



**AMENDMENT
NOTICE UNDER THE
AUTORITI MONETARI BRUNEI DARUSSALAM ORDER, 2010
EFFECTIVE DATE 18 JUNE 2021**

**NOTICE NO. PSO/ N-1/ 2020/ 1 - AMENDMENT NO.1
REQUIREMENTS FOR PAYMENT SYSTEMS**

1. INTRODUCTION

- 1.1. This Notice is issued pursuant to Section 54(1) of the Autoriti Monetari Brunei Darussalam Order, 2010 and applies to payment systems in Brunei Darussalam.
- 1.2. This Notice shall take effect on 20 November 2020 (effective date).

2. DEFINITIONS

- 2.1. For the purposes of this Notice –

“account issuing services” means any of the following services –

- (a) the service of issuing a payment account to any person in Brunei Darussalam;
- (b) any service relating to any operation required for operating a payment account, including –
 - i) any service that enables money to be placed in a payment account; or
 - ii) any service that enables money to be withdrawn from a payment account;

“Authority” means Autoriti Monetari Brunei Darussalam;

“base capital”, in relation to a company, means the sum of –

- (a) all of the following items in the latest accounts of the company –
 - i) paid-up ordinary share capital;
 - ii) paid-up irredeemable and non-cumulative preference share capital; and

(b) any unappropriated profit or loss in the latest audited accounts of the company,

less –

(c) any interim loss in the latest accounts of the company; and

(d) any dividend that has been declared since the latest audited accounts of the company;

“book” includes any record, register, document or other record of information and any account or accounting record, however compiled, recorded or stored, whether in written or printed form or on microfilm or by electronic process or otherwise;

“company” has the meaning ascribed to it in the Companies Act, Chapter 39;

“currency” means currency notes and coins that are legal tender in Brunei Darussalam or a country or territory other than Brunei Darussalam;

“currency equivalent”, in relation to e-money, means the value of the e-money in the currency that the e-money is denominated in or pegged to;

“e-money” means any electronically stored monetary value that –

- (a) is denominated in any currency, or pegged by its issuer to any currency;
- (b) has been paid for in advance to enable the making of payment transactions through the use of a payment account;
- (c) is accepted by a person other than its issuer; and

(d) represents a claim on its issuer,

but does not include any deposit accepted in Brunei Darussalam, from any person in Brunei Darussalam;

“e-money issuing services” means the service of issuing e-money to any person for the purpose of allowing a person to make payment transactions;

“Financial Institution” has the meaning ascribed to it in Section 2(1) of the Autoriti Monetari Brunei Darussalam Order, 2010;

“irredeemable and non-cumulative preference share capital”, in relation to the base capital of a company, means share capital consisting of preference shares that satisfy all of the following requirements –

- (a) the principal of each share of the company is perpetual;
- (b) the shares of the company are not callable at the initiative of the company or the shareholders, and the principal of the shares cannot be repaid outside of liquidation of the company, except in the case of a repurchase or other manner of reduction of share capital that is initiated by the company and permitted under written law;
- (c) the company has full discretion to cancel dividend payments, and –
 - i) the cancellation of dividend payments is not an event of default of the company under any agreement;
 - ii) the company has full access to cancelled dividend payments to meet its obligations as they fall due; and
 - iii) the cancellation of dividend payments does not result in any restriction being imposed on the company under any agreement, except in relation to dividend payments to ordinary shareholders of the company;

“merchant” means a person who, in the course of the person’s business –

- (a) provides goods or services;

- (b) promotes the use or purchase of goods or services; or
- (c) receives, or is entitled to receive, any money or other consideration for providing goods or services,

and includes any employee or agent of the person;

“merchant acquiring services” means any service of accepting and processing a payment transaction for a merchant under a contract between the provider of the service and the merchant, which results in a transfer of money to the merchant pursuant to the payment transaction, regardless whether the provider of the service comes into possession of any money in respect of the payment transaction, in a case where –

- (a) the merchant carries on business in Brunei Darussalam, or is incorporated, formed or registered in Brunei Darussalam; or
- (b) the contract between the provider of the service and the merchant is entered into in Brunei Darussalam;

“money” includes e-money but excludes any digital payment token and any excluded digital representation of value;

“Operator” means, in relation to a payment system, a person who operates the payment system that has been approved under paragraph 4.3;

“payment account” –

- (a) means any account, or any device or facility (whether in physical or electronic form), that –
 - i) is held in the name, or associated with the unique identifier, of any person, and is used by that person for the initiation of a payment order or the execution of a payment transaction, or both; or
 - ii) is held in the names, or associated with the unique identifiers, of two or more persons, and is used by any of those persons for the initiation of a payment order or the execution of a payment transaction, or both; and

(b) includes a bank account, debit card, credit card or charge card;

“payment system” means a funds transfer system or other system that facilitates the circulation of money, and includes any instruments and procedures that relate to the system. For the purposes of this Notice, a payment system includes, but is not limited to, any system that relates to the following –

- (a) account issuing services;
- (b) e-money issuing services;
- (c) merchant acquiring services;

“payment transaction” means the placing, transfer or withdrawal of money, whether for the purpose of paying for goods or services or for any other purpose, and regardless of whether the intended recipient of the money is entitled to the money;

“permanent place of business”, in relation to an Operator, means each fixed location in Brunei Darussalam used by the Operator for carrying on its business, regardless whether the business is carried on within a single building or at a single business address;

“personal deposit account” means a deposit account held with a bank in Brunei Darussalam that is used as a means of executing payment transactions other than in the course of business;

“personal payment account” means a payment account issued to a customer –

- (a) that is used as a means of executing payment transactions other than in the course of business; and
- (b) to which any of the following applies –
 - i) the Operator that issued the payment account has determined, according to such criteria as the Authority may specify by notice in writing, that the customer is resident in Brunei Darussalam;
 - ii) the issuer of the e-money contained in the payment account has determined, according to such criteria as the Authority may specify by notice in writing, that the customer is resident in Brunei Darussalam;

- iii) the e-money contained in the payment account is issued in Brunei Darussalam, and both of the following apply –
 - A. the Operator that issued the payment account has not determined, according to such criteria as the Authority may specify by notice in writing, that the customer is resident outside Brunei Darussalam;
 - B. the issuer of the e-money contained in the payment account has not determined, according to such criteria as the Authority may specify by notice in writing, that the customer is resident outside Brunei Darussalam;

“registered office” means a registered office maintained under section 92 of the Companies Act, Chapter 39; and

“unique identifier” means a combination of letters, numbers or symbols used by a customer to identify unambiguously either or both of the following for the purposes of a payment transaction –

- (a) any customer that is a party to the payment transaction;
- (b) any payment account.

- 2.2. Any expression used in this Notice shall, except where expressly defined in this Notice or where the context requires otherwise, have the same meaning as in the Autoriti Monetari Brunei Darussalam Order, 2010.

3. PURPOSE AND APPLICATION

- 3.1 This Notice is intended to notify all Operators with regards to the requirements in relation to payment systems operated in Brunei Darussalam.

4. REQUIREMENT ON OBTAINING APPROVAL FOR PAYMENT SYSTEMS

- 4.1. No person shall operate a payment system unless that payment system has been approved by the Authority under this paragraph 4.
- 4.2. Any person that intends to operate a payment system in Brunei Darussalam may apply to the Authority for approval of its payment system. An application shall be made in such manner as the Authority may direct and must be accompanied by –

- (a) the required particulars as determined by the Authority;
- (b) such other information as the Authority may reasonably require for the purpose of determining the application;
- (c) a non-refundable application fee as may be determined by the Authority, paid in the manner as so specified.

4.3. The Authority shall approve a payment system, with or without conditions, where –

- (a) the information and documents that are furnished to the Authority are not false or misleading;
- (b) the criteria set out in paragraph 7 has been fulfilled;
- (c) where it is in the interests of Brunei Darussalam to approve the payment system.

4.4. The Operator of payment system shall on such date as the Authority may specify, pay to the Authority an annual fee. The amount and manner of payment of the annual fee shall be determined by the Authority.

5. EXISTING PAYMENT SYSTEM OPERATORS

5.1. A person who has been operating a payment system prior to the effective date of this Notice is required to obtain the approval of the Authority for its payment system pursuant to paragraph 4 above as soon as practicable.

5.2. Notwithstanding paragraph 5.1, a person who has been operating a payment system prior to the effective date of this Notice may continue to operate for a period of one year-from the date of this Notice. That person must ensure that it has received approval for its payment system prior to the expiry of this period.

[Amendment No.1 dated 18 June 2021]

6. EXEMPTED PERSONS AND PAYMENT SYSTEMS

- 6.1. A person will not be required to obtain the approval of the Authority for its payment system if that payment system runs in a closed environment. For the purposes of this paragraph, a closed environment includes, but is not limited to, operating exclusively for purchases at a specific company only.
- 6.2. This Notice shall not apply to –
- (a) banks licensed under the Banking Order, 2006 or Islamic Banking Order, 2008; and
 - (b) finance companies licensed under the Finance Companies Act, Chapter 89.

7. CRITERIA FOR GRANT OF APPROVAL

- 7.1. Any person applying for approval under paragraph 4.2 must fulfil the following criteria –
- (a) The applicant must be a company incorporated or registered under the Companies Act, Chapter 39;
 - (b) The applicant must satisfy the Authority that its directors, chief executive officer, shareholders, employees as well as the applicant itself are fit and proper;
 - (c) The applicant must satisfy AMBD of its track record and financial standing, where applicable;
 - (d) The applicant must have a permanent place of business or registered office located in Brunei Darussalam; and
 - (e) The applicant must have a base capital of B\$100,000.
- 7.2. Any person applying for approval under paragraph 4.2 must demonstrate how it will be able to comply with its obligations under this Notice in a satisfactory manner.
- 7.3. AMBD may consider each application on its own merits and may take into account other factors on a case by case basis. The criteria and considerations listed above are not meant to be exhaustive. AMBD may impose additional conditions or requirements to address the unique risks posed by applicants.

- 7.4. An applicant who is granted approval under paragraph 4.3 must ensure that he complies at all times with the requirements under paragraph 7.1 and any other requirements in this Notice.

8. GENERAL REQUIREMENTS

- 8.1. An Operator must keep, or cause to be kept, at its permanent place of business or registered office, books of the transactions in relation to any service it provides.
- 8.2. An Operator must appoint at least one person to be present at its permanent place of business or registered office to address any queries or complaints from its customers.
- 8.3. In addition to the financial requirements in paragraph 7.1(e) above, an Operator must maintain a sufficient capital buffer in excess of the base capital, subject to the scale and scope of its operations and the potential for profit and losses.
- 8.4. An Operator must maintain with the Authority security, in the form of a bankers guarantee, at an amount not less than B\$50,000 prior to the commencement of its business. This security may be enforced by the Authority for the purposes of payment of any sums outstanding and claimed by the customers of the Operator.
- 8.5. An Operator must have the following in place –
- (a) plans which ensure regulatory compliance that are commensurate with the nature, scale and complexity of its business;
 - (b) plans for the conduct of an annual audit of its accounts and transactions, including its compliance with the relevant requirements in this Notice and other relevant laws, to be carried out at its own expense.
- 8.6. An Operator, in relation to any account issuing services, must –
- (a) ensure that the currency equivalent of the e-money contained in a personal payment account issued by the Operator to a customer does not exceed an amount of B\$2,000 (or its equivalent in a foreign currency);

- (b) ensure that the total currency equivalent of the e-money transferred in any period of one year, from a personal payment account issued by the Operator to a customer, other than to a personal deposit account that is either in the name of or designated by that customer, does not exceed an amount of B\$30,000 (or its equivalent in a foreign currency);
- (c) if the Operator issues two or more personal payment accounts to any customer, ensure that –
 - i) the total currency equivalent of the e-money contained in all personal payment accounts issued by the Operator to that customer does not exceed an amount of B\$2,000 (or its equivalent in a foreign currency); and
 - ii) the total currency equivalent of the e-money transferred in any period of one year, from all personal payment accounts issued by the Operator to that customer, other than to any personal deposit account that is either in the name of or designated by that customer, does not exceed an amount of B\$30,000 (or its equivalent in a foreign currency).

8.7. In assessing whether a person is fit and proper pursuant to paragraph 7.1(b), the following criteria shall be considered –

- (a) honesty, integrity and reputation;
- (b) competence and capability;
- (c) financial soundness.

8.8. Notwithstanding the provisions of the Companies Act, Chapter 39, an Operator must, on an annual basis and at its own expense, appoint an auditor. The duties of the auditor are as follows –

- (a) to carry out, for the year in respect of which the auditor is appointed, an audit of the accounts of the Operator;
- (b) to carry out an audit of the transactions in relation to the services provided by the Operator, in particular, in respect of the Operator's observance of the requirements

of this Notice and any of the requirements imposed under any written law administered by the Authority;

- (c) to submit a report of the audit to the Authority in such form as the Authority may determine and within such time as the Authority may allow.

8.9. If an auditor appointed pursuant to paragraph 8.8 above, in the course of performing the auditor's duties, is satisfied that any of the following matters has occurred, the auditor must immediately report that matter to the Authority –

- (a) there has been a serious breach or non-observance of the requirements of this Notice or any of the requirements imposed under any written law administered by the Authority;
- (b) a criminal offence involving fraud or dishonesty has been committed;
- (c) losses have been incurred that reduce the capital of the Operator by at least 50%;
- (d) there is an irregularity that has or may have a material effect on the accounts of the Operator, including any irregularity that had caused a major disruption to the provision of any type of service to the customers of the Operator;
- (e) the auditor is unable to confirm that the claims of creditors of the Operator are still covered by the assets of the Operator.

9. SUBMISSION OF INFORMATION

9.1. An Operator is required to submit any additional documents and any other information as may be determined by the Authority.

**MANAGING DIRECTOR
AUTORITI MONETARI BRUNEI DARUSSALAM**

Issue Date: Rabiulakhir 1441H / November 2020M