



**AN ACT ADOPTING  
THE NEW PAYMENTS SYSTEM LAW OF LIBERIA**

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## **PREAMBLE**

**WHEREAS**, the Government of Liberia through the Central Bank of Liberia (CBL) is desirous of establishing an appropriate legal framework for the oversight and regulation of payments, clearing and settlement systems, including the settlement of securities, as a means of promoting efficiency and stability in the financial system in Liberia;

**WHEREAS**, such payments, clearing, and settlement systems are necessary for integrating the Liberian economy into the regional and international financial system; and

**WHEREAS**, the CBL has the statutory mandate to put into place policy measures and guidelines that shall strengthen the Liberian financial market infrastructure through providing sound and efficient payments, clearing and settlement systems as well as services that may evolve to affect the growth and development of the Liberian economy as may be necessary.

Now therefore, it is enacted by the Senate and the House of Representatives of the Republic of Liberia in Legislature Assembled:

## **PART I DEFINITIONS**

### **Article 1**

#### **Definitions**

**1.1 For the purpose of this Statute, unless the context otherwise requires:**

**"Access"** as used in Articles 5 and 6 means the eligibility or entitlement of a person to become a participant in a system as a user of that system;

**"Beneficiary"** means the *final recipient of a transfer for whom the corresponding funds are made available in an account to which one has access;*

**"Bilateral netting"** means an arrangement to net obligations between two parties;



**"CBL"** means the Central Bank of Liberia;

**"Central Securities Depository"** (CSD) means an entity in whose register securities are immobilized, and enabling securities transactions to be finally processed by book-entry. Securities can be held at the CSD either in dematerialized (that is, as electronic records) or physical form. A CSD might also provide custodial and asset services;

**"Clearing"** means the process of transmitting, receiving and, in some cases confirming transfer instructions regarding funds, securities or other financial instruments prior to settlement and includes the netting of instructions and the establishment of final positions for settlement;

**"Clearing system"** means a set of procedures whereby participants present and exchange information relating to the transfer of funds, securities or other financial instruments to other participants through a centralized system or at a single location and includes mechanisms for the calculation of participants positions on a bilateral or multilateral basis with a view to facilitate the settlement of their obligations;

**"Collateral"** means an asset that is delivered by the collateral provider to secure an obligation to the collateral taker. Collateral arrangements may take different legal forms; collateral may be obtained using the method of title transfer or pledge;

**"Court"** means the SUPREME COURT OF LIBERIA or any court of competent jurisdiction in Liberia;

**"Financial institution"** includes banks and non-bank financial institutions as defined in the CBL legislations of 1999 (Act & FIA) relating to banks and non-bank financial institutions;

**"Gazette"** means the *Liberian official Gazette* as published by the Ministry of Foreign Affairs the Republic of Liberia;

**"Gross settlement"** means the settlement of funds or securities transfer instructions on an instruction by instruction basis;

**"Group of companies"** means companies or other bodies corporate that are related to each other as holding company and subsidiary, or as subsidiaries of the same holding company;

**"Intermediary institution"** means an institution which is neither that of the originator nor that of the beneficiary which participates in the execution of a transfer;

**"Management body"** in relation to a designated system, means a body responsible for organizing, operating and managing the system;

**"Member State"** means a Member State of the WAMZ;

**"Multilateral netting"** means an arrangement among three or more parties to net their obligations;

**"Netting"** means the determination of the net payment obligations or entitlements between two or more institutions participating in a system within the scope of this Act or the determination of the net settlement obligations or entitlements between two or more institutions participating within such system, and "netting provisions", "netting agreements", "netting rules" and "netting practices" shall be construed accordingly;

**"Originator"** means a person who orders the making of a transfer to a beneficiary;

**"Payment Instrument"** means any instrument, whether tangible or intangible, that enables a person to obtain money, goods or services or to otherwise make payment or transfer money. These include, but are not limited to, cheques, funds transfers initiated by any paper or paperless device (such as automated teller machines, points of sale, internet, telephone, mobiles), payment cards, including those involving storage of money;

**"Payment Service"** means any services enabling cash deposits and withdrawals, execution of funds transfers, issuing and/or managing of payment instruments and any other services functional to the transfer of money. The term does not include the provision of solely online or telecommunication services or network access;

**"Payments System"** means a system for the processing, clearing and/or settlement of transfers of funds;

**"Participant"** means a party who is recognized in the rules of a system as eligible to exchange, clear and settle through the system with other participants either directly or indirectly. A direct participant is a participant in a system who is responsible for the settlement of its own payments, those of its customers and those of the indirect participants on whose behalf it is settling. This includes the operator of a system;

**"Penalty Units"** is taken to be a reference to an amount of money equal to the amount obtained by multiplying the amount of penalty units with a fixed sum as determined from time to time in the Regulations;

**"Real-Time Gross Settlement"** (RTGS) means a settlement that effects final settlement of funds, payment obligations and book entry of securities and instruments on a real-time transaction-by-transaction basis as these occur during operating hours in a processing day;



**"Securities"** means financial instruments, such as bonds and shares;

**"Settlement"** means the act of discharging obligations by transferring funds or securities between two or more parties;

**"Settlement system"** means a system for the discharge of payment obligations as well as of settlement of obligations in relation to securities;

**"Systemic risk"** means the risk that the failure of one or more participants in a system to meet their payment or settlement obligations may cause other participants to be unable to meet their obligations when due;

**"Transfer"** means the sending of funds, securities or other financial instruments or a right relating to funds, securities or other financial instruments from one party to another party by:

- a) conveyance of funds or physical instruments; or
- b) accounting entries on the books of a financial intermediary; or
- c) book entry movements of funds or physical instruments through a designated system, or a CBL system;

**"Transfer instruction"** means an order or electronic message requesting the movement of funds, securities or other financial instruments or a right relating to funds, securities or other financial instruments from one party to another by means of book-entry;

**"Treaty"** means the Revised Treaty of the Economic Community of West African States as amended;

**"CBL system"** means a payments, clearing or settlement system established pursuant to Article 2;

**"WAMZ"** means the West African Monetary Zone.

## PART II

### ESTABLISHMENT AND OVERSIGHT OF SYSTEMS

#### Article 2

##### **Power to establish and designate systems**

In addition to the powers given to the CBL under "An Act to Authorize the Establishment of the Central Bank of Liberia (1999)" the CBL shall have power to:



- a) establish, operate, and participate into payments, clearing and settlement systems, subject to such rules as it may from time to time publish;
- b) act as a Central Securities Depository for Government securities;
- c) extend intra-day credit (as determined by the Central Bank itself) to entities that are participating in systems as direct participants conditional upon sufficient collateral; and
- d) hold cash accounts for operators and direct participants, which may be used for the clearing and settlement of transfers into a system.

2.1 The Central Bank of Liberia may:

- (a) designate and oversee any payments, clearing and settlement system subject to the provisions of this Act.
- (b) authorise and regulate the issuance and management of payment instruments and/or the provision of any other payment services, subject to such rules as it may from time to time publish.

2.2 Subject to Article 2.3, the CBL may designate different systems:-

- (a) in respect of different classes of participants; and
- (b) for the processing, clearing and settlement of different classes of obligations.

2.3 The CBL shall not designate a system unless it is satisfied that:-

- (a) Only financial institutions approved by the CBL are permitted to become direct participants in the [clearing and/or settlement] system;
- (b) The system shall fairly represent the interests of all participants in the system;
- (c) The CBL shall be able to adequately monitor and regulate the system and the activities of its participants to ensure compliance with this Act and any other applicable legislation;
- (d) The system shall have adequate instruments to mitigate risks, including, but not limited to systemic risks; and
- (e) The rules and regulations governing the system are fair, equitable and transparent and make adequate provision for:
  - (i) admitting financial institutions into the system as participants, and regulating and terminating their participation;

- (ii) admitting non Bank financial institutions, issuing and/or managing payment instruments or providing any other payment services as indirect participants. This also includes imposing strict conditions to avoid any increase of risk into the system because of such indirect participation and stipulating the criteria based on which a participant may be authorized to introduce any person as indirect participant.
- (iii) controlling its participants' use of clearing and settlement systems or operations;
- (iv) appointing a management body or committee, representative of the participants to organize and manage the system;
- (v) appointing a system operator to provide clearing processing services to or on behalf of participants; and
- (f) The management body has ensured provision of a contingency plan in support of the operational clearing and settlement system;
- (g) The system duly regulates outsourcing of any activities by maintaining any liability for relevant acts of third parties within the management of the system itself and has governance schemes to permit the system always to control outsourced activities

2.4 A designation under Article 2.1 (b)

- (a) shall be in writing and addressed to the management body of the system or such persons as the CBL may reasonably believe are the operators of that system; and
- (b) Has effect until it is revoked.

**Article 3**

**Revocation of a designation**

- 3.1 The CBL may revoke the designation of a system if in the opinion of the CBL, the system is no longer in the public interest or the system no longer fairly represents the interests of all participants in that system.
- 3.2 The revocation of the designation of a system shall be by notice in writing published in the Gazette; such revocation shall become effective after ninety days upon publication of said Gazette.

## **Article 4**

### **Internal rules of designated systems**

- 4.1 The rules governing the establishment and operations of every designated system together with all amendments to such rules shall be kept at:-
- (a) The CBL; and
  - (b) The head office of every designated system and shall be open for inspection whereby members of the public may inspect the documents at all times during normal business hours.
- 4.2 Any amendment to the rules and regulations governing a designated system shall have no effect until approved by the CBL.
- 4.3 The operators of a designated system shall make rules for the discharge or settling of obligations under the system by way of:-
- (a) netting;
  - (b) set-off; or
  - (c) gross settlement
- subject to the approval of the CBL.

## **Article 5**

### **Access**

- 5.1 The CBL may grant financial and other institutions, access to a CBL system where, in its opinion, the participation of those institutions is in the interest of the efficient operation of the system.
- 5.2 Where, in the opinion of the CBL, such participation shall cease to be in the interest of the efficient operation of the system, the Bank may, by the giving of ninety days notice in writing, withdraw access from the institution concerned as of such date as may be specified in the notice.
- 5.3 Subject to Article 11, the CBL shall not withdraw access without giving the institution concerned a reasonable opportunity to make representations on the matter or hearing consistent with laws establishing the CBL, the Payments System Act, the Financial Institution Act of 1999, as well as regulations, guidelines, policies, directives of the CBL for the purpose of effective oversight.



## **Article 6**

### **Oversight of designated systems**

- 6.1 In oversight of a system designated under Article 2.1, the CBL may:
- (a) require information from its operators as to the operation of the system;
  - (b) inspect the premises, equipment, computer hardware, software, any communication system, books of accounts, and any other document or electronic information relating to the system which it may require;
  - (c) require changes to the terms of any rules, agreements or practices pursuant to which the system is operated so as to ensure that the system is operated efficiently and in the public interest;
  - (d) require changes to the rules concerning access to the system so as to ensure that the system is operated efficiently and in the public interest;
  - (e) exercise such other powers as may be prescribed by regulations.
- 6.2 In addition to any mandatory information required by the CBL, the management body of every designated system, and every participant in that system shall provide the CBL with such reports, returns and other information as the CBL may reasonably require regarding:
- (a) the volumes and values of transfer instructions processed, cleared and/or settled in the system;
  - (b) the volumes and values of the participants payment obligations and settlement obligations; and
  - (c) any other information regarding the operation of the system.
- 6.3 The management body of a designated system shall be required to comply with the CBL's directives given pursuant to Article 6.1.
- 6.4 Information and documents obtained by the CBL pursuant to the above powers shall be confidential and treated accordingly, subject to such disclosure as may, in the opinion of the CBL, be required in the public interest.

## **Article 7**

### **Standards for designated systems**

- 7.1 The CBL shall, in writing, determine either general or individual standards to be complied with by the management body and participants in a designated system if it considers that determining the standards is in the public interest.
- 7.2 A standard takes effect on such date as may be specified and continues in force until it is revoked.
- 7.3 The CBL may, in writing, vary or revoke a standard.
- 7.4 Subject to Article 7.5, the CBL shall not determine or vary a standard unless it has complied with the provisions of Article 39.
- 7.5 Article 7.4 shall not apply if:
- (a) the CBL considers that there is an urgent need for the determination or variation of the standard; or
  - (b) in the case of a variation, the CBL considers that the variation is of a minor technical nature.
- 7.6 Where the CBL determines a standard, or varies or revokes a standard, it shall, as soon as practicable, provide notification under Article 39.

## **Article 8**

### **Directions to participants in designated system**

- 8.1 The CBL may give a directive to a participant in a designated system if the CBL considers that the participant has failed to comply with a standard.
- 8.2 The directive:
- (a) may require the participant to take, or to refrain from, specified action, as the CBL considers appropriate having regard to the failure;
  - (b) must be consistent with any applicable standards;
  - (c) may indicate the time by which, or the period during which, it is to be complied with;
  - (d) shall be given by notice in writing to the participant;
  - (e) shall take effect on the day on which it is given or on such later date as may be specified and shall continue in force until it is revoked.

- 8.3 The CBL may revoke a directive by notice in writing given to the participant where it considers that the directive is no longer necessary or appropriate.

### **Article 9**

#### **Prohibition against operating undesignated systems**

- 9.1 A person shall not operate or participate in, an undesignated system or a system whose designation has been revoked.
- 9.2 Any person who contravenes Article 9.1 commits an offence and is liable on conviction to a fine not less than US\$10,000.00 or its equivalent in Liberian dollar as penalty.
- 9.3 Where the CBL has reasonable grounds to believe that a person has contravened Article 9.1, the CBL may under a warrant issued by a Magistrate enter any premises, examine, and seize the books, accounts and records of such person to confirm whether such person is operating or participating in an undesignated system or a system whose designation has been revoked.
- 9.4 In the exercise of its powers in Article 9.3, the CBL may take copies of or extracts from any documents, or records examined. The CBL may at its discretion seize any equipment(s) or tool(s) that may be used to facilitate such violation under the strength of the warrant issue under Article 9.3 herein.
- 9.5 Any person who intentionally obstructs the CBL in the exercise of the powers conferred by Articles 9.3 or 9.4 commits an offence and is liable on conviction to a fine not exceeding US\$15,000.00 or its equivalence in Liberian dollar as penalty or to imprisonment for a term not exceeding two years or to both.

### **Article 10**

#### **Prohibition against issuing or managing payment instruments and/or providing any other payment services without CBL authorization**

- 10.1 Subject to Article 10.3, no person other than:
- (a) a financial institution, or
  - (b) a person having obtained an authorization by the CBL under Article 2.1(b),
- shall, as a regular feature of his business, issue and/or manage payment instruments or provide any other payment service.



- 10.2 Any person who contravenes Article 10.1 commits an offence and is liable on conviction to a fine not exceeding US\$10,000.00 or its equivalent in Liberian dollar as penalty or to imprisonment for a term not exceeding one year or to both.
- 10.3 Article 10.1 shall not apply to:
- (a) the Post Office Savings Bank;
  - (b) a person acting as the duly appointed agent of the person to whom the payment is due; or
  - (c) the transmission of money or transfer of instructions between companies which are members of the same group of companies; or
  - (d) any person exempted by the CBL pursuant to Article 10.4.
- 10.4 The CBL may by notice in the Gazette exempt any person or class of persons from the provisions of Article 10.1, if the CBL is satisfied that such an exemption will be in the public interest and will not cause undue risk to any designated system.

## **Article 11**

### **Systemic risk**

- 11.1 Where, in the opinion of the CBL,
- (a) there is systemic risk, or
  - (b) any person is engaging in or is about to engage in any act, omission or course of conduct with respect to the system that may result in systemic risk, or is contrary to the public interest in the integrity, effectiveness or security of the system,
- the CBL may issue a directive in writing requiring any such person:
- (i) to cease engaging in the act, omission or course of conduct concerned;
  - (ii) to perform such acts as are necessary to remedy the situation as the CBL may specify; or
  - (iii) to provide the CBL with such information and documents relating to the matters specified in the directive, within such period as the CBL may indicate therein.
- 11.2 Any person who fails to comply with a directive issued by the CBL pursuant to Article 11.1 shall be liable to pay to the CBL a penalty of not more than US\$10,000.00 or its equivalent in Liberian dollars and in the case of non-compliance by a financial

institution, every Director, Chief Executive Officer, Partner, Manager or other officer of that institution who fails to take all reasonable steps necessary to secure compliance by the institution with the directive, shall be liable to pay to the CBL a penalty of not more than US\$10,000.00 or its equivalent in Liberian dollars. The application of this penalty to an institution is based on 11.1 (a) and to an individual is based on 11.1 (b).

- 11.3 In addition to the penalty for non-compliance with its directives, the CBL may make an administrative action consistent with regulation issued by the CBL in directing a person or any Director, Chief Executive, Partner, Manager or other officers of a financial institution to comply with the directive in such terms as the CBL may determine; thereby observing the due process of law administratively.

#### **Article 12**

##### **Retention of records**

- 12.1 Notwithstanding anything to the contrary in any enactment relating to the retention of records, all records created during the course of operation and administration of a CBL system or a designated system shall be retained for a minimum period of seven years from the date of each particular record.
- 12.2 Records may be kept in any form including, but not limited to electronic form, as may be approved by the CBL.

#### **Article 13**

##### **Meaning of public interest**

- 13.1 In determining, for the purposes of this Part, if particular action is or shall be in, or contrary to, the public interest, the CBL shall have regard to the desirability of systems:
- (a) being, in its opinion;
    - (i) financially safe for use by participants;
    - (ii) efficient;
    - (iii) competitive; and
  - (b) which, in its opinion, do not materially cause or contribute to increased risks to the financial system.

### **PART III - TRANSPARENCY**

#### **Article 14**

##### **Transparency**

14. Payment instruments and systems shall be operated and administered transparently, so that users are aware of the conditions upon which transfers will be effected.

#### **Article 15**

##### **Prior information**

15. Upon request, the provider shall make available to their actual and prospective customers in a readily comprehensible form, information on conditions for execution of transfers, including at least the following:
- (a) an indication of the time needed for the funds to be credited to the account of the beneficiary's institution;
  - (b) an indication of the time needed for the funds credited to the account of the institution to be credited to the beneficiary's account;
  - (c) details of charges payable by the customer; and
  - (d) details of any complaint and redress procedures available to the customer and arrangements for access to them.

#### **Article 16**

##### **Subsequent Information**

- 16.1 Unless expressly agreed to the contrary, subsequent to the execution or receipt of a transfer, providers shall supply their customers with clear information in a readily comprehensible form, including at least the following:
- (a) a reference enabling the customer to identify the transaction;
  - (b) the original amount of the transfer; and
  - (c) the amount of all charges payable by the customer.
- 16.2 Where the originator has specified that the charges for a transfer are to be wholly or partly borne by the beneficiary, the latter shall be informed thereof by the beneficiary's institution.



## PART IV - MINIMUM OBLIGATIONS

### **Article 17**

#### **Right to negotiate**

17. Notwithstanding the minimum obligations applicable to execution of transfers, as specified in this Part, parties may assume greater obligations either through agreement, or through the operation of rules of the system concerned.

### **Article 18**

#### **Time limits**

- 18.1 The originator's institution shall execute a transfer within the time limit agreed with the originator, or in the absence of express agreement, within the standard time limits applicable to the relevant system.
- 18.2 Where the agreed time limit is not complied with, the originator's institution shall compensate the originator by a payment of interest calculated by applying the prevailing 91-day treasury bill discount rate or any such similar instrument that may be used by the CBL for said transaction, to the amount of the transfer for the period from the end of the agreed time limit to the date on which the funds are credited to the account of the beneficiary's institution.
- 18.3 Where non-execution of a transfer within the agreed time limit is attributable to an intermediary institution, that institution shall be required to reimburse the originator's institution in respect of any compensation paid to the originator.

### **Article 19**

#### **Availability of funds**

- 19.1 The beneficiary's institution shall make the funds resulting from a transfer available to the beneficiary within the time limit agreed with the beneficiary, or in the absence of express agreement, within the standard time limits applicable to the system.
- 19.2 Where the agreed time limit is not complied with, the beneficiary's institution shall compensate the beneficiary by a payment of interest calculated by applying the prevailing 91-day treasury bill discount rate to the amount of the transfer for the period from the end of the agreed time limit to the date on which the funds are credited to the beneficiary's account.

## **Article 20**

### **Delay attributable to originator or beneficiary**

20. No compensation shall be payable pursuant to Articles 18 and 19 where the originator's institution or, as the case may be, the beneficiary's institution can establish that the delay is attributable to the originator or, as the case may be, the beneficiary.

## **Article 21**

### **Other rights**

21. Articles 18 and 19 shall not prejudice any other rights available to persons participating in the execution of the transfer.

## **Article 22**

### **Obligation to transfer full amount**

- 22.1 The originator's institution, any intermediary institution and the beneficiary's institution shall each be obliged to execute any transfer for the full amount thereof, unless the originator has specified that the costs of the transfer are to be borne wholly or partly by the beneficiary.
- 22.2 Article 22.1 does not limit any rights of the beneficiary's institution to charge the beneficiary for the administration of his account.
- 22.3 This Article is subject to the rules of the system concerned.

## **Article 23**

### **Refund in the event of non-execution**

- 23.1 Subject to Article 23.3 where, after a transfer has been accepted by the originator's institution, the relevant amount is not credited to the account of the beneficiary's institution, then without prejudice to any other claim which may be made, the originator's institution shall refund the originator with the amount of the transfer plus interest calculated by applying the prevailing 91-day treasury bill discount rate or any such similar instrument that may be used by the CBL for said transaction, to

the amount of the transfer for the period between the date of the transfer and the date of the refund, and the charges relating to the transfer paid by the originator.

- 23.2 Where the transfer has been made using an intermediary institution, any such institution which has accepted the transfer shall reimburse the originator's institution against its liability under Article 23.1, and in the event that the intermediary institution itself used another intermediary institution, it shall be reimbursed by that institution accordingly.
- 23.3 Where the transfer was not completed because of an error or omission in the instructions given by the originator to his institution or because of non-execution of the transfer by an intermediary institution expressly chosen by the originator's institution; any other institutions involved shall use its best endeavours to obtain a refund of the amount of the transfer, and may be subject to charges for the expenses incurred in connection therewith.

#### **Article 24**

##### **Protection of data of customers**

- 24.1 The provider shall ensure that any data on the customer stored in a payment instrument or other device for the purpose of executing transfers shall not be used outside the scope of the service.

#### **Article 25**

##### **Use of agents in execution of transfers**

- 25.1 The provider shall ensure that the use of agents to execute transfers and manage payment instruments shall by no means affect the rights of the customer or unduly increase the risks in the use of the instrument.

### **PART V - FINALITY**

#### **Article 26**

##### **Finality**

- 26.1 A system shall specify the rules applicable to achieve finality in its operations as provided for in this Part V.



## **Article 27**

### **Irrevocability**

- 27.1 A transfer order shall be executed at the time specified in the rules of the system concerned.
- 27.2 Once executed, a transfer order is irrevocable, either by the participant or any other third party.

## **Article 28**

### **Settlement**

- 28.1 Subject to the rules of the system concerned, the discharge of settlement obligations between institutions participating in the system shall be effected by means of entries to accounts maintained with the CBL for settlement purposes.
- 28.2 Such settlement shall be final and irrevocable, and may not be reversed or set aside. In the event of winding down or administration of a participant, provisions under Part VII of this Act shall apply.

## **Article 29**

### **Failure to settle**

- 29.1 In the event that a participant fails to settle, collateral security shall be immediately called to settle the obligation.
- 29.2 The rights and remedies of a participant in a CBL system or a designated system in respect of collateral granted to it as security for a payment or the performance of an obligation incurred in a CBL system or designated system shall not be the subject of an application for stay of proceedings or such other court order or process affecting the ability of creditors to exercise rights and remedies with respect to the collateral.

## **Article 30**

### **Collateral for payment and settlement obligations**

- 30.1. Notwithstanding anything to the contrary in any law relating to insolvency or bankruptcy, any asset of a participant in a CBL system or a designated system which was provided:
- (a) to the CBL as security in respect of its payment or settlement obligations, or
  - (b) to the operators of a designated system as security in respect of its payment or settlement obligations prior to the issue of any order for the winding down

or administration of that institution may be utilized by the CBL, or as the case may be, by the operators of the designated system, to the extent required for the discharge of those payments or settlement obligations in keeping with Law.

## PART VI - ADMISSIBILITY OF EVIDENCE

### Article 31

#### **Admissibility of evidence**

- 31.1 Without prejudice to any rules by which it might otherwise be admissible in any court of law, information as to any transfer through a system which is contained in any document, computer print-out, hard copy, microfilm, floppy or hard disc, or any other electronic media or form, shall be admissible as evidence of or relating to the transfer concerned.
- 31.2 Photographic images such as film, microfilm, microfiche, or computer images of original documents such as cheques or other payment instruments, securities, certificates of deposits, account ledgers and government securities shall be, if supported by affidavit, admissible as prima facie evidence of the matters, or transactions contained in the original instrument.
- 31.3 Payment instructions, messages and funds transfers that are initiated, processed and executed through electronic means including electronic signatures shall be, if supported by affidavit, admissible as prima facie evidence of the matters, or transactions contained in the original instrument.
- 31.4 The entries in ledgers, cash books and other books of account of any financial institution whether captured manually by handwriting or computerised shall be prima facie evidence of the matters, transactions and accounts therein recorded on proof being given on affidavit by a director, chief executive, partner, manager or other officer of such financial institution, or by evidence that such manual or computerised ledgers, cash books and other books of account are or have been the ordinary books of account of such financial institution and that the said entries have been made in the usual and ordinary course of business, and that such books are in or come immediately from the custody of such financial institution.

- 31.5 A document purporting to be signed by or on behalf of the CBL and stating:
- (a) that any system is or is not a designated system; or
  - (b) that any financial institution is or is not a participant in any designated systems or CBL system,
- Shall be admissible in any proceedings in any court on its production by a person authorized in that behalf and shall be *prima facie* evidence of the fact stated therein.

## **PART VII - WINDING DOWN AND ADMINISTRATION OF PARTICIPANTS IN CBL AND DESIGNATED SYSTEMS**

### **Article 32**

#### **CBL and operator of relevant systems to be notified of winding down, or administration of participant**

- 32.1 Where a participant in a CBL system or a designated system, is wound down or placed in administration, the person at whose instance the winding down order or the administration order, as the case may be, was issued, shall lodge a copy of the order with the CBL and the operator of any systems it participates into.

### **Article 33**

#### **Winding down or administration of participant not to affect finality of prior settlement**

- 33.1 The winding down or administration of a participant in a CBL system or a designated system shall not affect the finality or irrevocability of any payment or transfer order which became final and irrevocable in terms of Part V before the copy of the relevant order was lodged with the CBL and the operator of the relevant system.

### **Article 34**

#### **Rules of CBL and designated systems to bind liquidators**

- 34.1 When an institution participating in a CBL system or a designated system is wound down or placed in administration or otherwise declared insolvent by a court, any provision contained in a written netting agreement to which that institution is a party,



or any netting rules and practices applicable to the system, are binding upon the liquidator or administrator, as the case may be, of the institution concerned in respect of any payment or settlement obligation:

- (a) which has been determined through netting prior to the time the winding-down or administration order, as the case may be, was communicated to the CBL and the operator of the relevant system; and
- (b) which is to be discharged on or after such time, or discharge of which was overdue at such time.

### **Article 35**

#### **Priority of certain instructions on winding down of participant**

35.1 Without prejudice to existing legislation and subject to this Article, where a participant in a CBL system or a designated system is being wound down the following items shall be paid from the participant's estate, in the following order:

- (a) undelivered transfer instructions, other than priority transfer instructions, that were drawn on the participant and cleared through the system before the making of the winding down order; and
- (b) undelivered priority transfer instructions that were drawn on the participant and cleared through the system before the making of the winding down order;

Shall rank in preference above any other unsecured claim against the estate.

35.2 No payment or transfer shall be made pursuant to Article 35.1 above in preference to any other claim against an estate unless a request for such payment has been made within forty five (45) days after the making of the winding down order in regard to the participant concerned.

35.3 Article 35.1 shall not be construed as permitting a transfer instruction to be satisfied in preference to any other claim against an estate, where the instruction was:

- (a) certified by the participant concerned; or
- (b) in the case of a priority payment instruction, was issued by the participant concerned, with a view to giving the drawee of the instruction a preference over the participant's other creditors.

## PART VIII - RESOLUTION OF DISPUTES

### Article 36

#### Disputes

- 36.1 This Part applies to a dispute between two or more participants in a designated system that arises out of, or that is otherwise connected with, that system in accordance with Article 37.2.(a).
- 36.2 The provisions of this Part shall not apply to a dispute falling within the provisions of Article 11.

### Article 37

#### Resolution of disputes

- 37.1 The CBL may arrange for a dispute to which this Part applies to be settled by mediation in accordance with this Article.
- 37.2 The CBL may exercise the power conferred upon it pursuant to Article 37.1 above, where:
- (a) it considers that the dispute raises issues related to:
    - (i) the financial safety of a system for participants; or
    - (ii) the efficiency of a system; or
    - (iii) the competitiveness of a system; or
    - (iv.) risk to the financial system; and
  - (b) the parties to the dispute agree to the CBL arranging the mediation.
- 37.3 The mediation shall be conducted by the Executive Governor of the CBL, or by a person appointed in writing by the Executive Governor for that purpose.
- 37.4 The person conducting mediation shall not be subject to any action, claim or demand by, or liable to, any person in respect of anything done, or omitted in good faith in connection with the mediation.
- 37.5 Mediation as contemplated in Article 37.1 means a process whereby
- (a) the mediator and the participants concerned discuss the dispute at a meeting attended by them all;

- (b) the participants concerned following such meeting attempt to settle the dispute by consensus;
- (c) the participants concerned share the mediator's costs equally.

37.6 The fact that the dispute is being, or has been referred to mediation does not affect either participant's legal rights, and does not prevent a party to the dispute from bringing action in a court of competent jurisdiction in connection with the dispute.

## **PART IX - GENERAL AND SUPPLEMENTARY**

### **Article 38**

#### **Consultation obligations**

- 38.1 Where the CBL proposes to determine or vary a standard, it must, before taking such action consult with the stakeholders.
- 38.2 Article 38.1 shall not apply to a proposed determination or variation of a standard pursuant to Article 7(5).

### **Article 39**

#### **Notification obligations**

- 39.1 Upon the determination, variation or revocation of a standard, the CBL shall take reasonable steps to ensure that the participants in the system are informed of the action.

### **Article 40**

#### **Power and Authority of the CBL under this Act**

- 40.1 The Central Bank of Liberia shall have full powers and authority that includes, but not limited to the following:
  - a) Regulatory, Supervisory, and Oversight on all participants of a system and the system itself;
  - b) apply this Act to all forms of payment systems in Liberia;
  - c) apply this Act to all forms of payments instruments to be utilized by the banking, non-banking and other financial service providers that may evolve overtime as part of our economic activities;
  - d) cooperate with other authorities engaged in the regulation and supervision of financial institutions and other entities directly or indirectly involved in payments and their operation in Liberia, as well as on the regulation, monitoring and



- supervision of capital markets in the country. In that regard, the Central Bank shall have the power to conclude memoranda of understanding,
- e) cooperate with other monetary authorities and international organizations dealing with regulation and oversight of payments. This shall also include the power to conclude memoranda of understanding

40.2 The above powers are powers given to the CBL in addition to the CBL Act of 1999 establishing the CBL as well as the New Financial Institutions Act of 1999.

#### **Article 41**

##### **Power to publish by other means**

41.1 Where, under this Act, the CBL is required or permitted to publish notice of a matter in the Gazette, or to take particular action by notice published in the Gazette, the CBL may also publish notice of the matter, or of the taking of the action, in any other way it considers appropriate, including by electronic means.

#### **Article 42**

##### **Power to Delegate**

42.1 The CBL, by written instrument, may delegate all or any of its functions or powers under this Statute to a person who holds any of the following offices:

- (a) Executive Governor of the CBL;
- (b) Deputy Governor of the CBL;

42.2 The Executive Governor of the CBL may, in writing, delegate any of the Governor's functions or powers under this Statute to a person who holds any of the following offices:

- (a) Deputy Governor of the CBL; or
- (b) The Head(s) of designated department and or unit designated by the Central Bank of Liberia.

#### **Article 43**

##### **Preservation of Secrecy**

43.1 Subject to Articles 42.1 and 42.2, no person being:

- (a) an Officer, or employee of the CBL; or
- (b) an Officer, employee or member of a management body, shall disclose any information which he has acquired in the performance of his functions

under this Act or the rules of any designated system which relates to the affairs of a participant in a system.

43.2 The CBL may disclose any information where in its opinion, disclosure is reasonably necessary to protect the integrity, effectiveness or security of a system.

43.3 Article 43.1 shall not apply to:

- (a) any disclosure made by the person concerned
  - (i) in the performance of his functions under this Act; or
  - (ii) under any cooperation agreement with another domestic or foreign regulatory authority under the terms of the law; or
  - (iii) when required to do so by order of a court; or
  - (iv) when required to do so under the provision of any other enactment for the time being in force in Liberia; or
- (b) the disclosure of information that is generally known to members of the public or to a substantial section of the public.

43.4 Any person who contravenes Article 43.1 commits an offence and shall be liable on conviction to a fine not exceeding US\$5,000.00 or its Liberian dollar equivalent as penalty.

#### **Article 44**

##### **Use of confidential information for personal gain**

44.1 Any officer or employee of the CBL, or officer, employee or member of a management body, who for personal gain makes use of any information acquired:

- (a) in the performance of his functions under this Act, or
- (b) under the constitution or rules of any system, which relates to the affairs of a particular participant in a system, commits an offence and shall be liable on conviction to a fine not exceeding US\$5,000.00 or its Liberian dollar equivalent as penalty, or an amount twice the value of his gain, whichever is the greater or imprisonment for a term not exceeding two (2) years or both.

44.2 In any proceedings for an offence under Article 44.1, it shall be a defence for the person charged to prove that the information used was generally known to the members of the public or to a substantial number of members of the public.

## **Article 45**

### **Issuance of cheques against insufficient funds**

- 45.1 A person who knowingly draws or issues a cheque or other payment instrument against which there are insufficient funds in his account at a financial institution on which the cheque or other payment instrument is drawn commits an offence and shall on conviction be liable to a fine not exceeding two times the value of the cheque or other payment instrument or imprisonment for a term not exceeding six (6) months or both.
- 45.2 The fact that the cheque or other payment instrument is returned unpaid with the words "insufficient funds" or other words to that effect shall be prima facie evidence that the drawer had insufficient funds in the account against which the cheque or other payment instrument was drawn.

## **Article 46**

### **General offence and penalty**

- 46.1 Except as otherwise provided in this Act, any person who contravenes any provision of this Act or regulation made hereunder or anything prescribed or directives made or given under this Act commits an offence and shall be liable on conviction to a fine not exceeding US\$5,000.00 or its Liberian dollar equivalent as penalty or to imprisonment for a term not exceeding two (2) years or to both.
- 46.2 Except as otherwise provided in this Act, where an offence is committed by a body of persons
- (a) in the case of a body corporate, any person who at the time the offence was committed was a director, manager or other corporate officer of that body corporate; or
  - (b) in the case of a firm, every person who at the time the offence was committed, was a partner or officer of that firm, shall be deemed to have committed that offence and shall be proceeded against and punished on conviction under the provisions of this Act.
- 46.3 In any proceedings for an offence under this Act, it shall be a defence for the person charged to prove that:



- (a) the offence was committed without his knowledge or consent; or
- (b) he took all reasonable precaution and exercised all due diligence to prevent the commission of the offence.

#### **Article 47**

##### **Protection for actions done in good faith**

- 47.1 No suit or other legal proceeding shall lie against the CBL or officer, employee or agent of the CBL in respect of anything done in good faith pursuant to this Act.
- General limitations as established in the CBL Act or any other relevant act to this end shall apply.

#### **Article 48**

##### **Regulations**

- 48.1 The CBL may make regulations prescribing matters:
- (a) required or permitted to be prescribed by this Act; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

#### **Article 49**

##### **Savings and Transitional Provisions**

- 49.1 Any form of system in existence on the date of the commencement of this Act shall continue to operate subject to the provisions of this Act.
- 49.2 Notwithstanding the provisions of Article 48.1:
- (i) any existing Rule, Regulation, Directive or other act made pursuant to a law of Liberia to regulate systems;
  - (ii) a licence or permit issued by the Central Bank of Liberia relating to payments and settlement arrangements; and
  - (iii) an act or a thing done by the Central Bank of Liberia that is valid before the coming into force of this Act shall continue to be valid until otherwise dealt with by the CBL to bring it into conformity with the Act.
- 49.3 Any agreement, contract and transaction existing between the Central Bank of Liberia and any other person or entity shall continue to be valid between the CBL and the other person or entity according to its terms.

49.4 Where appropriate, any reference under any banking legislation of the Central Bank of Liberia, the reference shall be construed as a reference to the CBL.

**Article 50**

**Entry into Force**

50.1 This Act shall enter into force upon immediately upon printing into hand bills.

**ANY LAW TO THE CONTRARY NOTWITHSTANDING.**

-2013-


SECOND SESSION OF THE FIFTY-THIRD LEGISLATURE  
OF THE REPUBLIC OF LIBERIA

HOUSE'S ENGROSSED BILL NO.33

"AN ACT ADOPTING THE NEW PAYMENTS SYSTEM  
LAW OF LIBERIA"

On Motion, Bill read. On motion, the Bill was adopted on its first reading and sent to Committee Room on Thursday, May 9, 2013 at the hour of 15:30 G.M.T.

On Motion, the Bill was taken from Committee Room for its second reading. On Motion, under the suspension of the rule, the second reading of the Bill constituted its third and final reading, and the Bill was adopted, passed into the full force of the law, and ordered engrossed today, Tuesday, August 13, 2013 at the hour of 13:05 G.M.T.

  
CHIEF CLERK, HOUSE OF REPRESENTATIVES, R.L.

2014


THIRD SESSION OF THE FIFTY-THIRD  
LEGISLATURE OF THE REPUBLIC OF LIBERIA

SENATE'S ENDORSEMENT TO HOUSE'S ENGROSSED  
BILL NO. 33. ENTITLED:

"AN ACT ADOPTING THE NEW PAYMENTS SYSTEM  
LAW OF LIBERIA"

On motion, Bill read. On motion, the Bill was adopted on its first reading and sent to Committee Room on Thursday, August 15, 2013 @ 11:45 G.M.T.

On motion, Bill taken from the Committee Room for its second reading. On motion, under the suspension of the rule, the second reading of the Bill constituted its third and final reading and the Bill was adopted, passed into the full force of the law and ordered engrossed today, Tuesday, May 20, 2014 @ 13:14 G.M.T.

  
SECRETARY, LIBERIAN SENATE, R.L.





# THE HONORABLE HOUSE OF REPRESENTATIVES

Capitol Building  
P. O. Box 9005  
Monrovia, Liberia  
Website: [www.legislature.gov.lr](http://www.legislature.gov.lr)



*Office of the Chief Clerk*

**-2014-**

**THIRD SESSION OF THE FIFTY-THIRD LEGISLATURE OF THE REPUBLIC OF LIBERIA**

SCHEDULE OF HOUSE'S ENROLLED BILL NO. 6 ENTITLED:

**"AN ACT ADOPTING THE NEW PAYMENTS SYSTEM LAW OF LIBERIA"**

PRESENTED TO THE PRESIDENT OF THE REPUBLIC OF LIBERIA FOR EXECUTIVE APPROVAL.

APPROVED THIS 5<sup>th</sup> DAY OF JUNE A.D. 2014

AT THE HOUR OF 1:00 P.M.

THE PRESIDENT OF THE REPUBLIC OF LIBERIA