECACH's acts or omissions in carrying out the instructions of a third party agent within the scope of the agency appointment; or
- (c) the third party agent's arrangements for accessing the ECACH, including but not limited to attorney's fees and expenses of litigation, except for any claim, loss, cost, or expense arising solely out of the ECACH's failure to exercise ordinary care or to act in good faith.

Pending and rejected items

56. (1) All items not settled in one session may be held over and processed in the next consecutive session but not later than the last session prior to cut off for end of day processing.

(2) All items not settled by end of day processing shall be rejected and such items shall be submitted in a new session when the ECACH resumes.

Time schedules, settlement dates and extension of time limits

57. (1) The ECACH processing schedule as published from time to time shall contain the business days and the deadlines for the ECACH to receive credit and debit items of various classes for immediate or next day settlement.

(2) The time schedule shall also show the effective date for classes of items and provisions for settlement for various effective dates.

(3) The ECACH shall process items in accordance with its published processing schedules and shall send them to the receiving participant on or before the settlement date.

(4) Where a delay beyond the applicable time limit in acting on an item occurs due to "Acts of God", major system failures, delayed settlement or any other circumstances beyond the control of the ECACH, the time for acting on the item shall

be extended by the time necessary to complete the action, provided the ECACH exercises such diligence as the circumstances require.

Designation of settlement account

58. (1) Prior to sending an item to or receiving an item from the ECACH, a system participant shall designate a settlement account, and identify the transactions to be settled through the account.

(2) Where a system participant designates the account of another system participant, the designated system participant shall agree to that designation.

(3) Only a system participant authorised by the Central Bank under rule 9(a) may be designated to settle for another system participant.

Actions to be taken by the ECACH on a designated settlement account

59. By designating a settlement account, a system participant and its settling participant, authorise the ECACH—

- (a)* to debit the designated account on the settlement date with the amount of credit items sent by the system participant to the ECACH;
- (b)* to debit the designated account on the settlement date with the amount of debit items received by the system participant from the ECACH;
- (c)* to credit the designated account on the settlement date with the amount of debit items sent by the system participant to the ECACH;
- (d)* to credit the designated account on the settlement date with the amount of credit items received by the system participant from the ECACH; and
- (e)* to debit and credit to the designated settlement account the amount of other transactions including fees with respect to ECACH items.

General charges

60. A system participant and its settling participant, agree to maintain in the designated settlement account, a balance of funds sufficient to cover charges under these Rules and all other charges to the system participant's and its settling participant's account.

ECACH not responsible for rights between system participant and settling participant

61. The ECACH is not responsible for any obligations or rights of a system participant with respect to a settling participant.

Prior designations of no effect

62. A settlement designation by a system participant supersedes all prior designations with respect to an item.

Obligations for settlement of transactions

63. (1) A system participant remains responsible under these Rules for all transactions, notwithstanding that it has designated a settlement account, including a settlement account maintained by another system participant.

(2) The ECACH may at its sole discretion, recover the unpaid balance of a system participant's obligation with respect to an item from its originating or receiving participant, without prior notice or demand.

Termination of settlement designation by written notice

64. A system participant may terminate a settlement designation by giving thirty days' notice in writing to the Central Bank.

Settlement

65. (1) A system participant's settlement obligation is owed to the ECACH which acts as a central counter party.

(2) On the settlement date, the Central Bank shall debit or credit the settlement account for the net settlement amount.

(3) The ECACH may take any action authorised by law to recover amounts owed to it by the system participant, including but not limited to the exercise of set-off without demand or notice, whether or not the obligations are contingent or un-matured, the realisation on any available collateral, and the exercise of any rights it may have as a creditor under applicable law.

(4) Where the ECACH, determines that there may not be sufficient funds in the account at the settlement time on the settlement date to cover a debit for a credit item or for a received debit item, the ECACH may cease processing the item and may refuse to settle for the item.

(5) The ECACH may also cease processing and refuse to settle for an item if it receives notice of the suspension or the winding up of a system participant prior to the acceptance of such item.

(6) Where the ECACH ceases to process or refuses to settle for an item, the ECACH shall notify the originating participant and the receiving participant within thirty minutes of such refusal to process or refusal to settle.

Availability of credit

66. (1) Credit given for a debit item by the ECACH is available for use and may qualify as a reserve on the settlement date.

(2) The ECACH may refuse to permit the use of credit given for a debit item if it determines that there may not be sufficient funds in the originating participant's settlement account to cover charge back or return of the item.

(3) Credit given by the ECACH for a credit item is final and available for use and may qualify as a reserve.

Revocation of items

67. (1) An originating participant may not amend or revoke an item after it has been sent to the ECACH, except as provided for in rules 134 to 141.

(2) The ECACH may cancel items by initiating a reversing batch of items if it discovers that it sent a duplicate or erroneous batch of items.

(3) The ECACH shall notify the originating participant within twenty four hours of the discovery of a duplicate or erroneous batch of items.

(4) Nothing in these Rules constitutes a waiver by any ECACH system participant of a right of recovery.

Return of items and funds

68. (1) A system participant may return a debit or credit item to the ECACH by the clearing cut-off time for session four on the following day as set out in Schedule 3.

(2) A system participant is accountable for the amount of a debit item received if the item is not returned to the originating participant by the clearing cut-off time for session four on the following day as set out in Schedule 3.

Processing of a returned item

69. The ECACH shall process a returned item it receives from a receiving participant and send it or make it available to the originating participant in accordance with rule 69.

Settlement of a returned item

70. On the settlement date, the ECACH shall debit or credit the settlement account of an originating participant in the amount of a returned debit or credit item, and shall credit or debit the settlement account of a receiving participant in the amount of the returned debit or credit item.

Recourse and alternative resolution

71. (1) The return procedures, timeframes and responsibilities set out in these Rules shall apply to all participants and shall limit the degree to which they can seek recourse from other system participants under these Rules.

(2) Subject to rule 71(3), nothing in these Rules shall preclude a system participant from exercising its rights and seeking recourse outside of these Rules.

(3) A system participant may only pursue alternative resolution outside of these Rules after exhausting all options available under these Rules.

Disputed returns

72. (1) Where an originating participant in the first instance, disputes the propriety of a returned item the ECACH shall provisionally settle for the disputed returned item, subject to receipt of funds from the receiving participant.

(2) Where the receiving participant disputes the originating participant's claim under rule 72(1), the ECACH will reverse the provisional settlement for the disputed returned item, subject to receipt of funds from the originating participant.

Finality

73. (1) Where the ECACH submits to the Central Bank net settlement instructions and the Central Bank accepts the net settlement instructions, the net settlement instructions shall be deemed final.

(2) A valid payment instruction accepted by the ECACH and transmitted to the receiving participant shall be deemed final where the clearing cut-off time for session four on the day following the settlement of the instruction as set out in Schedule 3 has passed.

Obligations of originating participant in finality

74. An originating participant shall promptly make the funds available for withdrawal to a customer where a payment instruction is deemed final.

No return of funds

75. Once an ECACH payment is settled with finality, any request from the system participant for return of funds on behalf of their customers shall not be handled by the ECACH.

Advice of credit, debit and reporting of errors

76. (1) The ECACH shall provide an advice of credit and debit to a settling participant for items for which the system participant has agreed to settle.

(2) An advice of credit indicates that credit has been given, subject to the provisions of these Rules.

(3) The ECACH shall also, on request of the system participant, provide an advice to a settling participant's third party agent.

(4) A system participant shall immediately report an accounting error to the ECACH.

Records

77. (1) A system participant in the ECACH shall keep its electronic records of items for at least seven years.

(2) The ECACH may request a system participant to resend items kept pursuant to rule 77(1).

(3) The ECACH shall also keep its electronic records of items processed for at least seven years after the settlement date.

Fees and penalties

78. (1) A system participant shall pay the applicable fees set out in Column II of Table A in Schedule 4, in the frequency specified in column III for the services specified in column I.

(2) For fees payable under rule 78(1) the ECACH shall—

(a) send a notice of the amount owed by each system participant on the first business day of the month following which the fees were incurred; and

(b) withdraw the amount notified under rule 78(2)(a) to the system participant, from the system participant's settlement account fifteen business days after the notice issued under rule 78(2)(a).

(3) Where a system participant is in non-compliance with any rule he shall be liable to the penalty set out in column II of Table B in the frequency specified in Column III in Schedule 4.

Non-value messages

79. The ECACH shall handle messages that do not result in an accounting entry, such as a notification of change, in the same manner as an item of value.

Limitations on liability and warranty

80. (1) The ECACH's liability to a system participant is limited to instances of its own failure to exercise ordinary care, or for its own or its employees' wilful misconduct.

(2) The ECACH shall not act as an agent of a system participant or its assign and shall not be liable for the insolvency, neglect, misconduct, mistake or default of any system participant or assign.

(3) The ECACH does not make any warranty with respect to an item it processes or settles for under these Rules.

Restriction of claims for processing or settling a claim

81. A system participant is barred from making a claim against the ECACH for loss resulting from the ECACH's processing of or settling for an item after one year from the settlement date of the item.

Failure to send a written objection to an advice debit

82. Where a system participant or settling participant fails to send a written objection to an advice of debit to the ECACH within thirty calendar days after receipt of the advice, it is deemed to have approved the debit on its own behalf and on behalf of the system participant for which it settles.

Damages

83. (1) The measure of damages for the ECACH's failure to exercise ordinary care, or for its own or its employees' wilful misconduct is as follows—

- (a) in processing a non-value message, its liability may not exceed the amount of any fee paid to the ECACH for the message;
 - (b) for a credit item including a returned credit item, its liability is limited to damages that are attributable directly and immediately to the failure to exercise ordinary care or to the wilful misconduct, and does not include damages that are attributable to indirect consequences of such conduct, even if such consequences were foreseeable at the time of such conduct;
 - (c) for a debit item including a returned debit item, its liability for its failure to exercise ordinary care is limited to the amount of the item reduced by an amount that could not have been realized by the use of ordinary care;
 - (d) where there is wilful misconduct with respect to a debit item, the measure of damages includes other damages that are attributable directly and immediately to the wilful misconduct, but does not include damages that are attributable to indirect consequences of such misconduct.
- (2) The ECACH, in its sole discretion, may satisfy its obligation to pay damages in the form of interest by—
- (a) providing an “**as of**” adjustment to a system participant in an amount equal to the amount on which interest is to be calculated, multiplied by the number of days for which interest is to be calculated; or
 - (b) paying damages in the form of interest to a system participant or another party on the item that is entitled to such payment.

PART 3

OPERATING RULES FOR CHEQUE IMAGE EXCHANGE

Scope

- 84. (1)** In this Part “**eligible item**” means an approved paper based payment item.
- (2) This Part governs the clearing and settlement of eligible items to be processed through the ECACH.
- (3) These Rules are binding on an originating participant who sends eligible items to the ECACH, a receiving participant who receives eligible items from the ECACH, and on a settling participant who has agreed to settle for eligible items under these Rules.
- (4) Any eligible item that is sent to the ECACH for clearing and settlement is subject to the provisions of these Rules.
- (5) The ECACH shall process such eligible items in its capacity as operator.

General requirements

85. (1) Each eligible item shall be exchanged, cleared and settled in accordance with these Rules.

(2) All eligible items shall contain, a magnetic ink character encoded routing number, account number and serial number in compliance with the Canadian Payment Association Code 006 Standard specified in rule 4(1).

(3) The front and back images of each eligible item shall be captured prior to truncation.

(4) To facilitate the transition from the manual system to the automated system, the ECACH shall allow the bilateral exchange under these Rules, of paper based items that are not in compliance with the Canadian Payments Association Code 006 standards, for a period of nine months from the start of operations in Montserrat.

(5) All bilateral exchanges shall be conducted in accordance with rules 91, 92, 93 and 94 as applicable.

(6) A system participant shall maintain an archive of data and images for each eligible item sent to or received from the ECACH.

(7) An originating participant shall retain cheque images for a period of at least seven years commencing as of the date of capture.

(8) An originating participant may destroy the physical paper based documents of eligible items one year after settlement of the item to which the document pertains.

Items and instruments eligible for ECACH

86. The following instruments encoded with magnetic ink characters as prescribed in the Canadian Payment Association Code 006 Standard are eligible for exchange in accordance with these Rules—

- (a)* Eastern Caribbean currency denominated cheques drawn by a person on an account maintained by that person at a branch of a receiving participant, where the decision to honour or dishonour rests with the receiving participant, and where proof of the signing authority resides with the receiving participant;
- (b)* United States currency denominated cheques drawn by a person on an account maintained by that person at a branch of a receiving participant, where the decision to honour or dishonour rests with the receiving participant, and where proof of the signing authority resides with the receiving participant.

VIP session

87. (1) In this rule “**VIP session**” means a special clearing session for high value items specified in Schedule 3.

(2) A system participant shall submit an eligible item to a VIP session in which the eligible items shall be individually cleared and settled through the Central Bank’s interbank settlement system.

(3) The ECACH after consultation with the Central Bank shall from time to time determine the rate of high values for a VIP session specified in Schedule 3.

Standards for image capture

88. An originating participant shall capture images in accordance with the ECACH image usability standards in rule 94 and the image quality specifications as outlined in Schedule 2.

Image capture

89. The originating participant shall capture two image segments for all eligible items as follows—

- (a) black and white image of the front; and
- (b) black and white image of the back.

Unusable images

90. Where an originating participant is unable to capture a usable image of an eligible item in accordance with the image quality specifications under Schedule 2, the originating participant shall exchange and settle the eligible item bilaterally with the receiving participant.

Communication of bilateral exchanges

91. (1) Where an item under these Rules is to be settled bilaterally between system participants, the originating participant shall notify the receiving participant of any eligible item of the reason for bilateral exchange, within the same clearing session in which the item would have been presented.

(2) On a daily basis all system participants are to provide to the Central Bank and the ECACH the following details of all cheques exchanged bilaterally:

- (a) the number of cheques delivered to and received from each system participant;
- (b) the value of cheques delivered to and received from each system participant; and
- (c) the number and value of returns received from and delivered to each system participant.

Delivery of physical cheques in bilateral exchanges

92. (1) Where both the originating participant and the receiving participant are within the same territory, the physical cheque shall be delivered over the counter by the clearing session following notification in rule 91(1).

(2) Where both the originating participant and the receiving participant are not within the same territory, the originating participant shall send or dispatch the physical cheque to the receiving participant by the end of the following business day.

Transmission of cheque images in bilateral exchanges by fax, email

93. (1) Where the originating participant is located within a different territory, by mutually agreed image standards, an image clearly outlining all the essential features of the front and back of the cheque shall be presented to the receiving participant using a mutually agreed method of transmission which may include authenticated fax, email, or any secured means of transmission.

(2) The transmission of the image details shall occur no later than the clearing session following the session when the cheque would have normally been presented.

Image usability standards

94. An image is considered usable if it satisfies the following—

- (a)* the image of each field is legible, that is, it can be read or deciphered by human eyes;
- (b)* the image of each field is viewable, that is, there is perceived content in the field and the content can be viewed without obstruction; and
- (c)* the image is a clearly represented digital picture of an item on which all of the following are legible on the image of the item:
 - (i)* the magnetic ink character recognition line as described in the Canadian Payment Association Code 006 referenced in rule 4(1);
 - (ii)* the date field;
 - (iii)* the payer information;
 - (iv)* the convenience amount (amount in figures);
 - (v)* the legal amount (amount in letters);
 - (vi)* the payer's signature;
 - (vii)* the payee's name;
 - (viii)* the payee's endorsement(s), if present on the item.

Reason for return and return process

95. (1) Where an image of an eligible item is not usable according to rule 94, the eligible item may be returned within the time frames outlined in rule 108.

(2) The originating participant may re-scan the source document and transmit the image as a new eligible item to the receiving participant.

Poor source documents

96. Where an image of an eligible item is not usable due to the quality of the physical paper based document, the originating participant may—

- (a)* return the physical paper based item to its customer;
- (b)* forward the physical paper based document to the receiving participant for payment outside of these Rules.

Piggy-back items

97. (1) A piggy-back situation occurs when an eligible item is image-captured with another eligible item or instrument with the appearance of forming one eligible item.

(2) Where a piggy-back situation occurs, the originating participant shall correct the situation by separating and recapturing the two eligible items or the item and the instrument, as the case may be.

(3) Where an originating participant finds a piggy-back image after a submission to the ECACH, the originating participant shall notify the receiving participant about the error via fax, email or registered mail and request that the receiving participant, or its third party agent, initiate a return using the appropriate return code.

Liability of originating participant for usability

98. An originating participant shall be liable to a receiving participant for the usability of each image that it captures up to the deadline for the return of eligible items under rule 108 after which the receiving participant assumes liability for the usability of the image.

Liability of originating participant under a piggy-back situation

99. Where an originating participant receives a returned eligible item as a result of a piggy-back situation and is unable to locate the original items for re-capture, the originating participant shall be liable for any loss.

Endorsement

100. (1) The originator or the originating participant shall endorse each eligible item before submitting to the ECACH for onward delivery to the receiving participant.

(2) The originator or originating participant shall place any endorsement on the rear side of the eligible item.

(3) An endorsement stamp or trace line of the originating participant shall be understood to guarantee the genuineness of the originators endorsement or absence thereof.

Image cash letter creation

101. A system participant shall create an image cash letter in accordance with the ANSI X9.100-187 Standards as modified in Schedule 1.

Image cash letter transmission

102. A system participant shall transmit and receive an image cash letter in accordance with the sessions specified for cheques in Schedule 3.

Eligible item identification

103. (1) A system participant who creates or transmits an image cash letter shall identify each eligible item by populating the appropriate identification fields in the cash letter as set out in the ANSI X9.100-187 Standards as modified in Schedule 1.

(2) For any transit eligible item, an originating participant shall not repair information contained in any field of the magnetic ink character recognition line other than the receiving participant's routing number field and shall enter the amount field.

(3) Where any other field of the magnetic ink character recognition line is not valid, the originating participant shall classify the eligible item as unqualified during the cash letter creation process by indicating the appropriate code in the cheque detail record correction indicator field.

Responsibilities of originating participant

104. An originating participant shall create and exchange cash letters via the ECACH.

Responsibilities of receiving participant

105. A receiving participant shall verify the cheque image(s) received in an image cash letter and if necessary return the eligible item(s) no later than the clearing cut-off time for session four on the day following as set out in Schedule 3.

Presentment

106. An eligible item is presented to the receiving participant when an image cash letter containing the eligible item is made available to the receiving participant by the ECACH.

Return by receiving participant

107. Where payment of an eligible item is refused, the receiving participant may initiate a return using the applicable return code in accordance with ANSI X9.100-187 Standards as modified in Schedule 1 before the last clearing session on the next business day of the receiving participant following refusal.

Time limitation

108. (1) The receiving participant shall return to the originating participant the returned eligible item as soon as possible but no later than the last clearing session on the next business day following the settlement date.

(2) Where the originating participant uses a third party agent the third party agent shall ensure that an image of each eligible item and information are accessible by the originating participant within reasonable time.

Fraudulent items

109. Where an eligible item is counterfeited or contains—

- (a) a forged or unauthorised signature;

- (b) a forged endorsement; or
- (c) the intended payee(s) was not paid;

the eligible item shall be sent to the originating participant within twenty four hours of the discovery.

Genuineness of eligible item

110. (1) The originating participant shall with reasonable diligence and ordinary care verify the *prima facie* genuineness of the eligible item to be truncated for signs, on the face of the instrument, of—

- (a) fraud;
- (b) forgery; or
- (c) tampering..

(2) The originating participant shall be responsible for detecting material alterations to the following—

- (a) payee name;
- (b) amount; or
- (c) date.

(3) In cases where the genuineness of an eligible item cannot be verified or a material alteration is detected, the originating participant shall not submit such eligible item(s) to the ECACH.

Returned eligible item not to be re-presented

111. A returned eligible item which was returned for any reason except for image quality assurance failure by the receiving participant shall not be presented by the originating participant a second time.

Method and routing of returned eligible item

112. Where an eligible item is presented in a session, the corresponding returned eligible item shall be returned using the same process and shall be returned using the applicable return code in accordance with ANSI X9.100-187 Standards as modified in Schedule 1.

Images in an ECACH return image cash letter

113. Where a returned eligible item is returned within the time limitation set out in rule 108, the front and back images of the eligible item being returned shall be included in the image cash letter.

Eligible items with incomplete or missing endorsements

114. Where the endorsement on an eligible item is missing or incomplete the eligible item may be returned for the reason “incomplete or missing endorsement” using the appropriate return reason code.

Return codes for forged endorsements or material alterations

115. Where a returned eligible item is being returned for the reason “forged endorsement” or “material alteration”, the receiving participant shall return the item using the return codes for forged and material alterations.

Misdirected eligible items to be returned

116. (1) An eligible item is misdirected when the eligible item image routing information does not match the electronic routing information.

(2) A receiving participant shall forward a misdirected eligible item to an originating participant using the appropriate return code.

(3) A misdirected eligible item shall be returned within the clearing session immediately following the clearing session in which the eligible item was originally settled.

Incorrect amount in image cash letter

117. (1) Where an eligible item with an incorrect amount is detected in an image cash letter by the originating participant after acceptance by the ECACH, the originating participant shall notify the receiving participant about the error via fax, email or registered mail and request that the receiving participant, or its third party agent initiate a return using the appropriate return code specified within the ANSI X9.100-187 Standards as modified in Schedule 1.

(2) An eligible item is deemed to have an incorrect amount when the amount in the image cash letter differs from the amount written in words on the face of the eligible item.

(3) The originating participant or its third party agent who creates the image cash letter with the incorrect amount shall be responsible for the difference in amount, provided that the error is detected within ninety days of the eligible item being presented to the receiving participant.

Words and figures differ

118. Where the amount expressed in words on the face of an eligible item differs from the amount written in figures, the eligible item shall be returned and shall be noted as “cannot determine amount” no later than the last clearing session on the next business day following the settlement date in accordance with Schedule 3.

Stale dated items

119. An eligible item dated more than six months prior to presentment for payment may be returned unpaid for the reason “**Stale Dated**”.

Re-presentment

120. (1) An originating participant may re-present a returned eligible item, if the originating participant believes the exception which caused the return has been rectified.

(2) If re-presenting a returned eligible item, the originating participant shall create an image cash letter in accordance with the ANSI X9.100-187 Standards as modified in Schedule 1.

(3) A returned eligible item that is eligible for re-presentation may only be re-presented once.

PART 4

OPERATING RULES FOR ELECTRONIC FUNDS TRANSFERS

Scope

121. This Part applies to all non-paper based payments that are transmitted through the ECACH.

Prerequisites for initiating a credit or debit funds transfer

122. Before initiating a credit or debit funds transfer to a receiver's account held at a receiving participant, an originating participant shall ensure the following—

- (a) the originator has authorised the originating participant to transmit, and to credit or debit the amount of, one or more entries to the receiver's account;
- (b) for all entries, the originator and the originating participant act in accordance with these Rules;
- (c) the receiver has authorised the originator to initiate the entry to the receiver's account.
- (d) the receiver has an agreement with the originator where the receiver intends to make debit entries to a commercial account;
- (e) where the debit entries are to a non-corporate customer's account, the authorisation shall be in writing and shall be signed or similarly authenticated by the non-corporate customer;
- (f) the authorisation process shall confirm both the customer's identity and his consent to the authorisation.

Written electronic authorisation

123. (1) An electronic authorisation is deemed to be in writing under these Rules where it—

- (a) is displayed on a computer screen or other visual display and is in a readable form;
- (b) clearly states that it is an authorisation;
- (c) clearly and conspicuously states its terms; and
- (d) clearly outlines the manner and form for the receiver to revoke the authorisation by notifying the originator.

(2) The authorisation for credit entries, may be—

- (a) written; or
- (b) oral.

Exception to authorisation requirement

124. (1) Where both the originator and receiver are non-corporate customers, no authorisation by the receiver is required for credit entries, and no warranty with respect to that authorisation is made by the originating participant.

(2) The provisions of rules 150, 151 and 152 shall not apply to the entries described in rule 124(1).

Notice to be given to originator before a credit entry is made

125. (1) Before a credit entry is made, the originating participant shall inform the originator by notice in writing that —

- (a) the entry may be transmitted through the ECACH; and
- (b) the rights and obligations of the originator concerning the entry are governed by and construed in accordance any applicable legislation in respect of banking, anti-money laundering or consumer protection.

(2) The notice may be included as part of an agreement entered into by the originator binding the originator to these Rules, or it may be provided to the originator in a separate agreement.

Notice to be given to receiver where credit entry made

126. (1) Where a credit entry is made, the receiving participant shall inform the receiver by notice in writing that —

- (a) the entry may be transmitted through the ECACH; and
- (b) the rights and obligations of the receiver concerning the entry are governed by and construed in accordance with any applicable legislation in respect of banking, anti-money laundering or consumer protection.

(2) This notice may be included as part of an agreement entered into by the receiver binding the receiver to these Rules, or it may be provided to the receiver separately.

(3) Unless the receiving participant agrees to provide the receiver with notice that it has received an entry it shall be under no obligation to provide such notice.

Originating participant exposure limits

127. Where an entry is initiated by an originator who is a body corporate, the originating participant shall—

- (a) establish an exposure limit for that originator;
- (b) implement procedures to review that exposure limit at least annually;

- (c) implement procedures to monitor entries initiated by the originator to ensure that the entries are in keeping with its exposure limit across multiple settlement dates; and
- (d) implement procedures to monitor the payments system risk associated with legitimate transaction entries initiated by the originator.

Authorisation of originator and receiver

128. An originating participant shall ensure that each entry transmitted to the ECACH is in accordance with the required authorisation provided by the originator and the receiver.

Timeliness of credit entries and amount for debit entries

129. An originating participant shall ensure that—

- (a) each credit entry is made within a reasonable period of time to allow the receiving participant to provide credit to the receiver at the start of business on the designated settlement date, or where transmitted on the same day of settlement to provide credit to the receiver within the business day of settlement; and
- (b) each debit entry is for an amount which on the settlement date shall be due and owing to the originator from the receiver, either for a sum specified by the receiver to be paid to the originator, or to correct a previously transmitted erroneous credit entry.

Originating participant to ensure entry complies with other requirements

130. An originating participant shall ensure the following—

- (a) the requirements of rule 122 concerning the authorisation of an entry have been satisfied;
- (b) the entry has not been reinitiated in violation of rule 143; and
- (c) the entry otherwise complies with these Rules.

Transmittal of required information

131. (1) Where an originating participant transmits an entry to the ECACH it shall contain the correct receiver account number and all other information necessary to enable the receiving participant to comply with the requirements of rule 162 except for information within the purview of the receiving participant's relationship with the receiver.

(2) An originating participant shall ensure that the information transmitted with an entry in rule 131(1) above is payment related and conforms to the requirements of the NACHA Standards as modified in Schedule 1.

Limitation of warranties

132. Notwithstanding anything in these Rules to the contrary, the warranties contained within these Rules do not apply to the goods or services to which an entry relates.

Indemnity for breach of warranty

133. (1) An originating participant in breach of any of the preceding warranties shall indemnify a receiving participant and the ECACH from and against any and all claim, demand, loss, liability, or expense, including legal fees and costs, that result directly or indirectly from the breach of warranty or the debiting or crediting of the entry to the receiver's account.

(2) The indemnity under rule 133(1) includes without limitation—

- (a)* any claim, demand, loss, liability, or expense based on the fact that the debiting of an entry to an account resulted, either directly or indirectly, in the return of one or more items or entries of the receiver due to insufficient funds; and
- (b)* any claim, demand, loss, liability, or expense based on the fact that the failure of the originating participant to comply with any provision of these Rules resulted, either directly or indirectly, in the violation by a receiving participant of any applicable legislation in respect of anti-money laundering or consumer protection.

General rule for reversing files

134. If an originator, originating participant, or the ECACH, has mistakenly initiated a duplicate file or a file in which each entry or each entry in one or more batches contains erroneous data, and no right to recall those entries otherwise exists under these Rules, the originator, originating participant, or ECACH, may initiate a file of entries referred to as a “reversing file” in accordance with NACHA Standards as modified in Schedule 1 and rules 135 to 137 to reverse each entry of the duplicate or erroneous file or batch(es).

Time limits for initiating a reversing file

135. (1) The ECACH shall initiate a reversing file in such time as to be transmitted or made available to the receiving participant(s) within twenty four hours of discovery of the duplication or error but no later than two business days after the settlement date of the duplicate or erroneous file or batch(es).

(2) Where a reversing file is initiated by an originator or originating participant, the file shall be transmitted to the ECACH within twenty four hours of the discovery of the duplication or error but no later than two business days after the settlement date.

Notification of reversing a file by ECACH

136. Where the ECACH initiates a reversing file it shall notify each receiving participant and each originating participant directly concerned with the duplication or error, at or prior to the time of initiation.

Correcting files

137. An originating participant shall send a reversing file in compliance with the requirements of the NACHA Standards as modified in Schedule 1, to correct an erroneous file or batch, accompanied by a file referred to as a “correcting file” with the correct information.

Indemnification on reversing files

138. An originating participant or the ECACH who initiates a reversing or correcting file shall indemnify a system participant from and against any and all claim, demand, loss, liability, or expense, including legal fees and costs, that result directly or indirectly from the debiting or crediting of any entry in the file to the receiver’s account.

Rules inapplicable to reversing files

139. The provisions of rules 122, 128 and 147 shall not apply to a reversing file under this Part.

General rule for reversing entries

140. (1) An originator may initiate an entry referred to as a “reversing entry” to correct an erroneous credit or debit entry previously initiated to a receiver’s account.

(2) An originating participant shall transmit a reversing entry to the ECACH in such time as to be transmitted by the receiving participant or made available to the receiving participant within two business days of the settlement date of the erroneous entry.

(3) The originator shall notify the receiver of the reversing entry and the reason for the reversing entry no later than the settlement date of the reversing entry.

(4) In this rule, an “**erroneous entry**” means an entry that—

- (a) is a duplicate of an entry previously initiated by the originator or originating participant;
- (b) orders the payment to or from a receiver not intended to be credited or debited by the originator; or
- (c) orders the payment in a dollar amount different from that which was intended by the originator.

Indemnification on reversing entries

141. An originating participant that initiates a reversing entry shall indemnify a system participant and the ECACH from and against any and all claim, demand, loss, liability, or expense, including legal fees and costs, that result directly or indirectly from the debiting or crediting of the reversing entry to the receiver’s account.

Rules inapplicable to reversing entries

142. The provisions of rules 122, 128 and 147 shall not apply to reversing an entry under rule 140.

Re-initiation of returned entries by originators

143. (1) An originating participant or an originator may reinitiate a returned entry for the following reasons—

- (a) the entry was returned for insufficient or uncollected funds;
- (b) the entry was returned for a stopped payment and the receiver authorised re-initiation; or
- (c) where corrective action was taken.

(2) An originator may reinitiate an entry that has been returned for insufficient or uncollected funds no more than once following the return of the original entry after the settlement date of the original entry.

Media and format specification requirements

144. The originating participant shall comply with the requirements of the appropriate NACHA Standard entry class code specified in Schedule 1 for each entry transmitted to the ECACH.

Release of information

145. An originating participant agrees that the ECACH may release information to the Central Bank in accordance with the disclosure provisions of the Act.

Pre-Notification

146. (1) An originator or an originating participant may, at its option, deliver or send a pre-notification to a receiving participant, prior to the initiation of the first entry to a receiver or a receiver's account with the receiving participant, in accordance with the NACHA Standards as modified in Schedule 1.

(2) The pre-notification shall provide notice to the receiving participant that the originator intends to initiate one or more entries to a receiver's account in accordance with the receiver's authorisation.

(3) If the originator intends to initiate an entry on behalf of another person, any pre-notification transmitted shall be transmitted with respect to such person.

(4) In any case in which a pre-notification has been initiated by an originator, it shall do so no later than six business days before the initiation of the first entry to a receiver.

(5) An originator who has initiated a pre-notification may not initiate entries to a receiver's account sooner than six business days following the settlement date of the pre-notification entry.

(6) Where, within the six business days, the receiving participant has transmitted to the ECACH and the originating participant has received a return entry complying with the requirements of this rule indicating that the receiving participant will not accept entries, such entries shall not be initiated.

(7) Where, within the six business days, the receiving participant has transmitted to the ECACH and the originating participant has received a notification

of change in accordance with this rule indicating that the receiving participant requires the requested changes to be made prior to the initiation of such entries, such entries shall not be initiated unless the requested changes have been made.

(8) A receiving participant shall verify the validity of an account number contained within a pre-notification.

(9) Where the account number contained within a pre-notification is invalid, a receiving participant shall—

- (a) return the pre-notification with the relevant return code; or
- (b) send a notification of change.

Notice by originator of change in amount

147. Where the amount of a debit entry to be debited to a receiver's account differs from—

- (a) the amount of the immediately preceding debit entry relating to the same authorisation; or
- (b) a preauthorised amount,

the originator shall send the receiver a written or electronic notification of the amount of the entry and the date on or after which the entry will be debited, at least ten business days prior to the date on which the entry is scheduled to be initiated.

Receiver may elect to receive notice

148. Where an originator informs the receiver of his right to receive notification concerning a change in the amount of a debit entry, a receiver may choose to receive notice only where—

- (a) the amount of the entry falls outside a specified range; or
- (b) the entry differs from the most recent entry by more than an agreed upon amount.

Notice by originator of change in scheduled debiting date

149. (1) Where an originator changes the date on or after which entries to be initiated by the originator are scheduled to be debited to a receiver's account, the originator shall send to the receiver electronic or written notification of the new date on or after which entries initiated by the originator are scheduled to be debited to the receiver's account.

(2) The notification in rule 149(1) shall be sent not less than ten calendar days before the first entry to be affected by the change is scheduled to be debited to the receiver's account.

(3) For the purposes of rule 149(1) variation in debiting dates due to Saturdays, Sundays, or public holidays are not considered to be changes in the scheduled dates.

Originator to provide copy of debit authorisation

150. An originator shall provide at the request of each receiver, an electronic or hard copy of the receiver's authorisation for all debit entries to be initiated to an account.

Retention of the record of authorisation

151. (1) An originator shall retain the original or a copy of each authorisation of a receiver for two years from the termination or revocation of the authorisation.

(2) At the request of its originating participant, the originator shall provide the original or a copy of the authorisation to the originating participant for its use or for the use of the receiving participant requesting the information pursuant to rule 152.

Receiving participant right to information regarding entries

152. (1) Prior to acting as a receiving participant for a receiver, the receiving participant may request, in writing, that an originating participant provide a copy of the receiver's authorisation for any entries other than credit entries.

(2) Upon receipt of the receiving participant's written request, the originating participant shall obtain the original or a copy of the receiver's authorisation from the originator in accordance with rule 151 and provide it to the receiving participant within ten business days.

(3) An originating participant shall provide such authorisation without charge.

(4) The originator is under no obligation to the receiving participant to provide any other information concerning the receiver or any entry to be initiated by the originator to the receiver's account.

Receiving participant under obligation to accept entries

153. Subject to its right to return or reject entries under these Rules, a receiving participant shall accept credit and debit entries that comply with these Rules which were received with respect to any account maintained with that receiving participant.

Receiving participant may rely on account numbers for posting of entries

154. Where the account number and the name of the receiver contained in an entry do not relate to the same account, the receiving participant may rely solely on the account number contained in the entry for purposes of posting the entry to the receiver's account.

Warranty and indemnity of receiving participant

155. (1) A receiving participant warrants to an originating participant and the ECACH that it has the capacity to receive entries as provided in these Rules and to comply with the requirements of these Rules concerning receiving participants.

(2) Any receiving participant who breaches a warranty under this rule shall indemnify an originating participant and the ECACH from and against any and all claim, demand, loss, liability, or expense, including legal fees and costs, resulting directly or indirectly from the breach of warranty.

Receipt and availability of entries

156. (1) An entry or entry data is made available to a receiving participant or its third party agent when the entry or entry data is processed by the ECACH and made available to the receiving participant or its agent as provided for in these Rules.

(2) An entry or entry data is deemed to be received by a receiving participant on the business day on which the entry or entry data is made available to the receiving participant or to its third party agent.

Receiving participant to make available credit entries to receivers

157. Subject to its right to return or reject entries in accordance with these Rules, each receiving participant shall make the amount of each credit entry received from the ECACH available to the receiver for withdrawal no later than the settlement date of the entry.

Time to debit entries to a receivers account

158. A receiving participant shall not debit the amount of any entry to a receiver's account prior to the designated settlement date of the entry.

Rights of receiver upon unauthorised debit to its account

159. A receiver or other person whose account is debited by an entry which is, in whole or in part, not authorised by such person shall have rights, including the right to have the account re-credited.

Reliance on standard entry class codes

160. A receiving participant may consider an entry containing a NACHA Standard entry class code specified in Schedule 1 as complying with the requirements of these Rules for that type of entry.

Reimbursement of receiving participant

161. (1) A credit entry given to the receiver by the receiving participant as provided in rule 157 is provisional until the receiving participant has received final settlement through the Central Bank.

(2) Where such settlement or payment is not received, the receiving participant is entitled to a refund from the receiver of the amount credited, and the originator is considered not to have paid the receiver the amount of the entry.

Periodic statements

162. A receiving participant shall send or make available to its receiver, information concerning each credit and debit entry to the account of the receiver in accordance with the respective participant's agreement with the receiver.

Notice to receiver

163. A receiving participant is not required to notify a receiver of receipt of an entry to its account unless otherwise provided for in an agreement between the receiving participant and receiver or required by law.

Release of information

164. Each receiving participant agrees that the ECACH may release to the Central Bank information regarding the receiving participant entries transmitted to or by the receiving participant in accordance with the disclosure provisions of the Act.

Processing obligation of the ECACH

165. In accordance with the NACHA Standards as modified in Schedule 1, the ECACH shall -

- (a) promptly process the entries, enter the data, insert the appropriate settlement date, or reject batches and files in accordance with rule 167;
- (b) transmit or make available entries and entry data to system participants in accordance with Schedule 3;
- (c) total the debit and credit activity received from and sent to the system participant during each business day; and
- (d) calculate and report the settlement amounts for each day for all entries processed under these Rules.

Accounting advice

166. The ECACH shall provide the Central Bank with accounting information to facilitate the processing of accounting entries for system participants.

Rejection by ECACH

167. If an entry or entry data received for processing does not meet the acceptance criteria defined by the NACHA Standards as modified in Schedule 1, the ECACH shall reject the file containing the entry and notify the appropriate originating participant.

ECACH to review originator status code

168. The ECACH shall review each batch of entries it receives to ensure that the originator status code is included in accordance with the NACHA Standards as modified in Schedule 1.

ECACH to record entries

169. (1) The ECACH shall retain a record of all entries, return entries, and adjustment entries referred to in this rule as “entries” received or transmitted by it for seven years from the date of receipt or transmittal of the entry.

(2) The ECACH shall provide information relating to a particular entry if requested to do so by the system participant that originated, transmitted, or received the entry.

Transactions and payment types

170. (1) The ECACH shall process two main types of electronic fund transfer payments as follows—

- (a) credit instruments called direct credits; and
- (b) debit instruments called direct debits.

(2) The ECACH may process combined transaction types, direct debits and direct credits within the same batch.

(3) The batches within any one file may have different value dates.

Direct credit payments

171. (1) Direct credit payments shall be submitted for clearing by the system participant required to settle for the payment.

(2) The receiving participant receives the files with payment batches after being processed.

(3) The direct credit payments shall be supported by multiple payment types based on the codes available in the file format used in the NACHA Standards as modified in Schedule 1.

(4) The acceptance of direct credits into the ECACH shall conform to the NACHA Standards as modified in Schedule 1 and the instrument types shall be submitted through a system participant of the ECACH.

(5) All direct credit instruments shall be submitted electronically.

Direct debit payments

172. (1) The originating participant shall submit direct debits for clearing.

(2) Direct debit items may be sent either on their value dates or in accordance with the time specified for the early submission of files as set out in Schedule 3.

(3) A receiving participant may refuse a direct debit item in accordance with these Rules by initiating a direct debit return.

(4) Direct debit batches shall be cleared and settled on their value date.

(5) The direct debit transactions are based on a direct debit mandate between the originator and the receiver.

(6) Direct debits shall be accepted where the originating participant of the item confirms that the necessary authorisations are in place from its originator allowing the processing of debits to the receiver's accounts.

(7) The agreement(s) shall cover provisions for the returning of debits once the receiver advises the receiving participant that the debit is unauthorised.

(8) The acceptance of direct debits into the ECACH shall conform to the NACHA Standards as modified in Schedule 1.

(9) In this rule “**direct debit mandate**” means a continuing but revocable authority and request, given in writing and signed or similarly authenticated with a secure electronic signature, by a receiver, to an originator that authorises the originator to issue a direct debit instruction against the receiver’s account and that authorises, the receiving participant to debit the account of the receiver with the amount of the direct debit instructions where a direct debit instruction is issued by the originator against the receiver’s account at the receiving participant.

SCHEDULE 1

*(Rules 4, 32, 101, 103, 107, 112, 117, 120, 131, 134, 137,
144, 146, 160, 165, 167, 168, 171 and 172)*

STANDARDS**File specifications**

1. The ECACH System shall comply with the full ANSI X9.100-187 for cheque image exchange and the NACHA Standard for electronic payment files. However, modifications have been made to accommodate the needs of the Currency Union.

NACHA Standard

2. The Full NACHA Standard for the electronic payment files shall be accepted and processed by the ECACH system with the following modifications:

- (a) In order to allow for domestic multicurrency clearing and settlement, the Reference Field in the File Header Record will be a mandatory field used to indicate currency code. The “**three character**” ISO Currency Code for EC dollar and US dollar will be used.
- (b) The Central Bank is not using a check digit with the bank routing number scheme. A trailing zero will be used in any 9 digit Routing Number field, a zero will be used in any Bank Routing Number Check Digit field and there will be no validation on the check digit.
- (c) An additional operator code is being added “**R62 – originating participant exceeds collateral**” to identify an operator return at the end of day if the originating participant does not have enough collateral to send the payments.

NACHA Standard entry class codes

3. The following NACHA Standard entry class codes shall be used for processing—

- (a) CIE – Customer Initiated Entry: Customer initiated entries are limited to credit applications where the customer initiates the transfer of funds to a person for payment of funds owed to that company or person. Typical examples of these entries are utility bills and other internet banking product payments;
- (b) PPD – Prearranged Payment or Deposit Entry—
 - (i) Direct Deposit: Direct deposit is a credit application that transfers funds into a customer’s account at the receiving participant. The funds being deposited can represent a variety of products such as payroll, remittances, interest, pension and dividends refunds;
 - (ii) Preauthorised Payment: A preauthorised payment is a debit application. Companies with existing relationships with the customers may participate in the electronic funds transfers through the electronic transfer (Direct Debit) of payment entries. Through standing authorisations, the customer grants the

company authority to initiate periodic charges to his or her account as bills become due. This concept is especially applicable in situations where the recurring bills are regular and do not vary in amount such as insurance premiums and loan instalments. Preauthorised payments may also be used for bills where the amount does vary, such as utility payments;

- (c) CCD/CCD+ – Corporate Credit or Debit: This application can be either a credit or a debit application where funds are either distributed or consolidated between corporate entities or government entities. This application can serve as a stand-alone funds transfer between corporate or government entities, or it can support a limited disclosure of information when the funds are being transferred between organizations (that is sister companies) under the same group;
- (d) CTX – Corporate Trade Exchange: This application supports the transfer of funds (debit or credit) with a trading partner relationship in which business payment remittance information is sent with the funds transfer. The payment-related information is placed in multiple addenda records in a format agreed to by the parties and the ECACH;
- (e) IAT – International ACH: This application supports the cross-border transfer of funds (debit or credit) by a customer or business to pay another customer or business in another territorial jurisdiction;
- (f) ADV – Automated Accounting Advice;
- (g) COR – Automated Notifications of Change or Refused Automated Notification of Change;
- (h) Returns – Returns, Dishonoured Returns, Contested Dishonoured Returns;
- (i) Pre-notifications – 0.01 dollar test file for credit or debit transactions;
- (j) File Acknowledgments – ECACH acknowledgment of file status.

ANSI X9.100-187 Standards

4. The full ANSI X9.100-187 Standards for cheque images will provide a structure to facilitate electronic exchange of cheque related data and images for the purpose of forward cheque presentment, return item notification, and returns processing with the following modifications—

- (a) in order to allow for domestic multicurrency clearing and settlement, Field 13 in the File Header Record will be a mandatory field used to indicate currency code;
- (b) the three character ISO Currency Code for EC dollars and US dollars will be used;
- (c) the Central Bank is not using a check digit with the bank routing number scheme. A trailing zero will be used in any 9 Digit Routing Number field, a zero will be used in any Payer Bank Routing Number Check Digit field and no modulus verification checks will be employed;

- (d) "Return Code P" will be used to identify an operator return at the end of day if the receiving participant does not have enough collateral to cover the payment.

Failure to meet standards

5. Where a system participant fails to meet the standards as prescribed by these Rules the batch or file which does not meet the standards may be rejected by the operator. A receiving participant may return individual entries which do not meet the standards.

SCHEDULE 2

(Rules 88 and 90)

IMAGE QUALITY SPECIFICATIONS

(1) A system participant shall perform image quality checks for each set of image view records (Type 50, Type 52 and Type 54) as set out in the ANSI X9.100-187 Standards. The full details for data and field specifications may be found in section 5 of the ANSI X9.100-187 Standards.

(2) Where a system participant fails to follow the data and field specifications the operator or the receiving participant may reject the item or file.

(3) All image items deposited as part of an image cash letter shall meet the criteria set out in Table A and Table B.

Table A - Image Standard	
Physical Cheque	Canadian Payment Association Code 006 Standard
Image Cash Letter	ANSI X9.100-187 Standards
Image Format	TIFF 6.0 CCITT Group 4
Image Quality / Compression	200 or 240 dpi
TIFF TAG Byte Order	Little Endian (Intel) byte order
Variable Record Length Indicator	Big Endian (Motorola) byte order
Character Code	8-bit EBCDIC
View Descriptor	Full view, i.e., no partial views
View	Bi-tonal front and bi-tonal rear (Black and White)
Maximum File Size	Limit outward clearing file size to 5MB

Table B – Image Quality Assurance (IQA) Settings		
Length	Minimum = 6.25 Inches	Maximum = 8.50 Inches
Height	Minimum = 2.75 Inches	Maximum = 3.75 Inches
Corners	Front Lower Right and Back Lower Left Corners > 0.8 Inches Front Upper (both) and Front Lower Left Corners > 1.0 Inches Rear Upper (both) and Rear Lower Right Corners > 3.0 Inches	
Document Skew	Front Skew > 287.2 Degrees	
Darkness	Front Minimum Darkness < 0.009 (Ratio of black pixels to total pixels) Front Maximum Darkness > 0.9 (Ratio of black pixels to total pixels) Back Minimum Darkness < 0.0038 (Ratio of black pixels to total pixels) Back Maximum Darkness > 0.98 (Ratio of black pixels to total pixels)	
Noise	Front Noise Relative Density (Black and White) > 5,852 Spots considered as noise per square inch, on average Back Noise Relative Density (Black and White) > 5,852 Spots considered as noise per square inch, on average	
IQA Record Size	Front = Minimum 250 Bytes, Maximum 200,000 Bytes Back = Minimum 250 Bytes, Maximum 200,000 Bytes	

SCHEDULE 3*(Rules 68, 73, 87, 102, 105, 118, 165 and 172)***PROCESSING SCHEDULE****1. Sessions for Processing**

- (1) The ECACH processing shall be conducted in four sessions on each Rulesbusiness day as follows:

Start of Day – 6:00 (All Times are Eastern Caribbean Time)

Session One – Direct Credit Only

6:15	Collateral Setup Time
6:30	Clearing Start Time
8:15	Clearing Cutoff Time
8:30	Settlement Time

Session Two – VIP (Cheques over \$150,000)

8:00	Clearing Start Time
14:30	Clearing Cutoff Time

Session Three – Cheque, DD and Direct Payment (Credit)

8:45	Collateral Setup Time
9:00	Clearing Start Time
10:30	Clearing Cutoff Time
11:00	Settlement Time

Session Four – Cheque, DD and Direct Payment (Credit)

11:15	Collateral Setup Time
11:30	Clearing Start Time
14:30	Clearing Cut-off Time
15:00	Settlement Time

File Cut-Off – 17:00

End of Day – 17:30

- (2) The ECACH's computer system is available to system participants every day from 6:00 to 15:00 except on the days designated as system holidays on the Holiday Schedule.

2. Cut-off Time

Originating participants or their third party agents shall transmit files by the clearing cut-off time in each session. Originated files that do not meet the clearing cut-off times for that session will be distributed in the session next following.

3. Early submission of files

Credit or debit items sent earlier than three days before intended settlement date will be rejected.

4. Availability of files

Receiving participants or their third party agents shall have files available throughout the four sessions on the processing schedule.

5. Settlement Times

Settling participants that are in a net debit position at the set ECACH Settlement times are required to have funds in their Settlement Account at the Central Bank at the times indicated on the processing schedule.

6. Return processing

- (1) Receiving participants may return items presented in session 2 (VIP Session) only during the active session.
- (2) Receiving participants may dispose the items at any time before the session ends. Any item remaining unprocessed at the end of the VIP Session, will automatically be rejected by the ECACH.
- (3) The originating participant may re-present the item for processing during the next business day's VIP Session.
- (4) Where an item is rejected, the ECACH will automatically create a return to the originating participant.
- (5) The ECACH will send an email alert to the receiving participant directing them to the receipt of a large value eligible item.
- (6) Each item in all other sessions will have a twenty four hour return timeframe from settlement. Banks must dispose items within twenty four hours of settlement or they will become final and irrevocable.

7. Holiday calendar

In order to facilitate an efficient ECACH a holiday calendar shall be established for each territory and a master holiday calendar is established

to reflect the common holidays for all countries. On the holidays noted in the master holiday calendar the ECACH will be closed, that is, no processing or settlement will take place. The master holiday calendar is as follows:

- (a) New Year's Day – 1 January or next business day;
- (b) Good Friday;
- (c) Easter Monday;
- (d) Whit Monday;
- (e) Christmas Day – 25 December or the next business day; and
- (f) Boxing Day – 26 December or the next business day.

SCHEDULE 4

(Rules 26 and 78)

FEES AND PENALTY SCHEDULE

Table A - Fees

Column I	Column II	Column III
SERVICE	FEE	FREQUENCY
<i>ECACH Membership</i>		
New Entrance	\$8,000	At entry
Exit	\$3,000	At exit
Annual Membership	\$3,000	Annually on 15 January
<i>ECACH Transactions</i>		
Origination of Low value X9 Transactions	\$0.25	Per transaction
Origination of Large Value X9 Transactions (over \$150,000)	\$0.25	Per transaction
Origination of electronic funds transfer Transactions (including Pre-Notes)	\$0.25	Per transaction
Reversing File	\$500	Per file
Delay of Clearing Session	\$1,000	Per incidence
<i>eTokens</i>		
New or replacement of lost or broken eToken	\$300	Each
eToken Unlock Request	\$200	Per incidence

Information Request and Troubleshooting		
Information Request - Reproduction of historical information that was accessible to a participant	\$200	Per hour

Table B - Penalty

Column I	Column II	Column III
Non-Compliance with Rules	\$1,000	Per incidence

(Amended by S.R.O. 21/2015)

SCHEDULE 5

(Rule 10)

CRITERIA FOR PARTICIPATION

PART A

The conditions contained herein shall be met by system participants, and applicants to, the ECACH to the satisfaction of the Central Bank, which is responsible under section 3 of the Act for the general supervision and management of the ECACH.

1. A person who is applying to participate in the ECACH shall be regulated and supervised under the Act or one or more of the following:

- (a) Banking Act;
- (b) Money Services Business Act; and
- (c) Securities Act.

2. The regulator or supervisor of the applicant shall warrant that the applicant meets the following:

- (a) is materially in compliance with the relevant Act under which it is supervised, in that all statutory and prudential requirements must be satisfied, or an applicant must demonstrate that these will be satisfied;
- (b) does not pose any credit risk to the clearing house;
- (c) has adequate collateral to cover its clearing obligations; and
- (d) satisfies the relevant fit and proper tests under the respective Acts.

3. The Central Bank is satisfied that the applicant is systemically important in relation to the following—

- (a) the capacity of the applicant's transactions to transmit systemic disruption;

- (b) the size and nature of individual payment obligations processed and settled by the institution on any given day;
- (c) the aggregate value of payment obligations processed and settled by the institution on any given day;
- (d) the size of payment obligations owed to and by other system participants in the general payment system; and
- (e) whether it is in the public interest (in terms of added value and competition).

4. The applicant shall demonstrate the capacity to comply with the Rules.

PART B

FORM

APPLICATION FOR MEMBERSHIP IN
THE EASTERN CARIBBEAN CENTRAL BANK CLEARING HOUSE

The
a licensed operating in
hereby applies for membership in the Eastern Caribbean
Automated Clearing House.

Signed:

Name in Full:

Date:

Manager:
