

Republic of the Philippines
House of Representatives
Quezon City, Metro Manila



SIXTEENTH CONGRESS
Third Regular Session

House Bill No. **6197**

Introduced by Representative Nelson P. Collantes

EXPLANATORY NOTE

The payment system represents that bedrock upon which monetary stability and financial stability rests. As a pillar of central banking, it is the objective of the *Bangko Sentral ng Pilipinas* to ensure the soundness and efficiency of payments and settlements system.

The draft bill seeks to promote through the *Bangko Sentral ng Pilipinas*, the safe, efficient and reliable operation of payment systems in order to control systemic risk and provide an environment conducive to the sustainable growth of the economy.

In view of the foregoing, the passage of the bill is earnestly requested.

Nelson P. Collantes

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HOUSE BILL No. 6197

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AN ACT
PROVIDING FOR THE REGULATION AND SUPERVISION OF PAYMENT SYSTEMS

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 Section 1. *Title.* – The short title of this Act shall be the “The Payment Systems Act of
2 2015”.

3 Sec. 2. *Declaration of Policy.* – The State recognizes that payment systems are
4 crucial parts of the financial infrastructure of the country and it is essential that they
5 function safely and efficiently for the stability and effectiveness of the monetary and
6 financial system.

7 Sec. 3. *Objectives.* – The State shall promote, through the *Bangko Sentral*, the safe,
8 efficient and reliable operation of payment systems in order to control systemic risk and
9 provide an environment conducive to the sustainable growth of the economy.

10 Sec. 4. *Definition of Terms.* – As used in this Act:

11 a. “*Bangko Sentral*” shall refer to the *Bangko Sentral ng Pilipinas* established under
12 Republic Act No. 7653.

13 b. “*Clearing*” shall refer to the process of transmitting, reconciling, and in some
14 cases, confirming payment orders prior to settlement, and the establishment of final
15 obligations for settlement.

1 c. "Designated payment system" shall refer to a payment system that has been
2 designated as such by the *Bangko Sentral* pursuant to this Act and its implementing rules
3 and regulations.

4 d. "Director" shall refer to any member of the board of directors of a participant to
5 the payment system, or a person considered as such under *Bangko Sentral* regulations.

6 e. "End-user" shall refer to any person who originally initiates the instruction to pay
7 or the ultimate receiver of funds in a payment system.

8 f. "Fund" includes any unit of value that forms the consideration or object of
9 transactions.

10 g. "Issuer" shall refer to any person who provides the means or the instrument to
11 hold or transfer funds.

12 h. "Manager" shall refer to any person of recognized competence in payment
13 system designated by the *Bangko Sentral* to manage the operations of the operator of a
14 designated payment system as provided under Section 18 hereof. For this purpose, a
15 personnel of the *Bangko Sentral* may be designated as manager.

16 i. "Monetary Board" shall refer to the Monetary Board of the *Bangko Sentral*.

17 j. "Netting" shall refer to an agreed offsetting of obligations by participants of
18 payment systems.

19 k. "Officer" shall refer to any person who is an employee holding a management
20 position in any of the participants to the payment system, or a person considered as such
21 under *Bangko Sentral* regulations.

22 l. "Operator" shall refer to any person who provides clearing or settlement services
23 in a payment system, or defines, prescribes, designs, controls or maintains the operational
24 framework for the system.

25 m. "Participant" shall refer to the operator, issuer, service provider, or any person
26 involved in the payment system other than the end-user.

27 n. "Payment instrument" shall refer to any instrument, whether tangible or
28 intangible, that enables a person to transfer funds.

29 o. "Payment order" shall refer to an order or message requesting the transfer of
30 funds to the order of the payee.

31 p. "Payment system" shall refer to the set of payment instruments, processes,
32 procedures and participants that ensures the circulation of money or movement of funds.

1 q. "Payment System Management Body" shall refer to the entity organized by
2 participants of the designated payment system for the purpose of self-regulation.

3 r. "Service provider" shall refer to an entity that provides process arrangements,
4 technology or infrastructure to operators of a payment system.

5 s. "Settlement" shall refer to an act that discharges obligations in respect of fund
6 transfers between two or more parties.

7 t. "Systemic risk" shall refer to the risk that the failure of one participant in a
8 payment system, or in financial markets generally, to meet its required obligations will
9 cause other participants or financial institutions to be unable to meet their obligations,
10 including settlement obligations in a payment system, when due: *Provided, That, such*
11 *failure could threaten the stability of the system or financial markets.*

12 u. The Monetary Board may, by regulation, further define or clarify terms used in
13 this Act consistent with the declared state policy provided in Section 2 hereof.

14 Sec. 5. *Authority of the Bangko Sentral.* – The *Bangko Sentral* shall oversee the
15 payment systems in the Philippines and exercise supervisory and regulatory powers for the
16 purpose of ensuring the stability and effectiveness of the monetary and financial system.

17 Sec. 6. *Powers of the Bangko Sentral.* In the performance of its mandate under this
18 Act, the *Bangko Sentral* shall have, in addition to its powers under existing laws, the
19 following powers:

- 20 a. Designate a payment system if it determines the payment system as posing or
21 having the potential to pose a systemic risk or the designation is necessary to protect
22 the public interest.

23 Any such determination by the *Bangko Sentral* shall be conclusive. The
24 designation of a payment system by the *Bangko Sentral* shall be effective until
25 revoked. The *Bangko Sentral* may revoke such designation if it finds that the
26 designated payment system no longer poses any systemic risk or it is no longer in the
27 public interest that the system be designated.

28 Should the *Bangko Sentral* designate a payment system, it shall require the
29 participants of the designated payment system to comply, within a reasonable
30 period, with the provisions of this Act and its implementing rules and regulations.
31 The *Bangko Sentral* shall give due consideration to the orderly transition of the

1 operations of the newly designated payment system to ensure that it operates in a
2 safe, efficient and reliable manner.

- 3 b. Require operators of the designated payment system to secure prior authority from
4 the *Bangko Sentral*.

5 In granting the authority, the *Bangko Sentral* shall take into consideration the
6 capability of an operator in terms of its financial resources, technical expertise, and
7 reputation. The licensing process shall include but not be limited to an assessment of
8 the ownership structure, governance, key personnel, business model, risk
9 management and financial resources.

10 No person or entity shall be allowed to act as an operator of a designated
11 payment system without prior authority from the *Bangko Sentral*. The determination
12 of whether a person or entity is acting as an operator of a designated payment
13 system without *Bangko Sentral* authority shall be made by the Monetary Board. To
14 resolve such issue, the Monetary Board may, through the appropriate department of
15 the *Bangko Sentral*, examine, inspect or investigate the books and records of such
16 person or entity.

- 17 c. Accredite or require, when deemed necessary, a payment system management body
18 organized by participants of the designated payment system for the purpose of self-
19 regulation.

20 The accredited payment system management body may issue and enforce its
21 rules and regulations and impose appropriate sanctions among participants of the
22 designated payment system; *Provided*, That, such rules and regulations shall be with
23 prior *Bangko Sentral* approval and subject to its review.

- 24 d. Issue, through the Monetary Board, rules and regulations governing the following:
- 25 1. The standard of operation of payment systems and the conduct of examination
26 of the participants of the designated payment systems, in such frequency as may
27 be prescribed by the Monetary Board, to determine compliance with laws and
28 regulations;
 - 29 2. The adequacy of resources of operators of the designated payment systems to
30 ensure that the designated payment systems have a high degree of security and
31 operational reliability and have contingency requirements for timely completion
32 of daily processing commitments;

- 1 3. The qualifications and disqualifications of individuals elected or appointed as
2 directors or officers of operators of the designated payment systems with
3 particular regard to their integrity, experience, education, training and
4 competence. The Monetary Board may suspend, disqualify or remove any
5 director or officer found unfit for the position;
- 6 4. The appropriate measures to ensure the confidentiality of payment information
7 which, under the provisions of this Act and other existing laws, is considered
8 confidential;
- 9 5. The necessary measures to ensure the compliance of designated payment
10 systems with Republic Act No. 9160, as amended, otherwise known as the Anti-
11 Money Laundering Act of 2001, and other related laws;
- 12 6. The mechanism for the protection of the rights of the end-users and participants
13 to the designated payment systems;
- 14 7. Principles on setting prices or pricing mechanisms in payment systems; and
- 15 8. Guidelines applicable to payment system management bodies, including the
16 grant and revocation of accreditation; and
- 17 9. Other pertinent matters as may be determined by the Monetary Board.
- 18 e. Issue, through the Monetary Board, directives and orders to any participant of a
19 payment system whenever the Monetary Board has determined that it is necessary
20 to ensure the safety, efficiency or reliability of a payment system or it is in the
21 interest of the public to do so.
- 22 f. Require participants of payment systems to submit reports on their operations and
23 provide information for statistical, policy development, supervisory and regulatory
24 purposes.
- 25 g. Assess and collect from the participants of the designated payment systems an
26 annual fee in such amount as may be necessary to cover expenses related to or
27 incidental to the conduct of supervisory functions over such entities, subject to the
28 rules prescribed by the Monetary Board.
- 29 h. Such other powers as may be reasonably necessary to meet the objectives of this
30 Act.

1 *Sec. 7. Adoption of International Standards and Practices.* In the exercise of its
2 authority under this Act, the *Bangko Sentral* shall be guided by internationally accepted
3 standards and practices.

4 *Sec. 8. Protection of Confidential Information.* Information obtained by the *Bangko*
5 *Sentral* in the course of its oversight of payment systems and supervision and regulation of
6 participants thereof are considered confidential, and such confidential information may only
7 be disclosed upon prior authorization from the Monetary Board or the Governor as may be
8 necessary in the course of its coordination with other Philippine and foreign regulators as
9 provided under Section 10 of this Act or when ordered by the courts. *Provided, however,*
10 That, the collective data may be released to interested persons or entities.

11 *Sec. 9. Bangko Sentral Authority to Own and Operate a Payment System.* The *Bangko*
12 *Sentral* shall have the authority to own and operate payment systems as may be deemed
13 necessary by the Monetary Board. The *Bangko Sentral* shall have the authority to determine
14 who shall be allowed to participate in payment systems owned and operated by it and who
15 shall be allowed to open an account with the *Bangko Sentral* for settlement purposes. The
16 *Bangko Sentral* shall adopt internal safeguards to ensure appropriate independent oversight
17 of its operator functions.

18 *Sec. 10. Coordination with Other Government Agencies and Foreign Regulators. –*
19 The *Bangko Sentral* shall coordinate with other regulators and other concerned government
20 agencies to avoid gaps, inefficiencies, duplications and inconsistencies in the regulation of
21 other systems which are related to or interconnected with payment systems. The grant,
22 suspension or revocation of any government license necessary for the conduct of business
23 of a payment system operator must be done only with prior consultation with the *Bangko*
24 *Sentral*.

25 The *Bangko Sentral* shall endeavor to coordinate with the regulators or overseers of
26 payment systems of other countries to facilitate safe, efficient and reliable cross-border
27 payment transactions.

28 *Sec. 11. Registration of Payment System Operators. –* Within six (6) months from the
29 effectivity of this Act, all operators of payment systems as defined under Section 4 of this
30 Act shall register with the *Bangko Sentral*. Operators of payment systems which shall
31 commence business or operations subsequent to the effectivity of this Act shall register

1 with the *Bangko Sentral* in such manner and within such reasonable period as may be
2 prescribed by the Monetary Board.

3 Sec. 12. *Organization of Operators of Designated Payment Systems.* – Operators of
4 the designated payment system, except payment systems operated by the *Bangko Sentral*,
5 shall be required to incorporate as stock corporations for the purpose of operating a
6 payment system, and shall meet the minimum requirements as may be prescribed by the
7 Monetary Board. Operators of designated payment systems, so long as they continue to be
8 authorized by *Bangko Sentral* to operate as such, shall not be included in the definition of a
9 debtor under Republic Act No. 10142, otherwise known as the Financial Rehabilitation and
10 Insolvency Act of 2010.

11 Sec. 13. *Certificate of Authority to Register Operators of Designated Payment System.*
12 – The Securities and Exchange Commission shall not register the articles of incorporation of
13 any operator of a designated payment system, or any amendment thereto, or otherwise
14 issue a license to do business in the Philippines, unless accompanied by a certificate of
15 authority to register issued by the Monetary Board, under its seal. The Securities and
16 Exchange Commission shall also not register the by-laws of any operator of a designated
17 payment system, or any amendment thereto, unless accompanied by a certificate of
18 authority from the *Bangko Sentral*.

19 Sec. 14. *Transfer and Acquisition of Substantial Shareholdings.* – No person shall
20 acquire shares in an operator of a designated payment system that will result in ownership
21 or control, directly or indirectly, of more than ten percent (10%) of the voting stock of such
22 operator, without obtaining the prior approval of the Monetary Board. Prior to Monetary
23 Board approval, no such transfer or acquisition of shares shall have legal effect nor shall the
24 same be recognized in the stock and transfer books of the operator or in the records of any
25 government agency.

26 Sec. 15. *Responsibilities of the Operator of the Designated Payment System.* – The
27 operator of the designated payment system shall be primarily responsible for the
28 maintenance and operation of a safe, efficient and reliable payment system in accordance
29 with rules and regulations. This includes the development of a process, which shall be
30 subject to *Bangko Sentral* review, for the selection, monitoring and disciplining of
31 participants to its system.

1 Sec. 16. *Finality of Settlement.* - Notwithstanding the provisions of existing laws to
2 the contrary, settlement effected in accordance with the agreed procedures of a payment
3 system shall be final and irrevocable and shall not be subject to reversal for any reason
4 whatsoever: *Provided, That*, if it is shown and established that any such fund so paid and
5 transferred was not legally due, the settlement shall remain and such amount shall
6 constitute a new monetary obligation owed by the payee to the person who caused the
7 payment.

8 Sec. 17. *Notification in case of Insolvency of Participant in a Payment System.* - The
9 participant of a payment system shall notify in writing the operator of such payment system
10 upon the issuance of a stay order or the declaration of insolvency, bankruptcy, rehabilitation
11 or placement under receivership or liquidation of the participant on the day of the receipt of
12 the order or resolution issued by the court or quasi-judicial agency. Upon receipt by the
13 operator of such notice, the operator shall immediately stop the processing of any pending
14 payment order involving said participant.

15 The operator of a payment system shall notify in writing its participants and the
16 *Bangko Sentral* upon the issuance of a stay order or the declaration of its insolvency,
17 bankruptcy, rehabilitation or placement under liquidation on the day of the receipt of the
18 order or resolution issued by the court or quasi-judicial agency.

19 Sec. 18. *Designation of a Manager to Manage the Operations of the Operator of a*
20 *Designated Payment System.* In order to avert disruptions in payment systems which may
21 adversely affect the country's monetary and financial stability, the *Bangko Sentral* may,
22 upon determination of the existence of any of the circumstances enumerated below, based
23 on the report of the head of the supervising or examining department, and with prior
24 approval of the Monetary Board, designate without need for prior hearing a manager of
25 recognized competence in payment systems to manage the operations of the operator of a
26 designated payment system, as may be necessary or expedient.

27 A threat to the safety, efficiency and reliability of the designated payment system
28 exists as a result of any of the following:

- 29 1. the violation of existing laws, rules and regulations by the operator;
- 30 2. the failure of the operator to comply with any order of the Monetary Board;
- 31 3. the assets of the operator are not sufficient to give adequate protection to its
- 32 participants or users;

- 1 4. the capital of the operator has reached a level or is eroding in a manner that may
- 2 detrimentally affect its participants, users or the public in general; or
- 3 5. any other financial or business condition of the operator which may be
- 4 considered by the Monetary Board to be prejudicial to the interests of its
- 5 participants, users or the public in general.

6 The actions of the Monetary Board taken under this section shall be final and
7 executory, and may not be restrained or set aside by the court except on petition for
8 *certiorari* on the ground that the action taken was in excess of jurisdiction or with such
9 grave abuse of discretion as to amount to lack or excess of jurisdiction. The petition for
10 *certiorari* may only be filed by the stockholders of record representing the majority of the
11 capital stock within ten (10) days from receipt by the board of directors of the operator of
12 the designated payment system of the notice from the *Bangko Sentral* advising of the
13 designation of a manager to manage the operations of such operator.

14 The designation of a manager who will manage the operations of the operator of a
15 designated payment system shall only be for such period during which any of the
16 aforementioned circumstances is exists. The Monetary Board, however, may replace the
17 manager as it may deem necessary.

18 The manager so designated shall immediately control, manage, and administer the
19 operations of the operator of a designated payment system. Effective immediately upon
20 designation, the powers, functions, and duties, as well as allowances, remunerations and
21 perquisites of the incumbent directors shall be suspended. The suspension shall also apply
22 to the officers of such operator of a designated payment system, unless the manager gives
23 its approval in writing for any officer to continue acting as such under such terms and
24 conditions as the manager may determine. The relevant provisions of the articles of
25 incorporation and by-laws of such operator are likewise suspended.

26 The manager so designated shall determine within the period prescribed by the
27 Monetary Board, but not to exceed one (1) year from the designation, whether any of the
28 aforementioned circumstances still exists or whether the operator of a designated payment
29 system may be permitted to resume management with safety to its payment system
30 participants and end-users: Provided, that any determination for the resumption of
31 management of the operator of a designated payment system shall be subject to prior
32 approval of the Monetary Board.

1 If the manager so designated determines that the operator of a designated payment
2 system cannot continue its operations without causing damage or prejudice to its
3 participants, end-users or the public in general, the manager so designated shall notify the
4 Monetary Board in writing of its findings and recommend the revocation of the certificate of
5 authority of an operator of a designated payment system. Once the certificate of authority
6 is revoked by the Monetary Board, the provisions of R.A. No. 10142 shall apply. For this
7 purpose, the *Bangko Sentral* may initiate the appropriate action under the aforesaid law.

8 The costs and expenses in managing the operations of the operator of a designated
9 payment system, including the remuneration of the designated manager, shall be paid first
10 before other claims out of the funds and properties of the operator of a designated
11 payment system.

12 The Monetary Board shall issue implementing guidelines to govern the management
13 of the operations of the operator of a designated payment system by the designated
14 manager, including but not limited to:

- 15 1. The and responsibilities of the designated manager;
- 16 2. The information required to be given by the operator, its directors and officers to
17 the designated manager to facilitate the management of the operations of the
18 operator;
- 19 3. The circumstances, terms and conditions when the assets of the operator may be
20 sold or disposed of; and
- 21 4. Other matters related to the effective management of the operations of the
22 operator and the appropriate performance of the duties of the designated
23 manager to manage the operations of the operator.

24 Sec. 19. *Netting.* - Notwithstanding the provisions of existing laws to the contrary,
25 when an operator receives from the participant a notice pursuant to Section 17, the
26 operator may effect the netting of all payment orders received before such notice in
27 accordance with the agreed procedures of the payment system. The insolvency, bankruptcy,
28 rehabilitation, receivership or liquidation proceedings shall recognize any such netting as
29 valid.

30 Sec. 20. *Administrative Sanctions.* – a. Without prejudice to the penalties and
31 sanctions provided in Section 21 of this Act, the Monetary Board may, at its discretion,
32 impose upon any participant of a designated payment system, its directors and officers,

1 including any person or entity determined by the Monetary Board to be acting as an
2 operator without the requisite authority from the *Bangko Sentral*, for violations of this Act
3 or rules and regulations issued by the Monetary Board or any order or instruction of the
4 Governor of the *Bangko Sentral*, fines in amounts as may be determined by the Monetary
5 Board to be appropriate, but not to exceed one million pesos (₱1,000,000.00) for each
6 transactional violation or one hundred thousand pesos (₱100,000.00) a day for each
7 continuing violation, depending on the nature and gravity of the violation or irregularity;
8 *Provided, That*, in case profit is gained or loss is avoided as a result of the violation, an
9 additional fine of no less than the profit gained or loss avoided but no more than three (3)
10 times the profit gained or loss avoided may be imposed.

11 b. The Monetary Board may suspend, disqualify, or remove any of the directors or
12 officers of the operator of a designated payment system, in any of the following instances:

- 13 1. willful violation of the charter or by-laws of the operator of the designated
14 payment system;
- 15 2. willful delay in the submission of reports or publications thereof as required by
16 the rules and regulations to be issued by the Monetary Board pursuant to this
17 Act;
- 18 3. refusal to permit examination into the affairs of the operator of the designated
19 payment system;
- 20 4. willful making of a false or misleading statement to the Monetary Board or
21 *Bangko Sentral* examiners;
- 22 5. willful failure or refusal to comply with any provision of this Act, rule or
23 regulation or any order instruction issued by the Monetary Board pursuant to
24 this Act, or any order or instruction of the Governor of the *Bangko Sentral*; and
- 25 6. willful commission of irregularities or the conduct of business that threatens the
26 safety, efficiency or reliability of a payment system as may be determined by the
27 Monetary Board.

28 The suspension of directors and officers of the operator of a designated payment system
29 shall not be more than one (1) year, depending on the nature and gravity of the violation or
30 irregularity. Resignation or termination from office shall not exempt such director or officer
31 from administrative or criminal sanctions.

1 c. Notwithstanding the institution or pendency of an administrative proceeding, if
2 the participant of a designated payment system and its directors and its officers concerned
3 continue with or otherwise persist in the commission of the cited practice or violation, the
4 *Bangko Sentral* may issue an order requiring such participant and its directors and officers
5 concerned to cease and desist from the cited practice or violation, and may further order
6 that immediate action be taken to correct the conditions resulting from such practice or
7 violation. The cease and desist order shall be immediately effective upon service on the
8 respondents.

9 d. The revocation of the certificate of authority of an operator of a designated
10 payment system may be ordered by the Monetary Board on the following grounds:

- 11 1. The operator committed a violation of or has not complied with the provisions of
12 this Act or the rules and regulations or orders and instructions issued by the
13 Monetary Board or any order or instruction of the Governor of the *Bangko*
14 *Sentral*, involving acts or violations which amount to fraud or expose its
15 participants or the public to material loss or damage; or
- 16 2. The operator committed a violation of or has not complied with the provisions of
17 this Act or the rules and regulations or orders and instructions issued by the
18 Monetary Board or any order or instruction of the Governor of the *Bangko*
19 *Sentral*, or failed to implement the rules of the payment system or a cease and
20 desist order issued by the *Bangko Sentral*, and such violation or failure has been
21 determined by the Monetary Board to be a threat to the safety, efficiency or
22 reliability of the payment system or poses a risk to the stability of the monetary
23 and financial system.

24 e. The cancellation of the registration of any operator of a payment system may be
25 ordered by the Monetary Board, if it finds that the payment system operates to facilitate
26 fraud and other transactions contrary to law, good morals and public policy.

27 The Monetary Board may also order the suspension or revocation of the certificate
28 of authority or the registration with the *Bangko Sentral* of an operator of a payment system
29 on the basis of the suspension or revocation of its permits or licenses issued by other
30 government agencies.

31 Sec. 21. *Other Penalties and Sanctions.* – Whenever any person or entity willfully
32 violates this Act, rule or regulation, directives or orders duly promulgated by the Monetary

1 Board pursuant hereto, the person or persons responsible for such violation shall be
2 punished by a fine of not less than two hundred thousand pesos (P200,000.00) or more than
3 two million pesos (P2,000,000.00) or by imprisonment of not less than two (2) years nor
4 more than ten (10) years, or both, at the discretion of the court.

5 Sec. 22. *Separability clause.* – If any provision or section of this Act or the application
6 thereof to any person or circumstance is held invalid, the other provisions or sections of this
7 Act, and the application of such provisions or sections to other persons or circumstances,
8 shall not be affected thereby.

9 Sec. 23. *Transitory Provision.* – Payment systems existing on the day of the effectivity
10 of this Act shall be given sufficient time, as may be determined by the *Bangko Sentral*, to
11 comply with the requirements of this Act.

12 Sec. 24. *Effectivity Clause.* – This Act shall take effect fifteen (15) days following its
13 publication in the Official Gazette or in two (2) newspapers of general circulation.

14 Approved,

2015 09 30