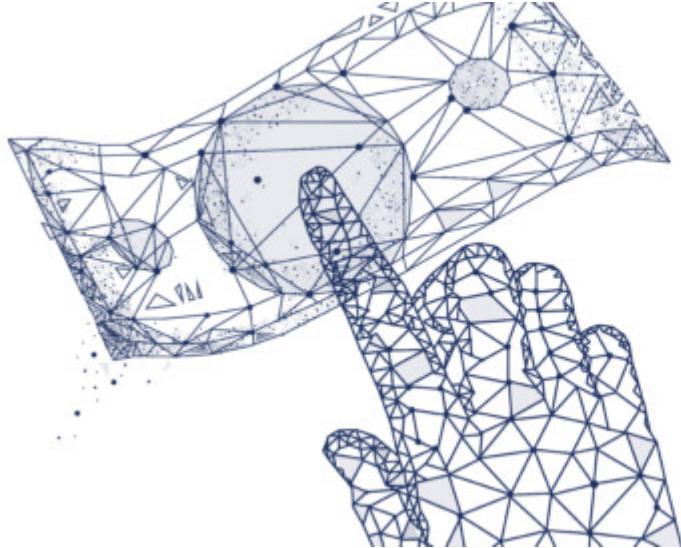


NATIONAL PAYMENT SYSTEM ACT REVIEW AND WHY YOU SHOULD COMMENT

Category: Commercial Law, Media and OTT, Privacy Law, Infosec, and POPIA, Technology Law
written by Nonhlanhla Ngwenya | February 8, 2019



In 2014 National Treasury issued an instruction prohibition by national and provincial public entities from making payments via the internet due to the risk associated with such transactions. [\[1\]](#) In 2019, however, it seems that National Treasury (“**NT**”) has had a change of heart and are reevaluating its existing payments regulatory framework. On 5 December 2018, National Treasury and the South African Reserve Bank (“**SARB**”) published a policy paper titled “Review of the National Payment System Act 78 of 1998” which has invited public comments until 28 February 2019[\[2\]](#).

The National Payment System Act (“**the NPS Act**”) provides for the management, administration, operation, regulation and supervision of payment, clearing and settlement systems in South Africa. In short, the NPS Act gives rise to a legal framework regulating how South Africans pay one another.

The review of the NPS Act outlines that the SARB and NT are seeking to regulate the evolution of payment systems. This is based on the shift from traditional payment methods such as cheques and money orders to more contemporary methods such as credit cards and online payments. In the review of the NPS Act, SARB and NT examine payments methods that complement the recent growth of internet users and the growing need for online and mobile payments.[\[3\]](#) This review includes the regulation of evolving payment systems such as virtual currencies, Fintech companies, and mobile money providers.

The alternative payment systems that SARB and NT can consider.

Virtual currency is any currency that is not printed on paper or stamped into metal.[\[4\]](#) According to the SARB Position Paper on Virtual Currencies, a virtual currency is “a digital representation of value that can be digitally traded and functions as a medium of exchange, a unit of account and/or a store of value but does not have legal tender status”. [\[5\]](#)

Digital currency is virtual currency that specifically exists in the digital space. Digital currency can potentially represent physical currency.

Mobile money (e-money)[\[6\]](#) is an electronically stored monetary value that is available to a user to conduct transactions through a mobile device. E-money is a currency that is accepted as an electronic store of monetary value on a technical device. It may be widely used for making payments

to entities and is mirrored by the value stored in an account(s), which is usually open in one (or more) bank(s) and redeemable for cash.[\[7\]](#)

Cryptocurrency is both digital and virtual currency that is created based on some cryptographic algorithm. It is an encrypted, decentralized currency that is created and controlled by code, and relies on “peer-to-peer” networks. To confirm transactions in cryptocurrency, the cryptocurrency “miner” must solve cryptographic algorithms using hardware and make use of a great deal of electricity to get the representation of one unit of value, typically called a “coin”. Bitcoin, Litecoin, and altcoins are all cryptocurrencies.

Let us hope that the NT and SARB review will reach their aim of “improving payment systems, growing financial inclusion, and combating specific structural issues in the economy, which contributes towards the prosperity of all South Africans and enhances the NPS to serve the economy of the future”. If you have an opinion on this evolving landscape, I would suggest that you comment on the review proposal. You can comment on the policy paper on npsactreview@treasury.gov.za.

[\[1\]](#) National Treasury Instruction 01 OF 2014/2015 Prohibition of Payments via the internet.

[\[2\]](#)

[http://www.treasury.gov.za/publications/other/NPS%20Act%20Review%20Policy%20Paper%20-%20fin
al%20version%20-%202013%20September%202018.pdf](http://www.treasury.gov.za/publications/other/NPS%20Act%20Review%20Policy%20Paper%20-%20final%20version%20-%202013%20September%202018.pdf)

[\[3\]](#) Black's Law Dictionary, definition of *virtual currency*.

[\[4\]](#) Stats SA General Household Survey, presented finding that determine that over 59,3% of all South Africans now have access to the internet in some form or the other.

[\[5\]](#)[https://www.resbank.co.za/RegulationAndSupervision/NationalPaymentSystem\(NPS\)/Legal/Documents/Position%20Paper/Virtual%20Currencies%20Position%20Paper%20%20Final_02of2014.pdf](https://www.resbank.co.za/RegulationAndSupervision/NationalPaymentSystem(NPS)/Legal/Documents/Position%20Paper/Virtual%20Currencies%20Position%20Paper%20%20Final_02of2014.pdf)

[\[6\]](#) Electronic Payments are currently regulated by the Electronic Communications and Transactions Act 36 of 2005.

[\[7\]](#)[https://www.resbank.co.za/RegulationAndSupervision/NationalPaymentSystem\(NPS\)/Legal/Documents/Position%20Paper/PP2009_01.pdf](https://www.resbank.co.za/RegulationAndSupervision/NationalPaymentSystem(NPS)/Legal/Documents/Position%20Paper/PP2009_01.pdf)