

Q 1. When did Payment and Settlement Systems Act, 2007 (PSS Act, 2007) came into effect?

Ans. The PSS Act, 2007 received the assent of the President on 20th December 2007 and it came into force with effect from 12th August 2008.

Q 2. What is the objective of the PSS Act, 2007?

Ans. The PSS Act, 2007 provides for the regulation and supervision of payment systems in India and designates the Reserve Bank of India (Reserve Bank) as the authority for that purpose and all related matters. The Reserve Bank is authorized under the Act to constitute a Committee of its Central Board known as the Board for Regulation and Supervision of Payment and Settlement Systems (BPSS), to exercise its powers and perform its functions and discharge its duties under this statute. The Act also provides the legal basis for “netting” and “settlement finality”. This is of great importance, as in India, other than the Real Time Gross Settlement (RTGS) system all other payment systems function on a net settlement basis.

Q 3. What are the Regulations made under the PSS Act, 2007 and when did they come into force?

Ans. Under the PSS Act, 2007, two Regulations have been made by the Reserve Bank of India, namely, the Board for Regulation and Supervision of Payment and Settlement Systems Regulations, 2008 and the Payment and Settlement Systems Regulations, 2008. Both these Regulations came into force along with the PSS Act, 2007 on 12th August 2008.

Q 4. What are the objectives of these two Regulations?

Ans. The Board for Regulation and Supervision of Payment and Settlement Systems Regulation, 2008 deals with the constitution of the Board for Regulation and Supervision of Payment and Settlement Systems (BPSS), a Committee of the Central Board of Directors of the Reserve Bank of India. It also deals with the composition of the BPSS, its powers and functions, exercising of powers on behalf of BPSS, meetings of the BPSS and quorum, the constitution of Sub-Committees/Advisory Committees by BPSS, etc. The BPSS exercises the powers on behalf of the Reserve Bank, for regulation and supervision of the payment and settlement systems under the PSS Act, 2007.

The Payment and Settlement Systems Regulations, 2008 covers matters like form of application for authorization for commencing/ carrying on a payment system and grant of authorization, payment instructions and determination of standards of payment systems, furnishing of returns/documents/other information, furnishing of accounts and balance sheets by system provider etc.

Q 5. Does the PSS Act, 2007 define what is a “payment obligation”, “payment instruction”, “payment system” and other commonly used terms like “electronic

fund transfer”, “gross settlement system”, “netting”, “settlement”, “systemic risk”, “system participant” and “system provider”?

Ans. Yes, these terms are defined in Section 2 (1) of the PSS Act, 2007.

Q 6. What is a “Payment Obligation”?

Ans. “Payment obligation” is defined as what is owed by one participant in a payment system to another such participant which results from clearing or settlement or payment instructions relating to funds, securities or foreign exchange or derivatives or other transactions.

Q 7. What is a “Payment Instruction”?

Ans. “Payment Instruction” is defined as any instrument, authorization or order in any form, including by electronic means, to effect a payment by a person to a participant in a payment system or from one participant in such a system to another participant in that system.

The payment instruction can be communicated either manually i.e. through an instrument like a cheque draft, payment order etc. or through electronic means, so that a payment can be made by either a person to the participant in such a system or between two participants.

Q 8. What is a “Settlement”?

Ans. “Settlement” means the settlement of payment instructions received and these include settlement of securities, foreign exchange or derivatives or other transactions. Settlement can take place either on a net basis or on a gross basis. Both netting and gross settlement system are defined under the Act.

Q 9. What is a “Payment System” under the PSS Act, 2007?

Ans. Section 2(1) (i) of the PSS Act 2007 defines a payment system to mean a system that enables payment to be effected between a payer and a beneficiary, involving clearing, payment or settlement service or all of them, but does not include a stock exchange (Section 34 of the PSS Act 2007 states that its provisions will not apply to stock exchanges or clearing corporations set up under stock exchanges). It is further stated by way of an explanation that a “payment system” includes the systems enabling credit card operations, debit card operations, smart card operations, money transfer operations or similar operations.

All systems (except stock exchanges and clearing corporations set up under stock exchanges) carrying out either clearing or settlement or payment operations or all of them are regarded as payment systems. All entities operating such systems will be known as system providers. Also all entities operating money transfer systems or card payment

systems or similar systems fall within the definition of a system provider. To decide whether a particular entity operates the payment system, it must perform either the clearing or settlement or payment function or all of them.

Q 10. Are entities operating a payment system or intending to operate a payment system required to get a license, approval or authorization for the purpose?

Ans. In terms of Section 4 of the PSS Act, 2007 no person other than the Reserve Bank can operate or commence a payment system unless authorized by the Reserve Bank. Any person desirous of commencing or operating a payment system needs to apply for authorization under the PSS Act, 2007(Section 5).

The application for authorization has to be made as per Form A under Regulation 3(2) of the Payment and Settlement Systems Regulations, 2008. The application is required to be duly filled up and submitted with the stipulated documents to the Reserve Bank.

All entities operating payment systems or desirous of setting up such systems are required to apply for authorization under the Act. The [application for authorisation can be downloaded from the following link](#). Any unauthorized operation of a payment system would be an offence under the PSS Act, 2007 and accordingly liable for penal action under that Act.

Q 11. Is there any application fee to be submitted along with the application for authorization?

Ans. A sum of ₹10,000/- (excluding applicable GST) is required to be submitted as application fee, which can be submitted by cash or cheque or payment order or demand draft or electronic fund transfer in favour of the Reserve Bank along with the application for authorisation. The fees can also be submitted in electronic mode. For further details you may send an [email](#).

The form and manner of application for authorisation is available at <https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/PSSR23022022D57D6E9AFAF44D97B9ED577D9D1C7C2B.PDF>

Q 12. Are foreign entities allowed to operate a payment system in India?

Ans. Yes. The PSS Act 2007 does not prohibit foreign entities from operating a payment system in India and the Act does not discriminate/differentiate between foreign entities and domestic entities. (Pl see Sections 4 and 18 of the PSS Act, 2007)

Q 13. Are foreign entities required to get a license or approval or authorization from Reserve Bank before commencing operations?

Ans. Yes. All entities, irrespective of domestic or foreign, need to obtain license/ approval / authorization from Reserve Bank before commencing payment system operations in the

country. The PSS Act indicates that “No person can operate a payment system except under and in accordance with an authorisation issued by the Reserve Bank”. Criteria are also specified for particular payment systems which form part of the respective payment system guidelines / instructions

The form and manner of application for authorisation is available at <https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/PSSR23022022D57D6E9AFAF44D97B9ED577D9D1C7C2B.PDF>

Q 14. What are Financial Market Infrastructures?

Ans. Financial Market Infrastructure (FMI) is defined as a multilateral system among participating institutions, including the operator of the system, used for the purposes of clearing, settling, or recording payments, securities, derivatives, or other financial transactions. (Please see “Oversight Framework for Financial Market Infrastructures and Retail Payment Systems”, available under the link: https://www.rbi.org.in/scripts/bs_viewcontent.aspx?Id=3864). The term FMI generally refers to systemically important payment systems, Central Securities Depositories (CSDs), Securities Settlement Systems (SSSs), Central Counter Parties (CCPs), and Trade Repositories (TRs) that facilitate the clearing, settlement, and recording of financial transactions. CSDs, SSSs, CCPs are designated as “payment systems” under the PSS Act. TR has been defined and covered under the PSS Act.

The FMIs are subjected, on an on-going basis, to the rules and regulations that are consistent with the Principles for Financial Market Infrastructures (PFMIs) issued by the Committee on Payment and Settlement Systems (CPSS is rechristened as Committee on Payment and Market Infrastructures- CPMI) and International Organisation of Securities Commissions (IOSCO). The Reserve Bank, on June 13, 2020, issued a press release on “Reserve Bank of India publishes the Oversight Framework for Financial Market Infrastructures and Retail Payment Systems”, available under the link: https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=49947

Q 15. Can a foreign Financial Market Infrastructure (FMI) start operations in India?

Ans. Yes. The PSS Act 2007 does not prohibit foreign entities from operating a payment system in India. The Act does not discriminate/differentiate between foreign entities and domestic entities. (Please see Sections 4 and 18 of the PSS Act, 2007). Please also see Ans to Q.12.

Q 16. What are the services which a foreign entity can provide?

Ans. The PSS Act does not place any restriction on the types of payment systems / services a foreign entity can provide. However, any service provided by a domestic or foreign entity must be in accordance with the overall legal framework of the country.

Foreign entities viz., card networks like MasterCard (Singapore), Visa Worldwide Pte. Limited (Singapore), etc. are authorised under the PSS Act and operating card schemes in India. Also, cross-border remittance service providers viz., Western Union Financial Services Incorporated, USA, MoneyGram Payment Systems Inc, USA., etc. have also been authorised and are providing remittance services. The list of entities authorised under the PSS Act is available at <https://rbi.org.in/Scripts/PublicationsView.aspx?id=12043>

Q 17. What are the factors which the Reserve Bank will consider while deciding on an application submitted for authorization?

Ans. The Reserve Bank will consider factors like the need for the proposed payment system, the technical standards and design of proposed system, the security procedures and terms and conditions of operation of the proposed system, the procedure for netting of payment instructions, risk management processes, financial status of the applicant, experience of management and integrity of applicant, consumer interests, monetary and credit policies and other relevant factors while deciding on an application for authorization for commencing or operating a payment system (Section 7 of PSS Act, 2007).

The Reserve Bank will endeavour to dispose of all applications received for authorization within six months from the date of their receipt.

Q 18. What are the parameters taken into consideration for giving authorisation to the applicants?

Ans. Application for authorisation of a payment system operator is assessed against the criteria specified for a particular payment system. For example, the application for issuance and operation of PPI is assessed against the Policy Guidelines on Issuance and Operation of Pre-paid Payment Instruments in India. Similarly, in case of CCP, the application would be assessed against the backdrop of PFMI policy document issued by RBI.

As per section 6 of the PSS Act, the Reserve Bank may make such inquiries as it may consider necessary for the purpose of satisfying itself the capacity, credentials of the participants or for any other valid reason.

In case, the entity is already regulated by any other authority, information from such authorities may be called for making the assessment. It may be mentioned that for licensing Indian entities as banks in the recent past, the process entailed calling for due diligence reports from foreign regulators wherever the applicant entity had group entities operating in foreign jurisdictions.

Q 19. Can the Reserve Bank refuse to grant authorization to commence or operate a payment system?

Ans. Yes, the Reserve Bank can refuse to grant authorization under the PSS Act, 2007. However, the Reserve Bank has to give a written notice to such an applicant giving the reasons for refusal and also a reasonable opportunity of being heard {Section 7 (3) of the PSS Act 2007}.

Q 20. Can the Reserve Bank revoke authorization granted under the PSS Act 2007?

Ans. Yes, the Reserve Bank is empowered to revoke the authorization granted by it, if the system provider contravenes any provisions of the Act or Regulations, fails to comply with its orders/ directions or violates the terms and conditions under which the authorization was granted to it (Section 8 of PSS Act 2007).

Q 21. Is there any appellate authority to whom an aggrieved applicant whose application for authorization is refused or a system provider whose authorization is revoked, can appeal?

Ans. The aggrieved applicant or aggrieved system provider can appeal to the Central Government within 30 days from the date on which the order of refusal or revocation is conveyed to him (Section 9 of PSS Act, 2007).

Q 22. Can the Reserve Bank collect any authorisation fees and direct the applicant to furnish a security deposit?

Ans. Yes, Section 7 of the PSS Act, 2007 empowers the Reserve Bank to collect authorization fees while granting authorization. It can also call upon the applicant to furnish a security deposit for the proper conduct of the payment system. The quantum of authorization fees and security deposit can be decided by the Reserve Bank.

Q 23. Does the Reserve Bank have powers to lay down any standards?

Ans. The Reserve Bank is empowered to prescribe the format of payment instructions, size and shape of instructions, timings to be maintained by payment systems, manner of funds transfer criteria for membership including continuation, termination and rejection of membership, terms and conditions for participation in the payment system etc (Section 10 of PSS Act, 2007).

Q 24. Whether the Reserve Bank can call for returns, information etc., from the system provider with regard to the operation of the payment system?

Ans. The Reserve Bank is empowered to call for from the system provider returns, documents and other information relating to the operation of the payment system. The system provider and all system participants are required to provide Reserve Bank access to any information relating to the operation of the payment system (Section 12 and 13 of PSS Act, 2007).

Q 25. Whether the Reserve Bank can share such information as received above with other regulators, etc.?

Ans. Yes, under Section 15 (2) of the PSS Act, the Reserve Bank may disclose any document or information obtained by it to any person to whom the disclosure of such document or information is considered necessary for protecting the integrity, effectiveness or security of the payment system, or in the interest of banking or monetary policy or the operation of the payment systems generally or in the public interest.

Q 26. Can the Reserve Bank inspect the premises of the system provider?

Ans. The Reserve Bank, in order to ensure compliance of the provisions of the PSS Act, 2007 and the Regulations made thereunder, can depute an officer authorized by it to enter any premises where a payment system is being operated, inspect any equipment, including any computer system or document, and call upon any employee of the system provider or participant to provide any document or information as required by it (Section 14 of PSS Act, 2007).

Q 27. Can Reserve Bank conduct inspection of foreign entities authorized by it but located in foreign jurisdictions?

Ans. Yes, Reserve Bank has the authority to conduct on-site inspection, under the PSS Act.

However, foreign entities located in overseas jurisdictions may be exempted from certain requirements applicable to domestic payment systems (India) subject to the RBI concluding cooperative agreements with the home regulator/s.

Q 28. Can the Reserve Bank issue directions to the system provider?

Ans. The Reserve Bank is authorized to issue directions to a payment system or system participant to cease or desist from engaging in any act, omission or course of conduct or direct it to perform any acts as well as issue general directions in the interests of the smooth operation of the payment system (Section 17 and 18 of the PSS Act, 2007).

Q 29. Does the PSS Act 2007 deal with netting and settlement finality?

Ans. The PSS Act 2007 defines “netting” and legally recognizes settlement finality. It states that a settlement, whether gross or net, will be final and irrevocable as soon as the money, securities, foreign exchange or derivatives or other transactions payable as a result of such settlement is determined, whether or not such money, securities or foreign exchange or other transactions is actually paid. In case a system participant is declared insolvent, or is dissolved or is wound up, no other law can affect any settlement which has become final and irrevocable and the right of the system provider to appropriate the collaterals contributed by the system participants towards settlement or other obligations.

This Act also legally recognizes the loss allocation among system participants and payment system, where the rules provide for this mechanism

Q 30. What are the duties of a system provider under the PSS Act, 2007?

Ans. The PSS Act, 2007 lays down the duties of the system provider. The system provider is required to operate the payment system in accordance with the provisions of the Act and the Regulations, the terms and conditions of authorization and the directions given by the Reserve Bank from time to time. The system provider is also required to act in accordance with the contract governing the relationship among the system participants and the rules and regulations which deal with the operation of the payment system. The Act requires the system provider to disclose the terms and conditions including the charges, limitations of liability etc., under the payment system to the system participants. The Act also requires the system provider to provide copies of all the rules and regulations governing the operation of the payment system and other relevant documents to the system participants. The system provider is required to keep the documents and its contents, provided to it by the system participants, as confidential and is prohibited from disclosing the same, except in accordance with the provisions of law. (Sections 20 to 22 of the Act)

Q 31. What is the mechanism for settlement of disputes under the PSS Act, 2007?

Ans. The Act lays down an elaborate mechanism for settlement of disputes between system participants in a payment system, between system participant and system provider and between system providers. The Act requires the system provider to make provision in its rules or regulations for creation of a panel to decide disputes between system participants. Where any system participant is dissatisfied with the decision of the panel, or where disputes arise between system participant and system provider or between system providers, such disputes are required to be referred to the Reserve Bank for adjudication, whose decision shall be final and binding on the parties. In cases where the Reserve Bank, in its capacity either as a system participant or system provider, is itself a party to the dispute, then there is a provision for referring such cases to the Central Government for adjudication. (Section 24 of Act)

Q 32. What are the consequences of dishonour of electronic fund transfer under the PSS Act, 2007?

Ans. Under the PSS Act, 2007, dishonour of an electronic fund transfer instruction due to insufficiency of funds in the account etc., is an offence punishable with imprisonment or with fine or both, similar to the dishonour of a cheque under the Negotiable Instruments Act 1881. Subject to complying with the procedures laid down under the PSS Act, 2007, criminal prosecution of defaulter can be initiated in such cases. This provision was introduced to discourage dishonour of electronic payment instructions. (Section 25 of the Act)

Q 33. Are there any penalties or punitive action laid down under the PSS Act, 2007?

Ans. Under the PSS Act, 2007, operating a payment system without authorization, failure to comply with the terms of authorization, failure to produce statements, returns information or documents or providing false statement or information, disclosing prohibited information, non-compliance of directions of Reserve Bank violations of any of the provisions of the Act, Regulations, order, directions etc., are offences punishable for which Reserve Bank can initiate criminal prosecution. Reserve Bank is also empowered to impose fine for certain contraventions under the Act. (Sections 26 and 30 of the PSS Act, 2007).

These FAQs are issued by the Reserve Bank of India (hereinafter referred to as "Bank") for information and general guidance purposes only. The Bank will not be held responsible for actions taken and / or decisions made on the basis of the same. For clarifications or interpretations, if any, one may be guided by the PSS Act, 2007.