



REPUBLIC OF SINGAPORE

GOVERNMENT GAZETTE

BILLS SUPPLEMENT

Published by Authority

NO. 37]

TUESDAY, NOVEMBER 13

[2012

First published in the *Government Gazette*, Electronic Edition, on 12th November 2012 at 5:00 pm.

Notification No. B 37 — The Payment Systems (Oversight) (Amendment) Bill 2012 is hereby published for general information. It was introduced in Parliament on 12th November 2012.

Payment Systems (Oversight) (Amendment) Bill

Bill No. 37/2012.

Read the first time on 12th November 2012.

A BILL

intituled

An Act to amend the Payment Systems (Oversight) Act
(Chapter 222A of the 2007 Revised Edition).

Be it enacted by the President with the advice and consent of the
Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Payment Systems (Oversight) (Amendment) Act 2012 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 **Amendment of section 3**

2. Section 3(1) of the Payment Systems (Oversight) Act (referred to in this Act as the principal Act) is amended by deleting the words “Parts III and IV” and substituting the words “Parts III to VI”.

New section 27A

10 3. The principal Act is amended by inserting, immediately after section 27, the following section:

“Confidentiality of inspection reports

15 27A.—(1) Where a written report or any part thereof (referred to in this section as the report) has been produced in respect of any operator or settlement institution of a designated payment system by the Authority upon an inspection under section 27, the report shall not be disclosed by the operator or settlement institution, or any officer or auditor of the operator or settlement institution, to any other person except in the circumstances provided under subsection (2).

(2) Disclosure of the report referred to in subsection (1) may be made —

25 (a) by the operator or settlement institution of a designated payment system to any officer or auditor of that operator or settlement institution solely in connection with the performance of the duties of the officer or auditor, as the case may be, in relation to that operator or settlement institution;

30 (b) by any officer or auditor of the operator or settlement institution of a designated payment system to any other officer or auditor of that operator or settlement institution, solely in connection with the performance

of their duties in relation to that operator or settlement institution; or

(c) to any other person as the Authority may approve in writing.

(3) In granting written approval for any disclosure under subsection (2)(c), the Authority may impose such conditions as it considers appropriate. 5

(4) The obligation on an officer or auditor referred to in subsection (1) shall continue after the termination or cessation of his employment or appointment with the operator or settlement institution of a designated payment system. 10

(5) Any person who contravenes subsection (1) or fails to comply with any condition imposed by the Authority under subsection (3) shall be guilty of an offence and shall be liable on conviction — 15

(a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding \$250,000.

(6) Any person to whom the report is disclosed and who knows or has reasonable grounds for believing, at the time of the disclosure, that the report was disclosed to him in contravention of subsection (1) shall be guilty of an offence, unless he proves that — 20

(a) the disclosure was made contrary to his desire; 25

(b) where the disclosure was made in any written form, he has as soon as practicable surrendered or taken all reasonable steps to surrender the report and all copies thereof to the Authority; and

(c) where the disclosure was made in an electronic form, he has as soon as practicable taken all reasonable steps to ensure that all electronic copies of the report have been deleted and that the report and all copies thereof in other forms have been surrendered to the Authority.”. 30

Amendment of section 28

4. Section 28 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

5 “(1) Where the Authority has reason to believe that an emergency exists, or thinks that it is necessary or expedient in the interests of the public or a section of the public to so act, the Authority may exercise one or more of the following powers:

10 (a) by notice in writing, direct an operator or a settlement institution of a designated payment system to take such action as the Authority considers necessary to maintain or restore the safe and efficient operation of the designated payment system;

15 (b) appoint a person to advise an operator or a settlement institution of a designated payment system on the proper conduct of its operations;

20 (c) assume control of and carry on the operations of an operator or a settlement institution, or both, of a designated payment system or direct some other person to do so on behalf of the Authority;

25 (d) present a petition to the High Court for the winding up or bankruptcy, as the case may be, of an operator or a settlement institution of a designated payment system;

 (e) require an operator of a designated payment system to cease operation of the designated payment system.”;

30 (b) by deleting the words “subsection (1)” in subsection (2) and substituting the words “subsection (1)(a)”;

 (c) by deleting subsection (3);

- (d) by deleting the words “subsection (3)(b)” in subsections (5), (6), (7) and (10) and substituting in each case the words “subsection (1)(c)”;
- (e) by deleting the words “subsection (5)” in subsection (6) and substituting the words “subsection (4)”;
- (f) by deleting the words “fails to comply with a direction issued under subsection (1), or with subsection (7) or with any requirement of the Authority under subsection (7)” in subsection (8) and substituting the words “fails to comply with any direction issued under subsection (1)(a), or contravenes subsection (6) or fails to comply with any requirement of the Authority under subsection (6)”;
- (g) by deleting the words “subsection (3)(a)” in subsection (9) and substituting the words “subsection (1)(b)”;
- (h) by deleting the words “subsection (11)” in subsections (12) and (13) and substituting in each case the words “subsection (10)”;
- (i) by renumbering the existing subsections (4) to (14) as subsections (3) to (13), respectively.

EXPLANATORY STATEMENT

This Bill seeks to amend the Payment Systems (Oversight) Act (Cap. 222A) to comply with the assessment standards of the Financial Sector Assessment Program administered by the International Monetary Fund and the World Bank and to align certain provisions with those in the Banking Act (Cap. 19).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 3(1) to exclude the application of Parts V and VI to the Monetary Authority of Singapore (the Authority) in its capacity as a participant, an operator or a settlement institution of any payment system.

Clause 3 inserts a new section 27A to provide a regime relating to the disclosure of reports prepared following an inspection by the Authority under section 27, so as to align with section 46 of the Banking Act relating to the confidentiality of inspection and investigation reports.

Clause 4 amends section 28 to allow the Authority to expedite the exercise of its emergency powers over any operator or settlement institution of a designated payment system. In an emergency situation, the Authority will be able to exercise its powers under section 28(1) without having to first direct an operator or a settlement institution to take the necessary action to maintain or restore the safe and efficient operation of the designated payment system and to intervene only where the operator or settlement institution fails to comply with the Authority's direction. The amendment seeks to align section 28 with section 49 of the Banking Act which allows the Authority to take immediate action on a bank or take over a bank in an emergency situation. With the amendment to section 28, the Authority will also be empowered to modify or cancel any action taken by the Authority under section 28(1).

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
