



South African Reserve Bank

**Position paper on the
Principles for Financial Market Infrastructures
published by the Committee on Payments and Market
Infrastructures and the Technical Committee of the International
Organization of Securities Commissions**

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Executive summary

This position paper documents the commitment of the South African Reserve Bank (SARB) to the Principles for Financial Market Infrastructures¹ and serves to recognise financial market infrastructures (FMIs), including systemically important FMIs, in the South African national payment system (NPS). This position paper is limited to payment system FMIs in the NPS.

The FMIs in the securities and derivatives environment, including central securities depositories, securities settlement systems, central counterparties and trade repositories fall within the regulatory ambit of the Financial Sector Conduct Authority and Prudential Authority, as provided for in the Financial Markets Act 19 of 2012 and the Financial Sector Regulation Act 9 of 2017.

The SARB is responsible for protecting and enhancing financial stability, and FMIs are integral to the maintenance of financial stability.

Further, this position paper supersedes the *Position paper confirming the South African Reserve Bank's support for the Principles for Financial Market Infrastructures published by the Committee on Payment and Settlement Systems² and the Technical Committee of the International Organization of Securities Commissions³ and the Information paper on the South African Reserve Bank National Payment System Department's commitment to the Principles for Financial Market Infrastructures in the National Payment System⁴*, both previously published in September 2013.

¹ These principles are available at www.bis.org/cpmi.

² The Committee on Payment and Settlement Systems was renamed the Committee on Payments and Market Infrastructures (CPMI) in 2015.

³ The position paper is available at www.resbank.co.za > Regulation and supervision > National Payment System (NPS) > NPS Legislation > Position papers > Position paper 01 of 2013.

⁴ The information paper is available at www.resbank.co.za > Regulation and supervision > National Payment System (NPS) > NPS Legislation > Information papers and notices > Information paper NPS06 (related to Position paper 01 of 2013).

1. Background

- 1.1 In April 2012, the Bank for International Settlements' (BIS) Committee on Payments and Market Infrastructures (CPMI) and the Technical Committee of the International Organization of Securities Commissions (IOSCO) published the Principles for Financial Market Infrastructures (PFMIs)⁵.
- 1.2 The PFMIs are an update of:
 - 1.2.1 the Core Principles for Systemically Important Payment Systems (Core Principles), published by the BIS in January 2001, which provided 10 principles for the safe and efficient design and operation of systemically important payment systems (SIPSS) as well as four (4) responsibilities required of central banks;
 - 1.2.2 the recommendations on securities settlement systems (SSSs), published by the BIS in November 2001, which provided 19 recommendations for the safe and efficient design and operation of SSSs; and
 - 1.2.3 the recommendations for central counterparties (CCPs), published by the BIS in November 2004, which provided 15 recommendations for the safe and efficient design and operation of CCPs.
- 1.3 The National Payment System Department (NPSD) of the South African Reserve Bank (SARB) has supported and implemented the Core Principles within the payments environment since their publication.
- 1.4 The standards set out in the PFMIs harmonise and, where appropriate, strengthen the international risk management and associated standards applicable to SIPSS, central securities depositories (CSDs), SSSs, CCPs, and trade repositories (TRs). The PFMIs also set out the responsibilities of

⁵ These principles are available at www.bis.org/cpmi.

central banks, market regulators and other relevant authorities for the regulation of financial market infrastructures (FMIs).

- 1.5 In 2011, National Treasury initiated a move to a Twin Peaks model of financial regulation as part of the broader financial regulatory reforms in South Africa. This model was mainly aimed at establishing the Prudential Authority (PA) within the SARB and transforming the Financial Services Board (FSB) into a dedicated Financial Sector Conduct Authority (FSCA).
- 1.6 In initiating the move to the Twin Peaks model, National Treasury, the FSB (now the FSCA) and the SARB – jointly the Financial Regulatory Reform Steering Committee – issued two documents: *A safer financial sector to serve South Africa better*, published in February 2011,⁶ and *Implementing a Twin Peaks model of financial regulation in South Africa*, published in February 2013 (an implementation document).⁷
- 1.7 These two publications were followed by the promulgation of the Financial Sector Regulation Act 9 of 2017 (FSR Act)⁸ in August 2017. The FSR Act came into effect in April 2018.
- 1.8 The FSR Act applies to, among other things, the market infrastructures in the securities and derivatives markets. National Treasury and the SARB took a strategic decision for legislative changes to the national payment system (NPS) regulatory framework, including provisions relating to payment FMIs, to be effected through the National Payment System Act 78 of 1998 (NPS Act) review process instead of through the FSR Act.
- 1.9 The NPS Act review process was initiated by the NPSD in 2015. It culminated in the development of a policy paper, outlining policy issues and recommendations to be addressed through the National Payment System Amendment Act (NPS Amendment Act). The conclusion of this process will

⁶ This policy document is available at www.treasury.gov.za.

⁷ This implementation document is available at www.treasury.gov.za.

⁸ This Act is available at <http://www.thepresidency.gov.za/press-statements/president-zuma-signs-financial-sector-regulation-act-law>.

provide legal certainty on the NPS regulatory framework, including the definition, licensing and designation as well as the regulatory, supervisory and oversight of payment FMIs in line with the PFMI. It is envisaged that the NPS Act review process will be concluded in 2020.

- 1.10 The NPS Amendment Act will provide the SARB with the explicit basis for the adoption and implementation of the PFMI.
- 1.11 The legal and regulatory framework for other FMIs, including CSDs, SSSs, CCPs and TRs, is enabled in the Financial Markets Act 19 of 2012 (FMA) and the FSR Act, with the PA and FSCA as the regulators.

2. Legal and regulatory framework

- 2.1 In terms of section 10(1)(c) of the South African Reserve Bank Act 90 of 1989, as amended (SARB Act), the SARB is required to 'perform such functions, implement such rules and procedures and, in general, take such steps as may be necessary to establish, conduct, monitor, regulate and supervise payment, clearing or settlement systems'.⁹
- 2.2 Furthermore, the NPS Act provides for the 'management, administration, operation, regulation and supervision of payment, clearing and settlement systems in South Africa and for connected matters'.¹⁰
- 2.3 The SARB Act and the NPS Act therefore provide the SARB with the regulatory, supervisory and oversight power to manage and oversee the NPS.

⁹ See section 10(1)(c) of the SARB Act, available at www.resbank.co.za, under About us > Legislation.

¹⁰ See the National Payment System Act, available at www.resbank.co.za, under Regulation and supervision > National Payment System (NPS) > NPS Legislation.

3. Objective of this position paper

3.1 The objective of this position paper is to confirm that the SARB:

3.1.1 supports the PFMI;

3.1.2 is committed to the legal adoption and implementation of the PFMI once the revised legal framework for the NPS has been completed;

3.1.3 has assessed the FMIs set out in paragraph 4.2.2 against the criteria in paragraph 4.3.3, and recognises the FMIs listed in paragraph 4.3.4 as systemically important; and

3.1.4 has mandated the NPSD to implement and oversee the interim arrangements relating to the PFMI in respect of payment FMIs while the review of the NPS legislative framework is being conducted.

3.2 With respect to the CSDs, SSSs, CCPs and TRs FMIs, the SARB acknowledges the endorsement of the PFMI by the FSCA through the FMA and FMA regulations. The SARB, FSCA and PA are coordinating actions to adopt and implement the PFMI, and specifically to promote compliance by the SSSs with all the relevant principles addressing both the payment and securities leg of securities transactions.

4. Position of the SARB

4.1 Payment systems

4.1.1 The NPS Act defines a payment system as ‘a system that enables payments to be effected or facilitates the circulation of money and includes any instruments and procedures that relate to the system’.¹¹ Although this definition remains applicable in respect of the broader scope of NPS

¹¹ The National Payment System Act is available at www.resbank.co.za > Regulation and supervision > National Payment System (NPS) > Legal > Pages > Legal-Home.

regulation as provided for in the NPS Act and subsequent subordinate legislation, for the purposes of this position paper and of identifying FMIs, the CPMI's definition of a payment system will apply.

4.1.2 The CPMI and IOSCO define a payment system as 'a set of instruments, procedures, and rules for the transfer of funds between or among participants; the system includes the participants and the entity operating the arrangement'.¹²

4.1.3 A payment system is generally categorised as either a retail payment system (RPS) or a large-value payment system (LVPS). An RPS is a funds transfer system that typically handles a large volume of relatively low-value payments in various forms, including cheques, credit transfers, debit orders and card payment transactions. An LVPS is a funds transfer system that typically handles large-value and high-priority payments. However, this distinction is not relevant in order to determine the application of PFMI. Rather, the distinction between SIPS (to which the PFMI fully apply) and non-SIPS is considered relevant.

4.1.4 As at November 2018, three RPSs and four LVPSs had been authorised or designated in terms of the NPS Act as payment clearing house system operators or settlement systems. These payment systems have been identified as FMIs and are fully described in subheading 4.2 below.

4.2 FMIs in the NPS

4.2.1 The CPMI and IOSCO define an FMI as 'a multilateral system among participating institutions, including the operator of the system that is used for the purposes of clearing, settling or recording payments, securities, derivatives or other financial transactions'.¹³

4.2.2 The following FMIs have been identified in the NPS:

¹² This definition is available at www.bis.org/cpmi/publ/glossary.

¹³ This definition is available at www.bis.org/cpmi/publ/glossary.

A. Domestic payment system FMIs

- i. An LVPS known as the South African Multiple Option Settlement (SAMOS) system¹⁴ – which is a real-time gross settlement (RTGS) system – owned and operated by the SARB (including the participants, instruments, procedures and rules).
- ii. An RPS – which clears retail transactions – owned and operated by BankservAfrica¹⁵ (including the participants, instruments, procedures and rules).
- iii. An RPS – which clears retail transactions – owned and operated by VISA (including the participants, instruments, procedures and rules).
- iv. An RPS – which clears retail transactions – owned and operated by MasterCard Southern Africa (including the participants, instruments, procedures and rules).
- v. An LVPS – which clears the delivery and payment legs of equities, bonds, and money market transactions – owned and operated by Strate (Pty) Limited (including the participants, instruments, procedures and rules). The SARB is only responsible for the regulation and oversight of the clearing of the payment leg, while the FSCA and PA are responsible for the regulation, supervision and oversight of the clearing of the delivery leg. The three institutions cooperate closely in order to monitor that the FMIs that fall in their regulatory ambit meet all the applicable principles of the PFMIs.

¹⁴ More information on the SAMOS system is available at www.resbank.co.za > Regulation and supervision > National Payment System (NPS) > SAMOS System.

¹⁵ More information on BankservAfrica is available at www.bankservafrica.com.

B. International and regional payment system FMIs

- vi. An LVPS known as a Continuous Linked Settlement (CLS) system¹⁶ – which settles foreign exchange transactions in designated currencies, including the South African rand – owned and operated by the CLS Bank International (including the participants, instruments, procedures and rules).
- vii. An LVPS known as the Southern African Development Community (SADC) Real-time Gross Settlement System (SADC-RTGS)¹⁷ – which settles cross-border transfers that require immediate settlement within SADC – owned by SADC central banks and operated by the SARB (including the participants, instruments, procedures and rules).

4.3 Systemically important FMIs

- 4.3.1 According to the CPMI and IOSCO, if FMIs are not properly managed, they can pose significant risks to the financial system by becoming potential sources of financial shocks and contagion (particularly in periods of market stress). In this regard, FMIs are systemically important.
- 4.3.2 The CPMI defines a SIPS as ‘a payment system which has the potential to trigger or transmit systemic disruptions; this includes, among other things, systems that are the sole payment system in a jurisdiction or the principal system in terms of the aggregate value of payments, and systems that mainly handle time-critical, high-value payments or settle payments used to effect settlement in other FMIs’.¹⁸

¹⁶ More information on the CLS system is available at www.cls-group.com.

¹⁷ More information on SADC-RTGS is available at www.resbank.co.za > Regulation and supervision > National Payment System (NPS) > SIRESS Operations.

¹⁸ This definition is available at www.bis.org/cpmi/publ/glossary.

4.3.3 To determine whether an FMI is systemically important, the SARB applies the following criteria¹⁹ provided for in the PFMI:

- a. the number of transactions processed;
- b. the value of transactions processed;
- c. the number of participants;
- d. the type of participants;
- e. the markets served;
- f. the market share controlled;
- g. the interconnectedness with other FMIs and other financial institutions;
and
- h. the available alternatives to using the FMI at short notice.

4.3.4 Having applied the criteria listed in paragraph 4.3.3 above, the SARB recognises the following FMIs as systemically important:

A. Domestic systemically important FMIs

- i. An LVPS known as the SAMOS system – which is the RTGS system – owned and operated by the SARB (including the participants, instruments, procedures and rules).
- ii. An RPS – which clears retail transactions – owned and operated by BankservAfrica (including the participants, instruments, procedures and rules) in respect of all the payment streams, excluding the card stream. In applying the criteria in paragraph 4.3.3 above to the card stream, the RPS operated by BankservAfrica was found not to be systemically important as VISA and MasterCard provide alternatives in this regard. However, the SARB reserves the right to review this position should circumstances change.

¹⁹ Committee on Payment and Settlement Systems (CPSS) and the Technical Committee of the International Organization of Securities Commissions (IOSCO), *Principles for financial market infrastructures*, 2012, available at www.bis.org/cpmi/info_pfmj, p126.

- iii. An LVPS – which clears the delivery and payment legs of equities, bonds, and money market transactions – owned and operated by Strate (Pty) Limited (including the participants, instruments, procedures and rules). The SARB is only responsible for the regulation and oversight of the clearing of the payment leg, while the FSCA and PA are responsible for the regulation, supervision and oversight of the clearing of the delivery leg.

B. International and regional systemically important financial market infrastructures

- iv. An LVPS known as the CLS system – which settles foreign exchange transactions in designated currencies, including the South African rand – owned and operated by the CLS Bank International (including the participants, instruments, procedures and rules).
- v. An LVPS known as SADC-RTGS – which settles cross-border transfers that require immediate settlement – owned by SADC central banks and operated by the SARB (including the participants, instruments, procedures and rules).

5. Adoption and implementation of PFMI

- 5.1 The full adoption and implementation of the PFMI will be enabled in domestic legislation. Systemically important FMIs are required to adhere to the PFMI and to implement the necessary standards even prior to the full adoption of the PFMI into law. While full implementation of the PFMI is only required for SIPS, the SARB may apply the applicable or appropriate PFMI or develop an appropriate regulatory, supervisory and oversight framework for FMIs that are non-SIPS.

6. Responsibilities for regulation, supervision and oversight of FMIs

- 6.1 The SARB will implement the regulatory, supervisory and oversight responsibilities outlined in the PFMIs in close cooperation with other relevant authorities such as the FSCA, PA and other relevant foreign authorities (e.g. international/regional central banks for CLS oversight or SADC-RTGS oversight).

7. Contact details

- 7.1 Any queries relating to this position paper should be addressed to the Head: National Payment System Department at npsdirectives@resbank.co.za.

Abbreviations

BIS	Bank for International Settlements
CCP	central counterparty
CLS (system)	Continuous Linked Settlement (system)
Core Principles	Core Principles for Systemically Important Payment Systems
CPMI	Committee on Payments and Market Infrastructures
CSD	central securities depository
FMA	Financial Markets Act 19 of 2012
FMI	financial market infrastructure
FSB	Financial Services Board
FSCA	Financial Sector Conduct Authority
FSR Act	Financial Sector Regulation Act 9 of 2017
IOSCO	International Organization of Securities Commissions
LVPS	large-value payment system
MasterCard	MasterCard Southern Africa (Pty) Ltd
NPS	national payment system
NPS Act	National Payment System Act 78 of 1998
NPS Amendment Act	National Payment System Amendment Act
NPSD	National Payment System Department
PA	Prudential Authority
PFMIs	Principles for Financial Market Infrastructures
RPS	retail payment system
RTGS	real-time gross settlement
SADC	Southern African Development Community
SAMOS (system)	South African Multiple Option Settlement (system)
SARB	South African Reserve Bank
SARB Act	South African Reserve Bank Act 90 of 1989, as amended
SIPS	systemically important payment system
SSS	securities settlement system
TR	trade repository