

Da Afghanistan Bank



# Electronic Money Institution's Regulation

Financial Supervision Department

2016

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## **PART ‘A’ –GENERAL REGULATIONS AND DEFINITIONS:**

### **1.0 Authority:**

This regulation on the licensing, regulating and supervising of Electronic Money Institutions (EMIs) is pursuant to the authority granted to DAB by Articles 92 and 93 of the Law on Da Afghanistan Bank (Law).

### **2.0 Scope:**

- a. This regulation applies to all individuals and legal entities that are providing electronic money services in Afghanistan, whether or not the individuals and legal entities are domiciled in Afghanistan. For the purposes of this regulation, electronic money services are defined pursuant to Article 1 of the Law to include money transmission, and check cashing.
- b. This regulation shall not apply to commercial banks licensed by DAB, their branches, and foreign bank branches permitted by DAB. E-Money services provided by these banking organizations are regulated and supervised as part of their overall operations, under the regulations issued pursuant to the Law of Banking in Afghanistan.
- c. The licensing provisions of this regulation do not apply to any individual or legal entity currently holding a valid E-Money Service License issued under a previous version of this regulation. Upon expiration of those licenses, a new license must be applied for under the terms of the current regulation.
- d. To the extent permitted by the aforesaid Law, powers enumerated herein are exclusively accorded to Da Afghanistan Bank. Exercise and implementation of those powers, including related omission, are the sole and exclusive discretion of Da Afghanistan Bank. Ambiguities herein shall be resolved at sole and exclusive discretion of Da Afghanistan Bank.

### **3.0 Definitions:**

- a. **“Active User”** means any natural person or legal person who/which conducts at least twelve mobile money transactions per annum (or any equivalent pro-rata number of transactions during any period of time). As used herein, “mobile money transactions” include “cash-in,” “cash-out,” send/transfer money, receive money, and balance inquiry.
- b. **“Applicant”** means any individual or legal entity who submits a notice or an application to DAB for the acquisition of a license to provide e-money services.
- c. **“Authorized e-money agent”** means a legal entity or individual who has been authorized by an EMI to perform e-money account opening, cash-in, and cash-out services for customers of the EMI.
- d. **“cash-in”** means accepting banknotes, coins, or other items of monetary value and performing the necessary steps to initiate the crediting of that monetary value to the customer’s e-money account.
- e. **“cash-out”** means giving out banknotes, coins, or other items of monetary value and performing the necessary steps to initiate the debiting of that monetary value from the customer’s e-money account.
- f. **“e-money customer”** means an individual who uses an EMI to make or receive small payments and/or to store value. The term does not include legal entities that use an EMI to

pay salaries, disburse loan proceeds and receive loan repayments, and receive billing payments according to a regular schedule. These entities are defined below as “partners.”

- g. **“DAB”** means Da Afghanistan Bank, the central bank of Afghanistan, its head office and branches.
- h. **“Domestic transmission”** means a money transmission where both the remitter and the recipient is located inside Afghanistan.
- i. **“e-money”** means monetary value that is stored on an electronic device or server, accepted in exchange for undertakings other than the issuer, and generally intended to make payments or transfer money for another purpose, of a limited amount. E-money is not considered to be a deposit, as that term is defined in Article 1 of the Law of Banking in Afghanistan. Rather, cash-in/cash-out activities of EMIs are considered to be “check cashing,” and MVT transactions are considered to be “money transmission” as those terms are defined in Article 1 of the Law on Da Afghanistan Bank.
- j. **“e-money float”** means the total outstanding e-money liabilities of the EMI to its customers at any one point in time.
- k. **“e-money institution”** or EMI means a legal entity, other than a commercial bank or depository microfinance institution that accepts banknotes, coins, or other means of payment in exchange for e-money, and facilitates the transfer of this e-money to make payments. A commercial bank or depository microfinance institutions that allows its accountholders access to their funds, located in individual, numbered accounts that are liabilities of that commercial bank or DMFI, by means of an electronic device, such as a mobile telephone handset, is not considered to be an EMI for the purposes of this regulation. Similarly, the third-party vendor of a commercial bank or DMFI that provides EMI technology to give customers additional electronic access channels to their funds are not considered to be money services providers for the purposes of this regulation.
- l. **“Foreign transmission”** means a money transmission where either the remitter or the recipient is located outside of Afghanistan.
- m. **“FSD”** means Financial Supervision Department which supervises the banking and non-banking financial institutions.
- n. **“mMoney Volume”** means the number of mobile money transactions conducted through an EMI in a calendar month. For the avoidance of doubt, “mobile money transactions” as used herein means, in addition to cash-in, cash-out, and send/transfer money activities, balance inquiries and PIN modifications.
- o. **“mMoney Value”** means the total amount of currency transferred by virtue of mMoney Volume through an EMI in a calendar month.
- p. **“mobile value transfer”** or MVT means the transfer of e-money from one mobile network subscriber to another that is initiated by means of an instance of mobile communication, such as a call or a text message.
- q. **“Money service provider (MSP)”** means a person or entity that engages in funds transfers, and may also provide safekeeping and check cashing services.
- r. **“Legal entity”** includes a single proprietorship, partnership, or corporation that is incorporated either in or outside of Afghanistan.
- s. **“Licensee”** means an individual or legal entity that has been granted a license to provide money services.

- t. **“Historical average e-money”** means the average of an EMI’s preceding 6 month-end financial liabilities related to electronic money.
- u. **“Partner”** means a legal entity that has a contractual relationship with an EMI to use the EMI for salary payments, loan disbursements and receipt of loan repayments, and receipt of billing payments according to a regular schedule. Partners may be units of the Afghan government; corporations, with or without the participation of foreign capital; foreign embassies, consulates, and missions; other financial institutions licensed or permitted by DAB; domestic and foreign non-governmental organizations; foreign donor-financed projects, and other foreign organizations.
- v. **“Policies and procedures”** are a set of documents that describe an organization's rules and regulations that are necessary for operations, risk management, continuous improvement and compliance. They are often initiated because of some external requirement, such as compliance or other governmental regulations, full openness and transparency. Policies and procedures may have many names, including but not limited to, “business policies and procedures,” “standard operating procedures,” or “SOP,” or “department operating procedures,” or “DOP.
- w. **Qualifying holding”** has the same meaning as given in Article 1 of the Law of Banking in Afghanistan.
- x. **“Remitter”** means the individual or legal entity submitting money to be transmitted to another party.
- y. **“Recipient”** means the individual or legal entity authorized to receive money transmitted from another party.
- z. **“Right of redemption”** means the right of a customer of an e-money institution to cash out all or part of his/her e-money account balance at any time.
- aa. **“Report”** is a piece of information describing, or an account of certain events given or presented to someone or to group or to an organization. Written reports are documents which present focused, salient content to a specific audience. Reports are often used to display the result of an experiment, investigation, or inquiry. The audience may be public or private, an individual or the public in general. Reports are used in government, business, education, science, and other fields. Some examples of reports are: scientific reports, recommendation reports, white papers, annual reports, auditor's reports, workplace reports, census reports, trip reports, progress reports, investigative reports, budget reports, policy reports, demographic reports, credit reports, appraisal reports, inspection reports, military reports, bound reports, etc.
- bb. **“Systems”** means a set of detailed methods, procedures, and routines established or formulated to carry out a specific activity, perform a duty, or solve a problem. Open systems mean that it is non-proprietary system based on publicly known standard set of interfaces that allow anyone to use and communicate with any system that adheres to the same standards. Open system standards have four basis requirements (1) they must be defined fully, so that vendors can work within the same framework, (2) be stable over a reasonable length of time, so that the vendors have fixed targets to aim at, (3) they must be fully published, so that their interfaces are publicly available, and (4) they are not under the control any one firm or vendor.

- cc. **“Service interruption”** means a breakdown in equipment, power outage, or IT problem that results in EMI customers not being able to transfer e-money balances or verify that e-money balances have been transferred to them. A service interruption that lasts more than two hours is considered an event triggering a mandatory report, as outlined in §2.5.11 below.
- dd. **“Stakeholder”** means a person, group, or organization that has direct or indirect stake in an organization because it can affect or be affected by the organization's actions, objectives, and policies. Key stakeholders in a business organization include creditors, customers, directors, employees, government (and its agencies), owners (shareholders), suppliers, unions, and the community from which the business draws its resources.
- ee. **“EMI Large cash transaction”** exclusively for the purpose of this regulation, a transaction affecting the transfer, conveyance, receipt of value equal to or in excess of 10,000 AFN. Any two (2) transactions by and between the same 2 parties that occur within 2 business days of one and other, which transactions aggregate 10,000 AFN or greater constitute a Large Cash Transaction.
- ff. **“Suspicious transaction”** a transaction, regardless of amount or means of payment, where any of the following circumstances exist: 1) there is no underlying legal or trade obligation, purpose, or economic justification; 2) the client is not properly identified; 3) the amount involved is not commensurate with the business or financial capacity of the client; 4) taking into account all known circumstances, it may be perceived that the client’s transaction is structured in order to avoid being the subject of reporting requirements under law and regulations; 5) there are circumstances relating to the transaction which are observed to deviate from the profile of the client and/or the client’s past transactions with the financial institution; 6) the transaction appears to be in any way related to an unlawful activity or offense that is about to be, is being, or has been committed; or 7) it is a transaction that is similar or analogous to any of the foregoing.
- gg. **“Multiple account transactions”** means any undertaking in which value is conveyed into or out of more than one account owned or controlled by the same individual or legal person.
- hh. **“Mobile Network Operator (MNO)”** is a telephone company legally in possession of a radio spectrum license granted by the Government of the Islamic Republic of Afghanistan, which telephone company provides services for mobile telephone subscribers on Afghanistan.

#### **4.0 Filing:**

- a. An applicant must file an application acceptable to DAB and resulting in a license to conduct an e-money service provider business.
- b. A successful applicant must sign and agree to abide by the terms of the “e-Money Service Providers Licensing Agreement” prior to issuance of a license.
- c. Sample forms and instruction for filings are available from Financial Supervision Department, Licensing Division, Da Afghanistan Bank, Ibni-Sina-Watt, Kabul, Afghanistan.

## **PART 'B'- APPLICATION REQUIREMENTS FOR AN EMI LICENSE:**

### **5.0 Application Requirements for an EMI license:**

Any legal entity that applies for an EMI license (sometimes hereinafter referred to as an “EMI” or an “EMI Company”) from Da Afghanistan Bank must meet the following requirements (or possess the following attributes). Da Afghanistan Bank is not empowered to consider any application that does not comply with this Section 2.5.1, as well as Sections 2.5.2 - 2.5.6. For the avoidance of doubt, the word “comply,” as used in this section 2.5.1, means that an application that contains or otherwise addresses each of items a-b hereof, as well as each sub-item listed thereunder.

#### **a. Must be a Stock Corporation:**

1. The EMI Company must be established as a for-profit organization;
2. The application must set forth the applicant’s name, corporate status, and by-laws of the legal entity operating as an EMI;
3. The application must contain a copy of the EMI’s corporate registration certificate;
4. The application must contain a list of the current and/or proposed shareholders possessing a qualifying holding of the EMI, and the percentage of shares owned or to be owned by each, currently and at the end of the five calendar years;
5. The application must set forth the name and full contact information of one designated individual who is authorized to act as the representative of the EMI through the licensing process;
6. The application must contain biographical information on the Board of Supervisors (if any), and executive officers (chief executive officer, chief operating officer, chief financial officer, chief compliance officer) at a minimum. Depending on the scope and scale of the proposed operations, some of these positions (except for the Chief Compliance Officer) may be occupied by a single individual, as long as all the functions listed above are covered, and the application package makes it clear which individuals are performing which functions. This biographical information must be sufficient for DAB to judge the fitness and propriety of the individuals, as well as their experience and capabilities.

#### **b. Must be an Independent and/or wholly-owned subsidiary or entity of its parent company:**

The company making the application to obtain an EMI license with Da Afghanistan Bank should be an independent organization or be a wholly-owned subsidiary of a parent company that may already be in operation inside or outside Afghanistan for a minimum of 5 years.

1. In the event that a company making an application for an EMI license is already an operational entity such as a Mobile Network Operator (MNO), that MNO must create a separate entity that is registered with other relevant and related Ministries of the Government and this entity must have its own set of Management Board, Audit Committee, Shareholders, and Supervisory Board.

2. In the event that establishing such Independent Entity for EMI business would take a considerable amount of time to set up, the MNO can apply for an EMI license on the condition that they will establish this Independent Entity within 12 months from the issuance of an EMI license. The EMI license will thus be transferred to this Independent Entity from the MNO upon this time.

## **6.0 Capitalization Requirements:**

- a. The Independent Entity completing an application for an EMI license must be adequately capitalized at all times in accordance to the requirements of Da Afghanistan Bank. These Requirements are subject to change without prior written notice.
- b. Each applicant must be, at the time of application, and throughout the pendency of any license granted hereunder, capitalized in the amount of at least the AFN equivalent of USD1,000,000.

## **7.0 Business Plan:**

- a. The entity completing an application for an EMI license must present a comprehensive business plan reflecting a realistic representation of the entity's capacity and capability.
- b. The business plan must include long-term business objectives supported by comprehensive strategies in marketing, operations, technical and finance. The minimum period to be covered within the business plan is three (3) years.
- c. The business plan must include all assumptions to support the business objectives and any other requirements to be specified by Da Afghanistan Bank during the review process.

## **8.0 Due Diligence:**

- a. Consideration of an application for an EMI license is subject to, but not limited to Da Afghanistan Bank conducting its own independent study, examination, and interpretation of:
  1. The financial condition and soundness of the entity;
  2. The reputation of the entity and its shareholders and any other related parties, including business partners, in the market both within and outside Afghanistan;
  3. Risk Management Policies, Practices, and Procedures in areas such as Audit, Security, Internal Control, Liquidity Management and other areas that may be important to protect the financial stability and soundness of the entity;
  4. Technical expertise of the employees and staff, especially if it relates to the conduct of mobile money business;
  5. Compliance Policies, Practices, and Procedures in accordance with generally acceptable standards and international best practices necessary to conduct sound business decisions;
  6. Proposed Anti-Money Laundering/Counter Financing Terrorism (AML/CFT) Policies the reasonableness of the Business Plan;

## **9.0 Contractual Agreements and Partnerships:**

### **Partners:**

- a. The EMI entity must clearly and in full, to the extent possible, provide Da Afghanistan Bank information on its current and prospective business partners, including but not limited to banks, microfinance institutions, utility payment organizations, educational institutions and/or any other organizations which may be using the services of the entity, directly or indirectly, in relation to the entity's Mobil money services.
- b. This information must include the proposed standard contract between EMI and any organization with which the EMI intends to contract for the purpose of providing EMI services. At a minimum, this must detail the rights and responsibilities, contractual obligations, commissions and fees of each party.

### **Merchants:**

- a. The EMI entity must clearly and in full, to the extent possible, provide Da Afghanistan Bank information and names of the entity's prospective merchants, including but not limited to department stores, small businesses and/or any other organization that will be using the services of this entity, directly or indirectly, in relation to the entity's mobile money services.
- b. This information must include the proposed standard contract between EMI and its merchants outlining in detail the right and responsibilities, contractual obligations, commissions and fees of each party and customers.

### **Agents:**

- a. The EMI entity must clearly and in full, to the extent possible, provide Da Afghanistan Bank with the list of prospective businesses or individuals that the entity expects to use as its agents in expanding its mobile money business.
- b. This information must include the proposed standard contract between EMI and its agents outlining in detail the right and responsibilities, contractual obligations, commissions and fees of each party and customers.
- c. The EMI is responsible for carefully screening, selecting, and supervising their authorized E-money agents.

## **10.0 General Provisions:**

Any EMI entity applying for an EMI license must take into consideration the following provisions when providing mobile money services. Da Afghanistan Bank is empowered to revoke the license of any EMI company (or refuse to grant a license to any applicant) that fails to structure its activities so as to accommodate the following:

- a. E – money denomination must be limited to Afghani (AFN) currency only;
- b. E – money can be used to transfer and remit funds both for domestic and international use. However, initially all international remittance funds transfer via e-money can only be incoming and no remittances are to be transferred internationally

from Afghanistan. It is the responsibility of the EMI entity to ensure that best practices and proper Know Your Customer (KYC) procedures are conducted during such international transactions. DAB may amend this limitation from time to time, at its sole discretion, by official circular, and not by further amendments to this regulation.

#### **11.0 E – Money may be used in different forms:**

- a. Cash Card;
- b. Debit Card;
- c. Electronic Mobile Wallet;
- d. Stored Value Account (SVA) Card;

#### **12.0 EMIs Categories:**

When making an application for an EMI license, the entity making such application must qualify and comply under one of the following categories, and must maintain its status as such throughout the (a.) Pendency of any application; and (b.) The period of effectiveness of any license.

a. **EMI – Banks:**

Such institutions can provide E-money services and are subject to the existing Banking Rules and Regulations.

b. **EMI – Non-Banking Financial Institutions (NBFI):**

Such institutions can provide E-money services and are subject to the existing Non-Banking Financial Institutions Rules and Regulations.

c. **EMI – Special Institutions:**

Such institutions are subject to the same provisions as stated in Section 2.5.1. EMI Company – of this regulation.

#### **13.0 Further pre-requisites to the granting and/or maintenance of the effectiveness of an EMI license:**

- a. Any entity that applies for or possesses and EMI license hereunder must be, at the time of application, and throughout the pendency of any license granted hereunder, capitalized in the amount of at least the AFN equivalent of USD1, 000,000 (one million USD);
- b. Such entities shall only engage in the business of e-money;
- c. Such entities are regulated by Da Afghanistan Bank and, as such, are considered to be reporting entities with legal obligations to Da Afghanistan Bank. Such institutions must comply with the laws and regulations of Da Afghanistan Bank that pertain to the EMIs, including, but not limited to, Anti – Money Laundering (AML) laws and regulations and Counter Financing Terrorism (CFT) laws and regulations;

#### **14.0 Specific provisions:**

All entities applying for or holding an EMI license to Da Afghanistan Bank must adhere to the requirements set forth in items a-g hereof. Da Afghanistan Bank is empowered to

revoke the license of any EMI that fails to do so (or refuse to issue a license to any applicant that so fails).

- a.** EMI entity must maintain accurate and complete records of all E-money transactions. It is required that access to historic data must be readily available online or through any electronic means up to a period of six (6) months by Da Afghanistan Bank. Additionally, all data must be stored offline for a minimum of ten (10) years for future access by Da Afghanistan Bank.
- b.** EMI entity must not refer to or consider E-money as a deposit. E-money is to be redeemed at face value by the customer at any point in time. Since E-money is not considered a deposit, E-money shall not earn any interest for the customer.
- c.** An EMI entity should not issue e-money at a discount; that is, credit the customer's account balance with more e-money than the banknotes or coins used to purchase it.
- d.** E-money must not be insured individually. Collectively, however, E-money can earn interest as a "mother" or pooled account under the name of the EMI entity, but it must (i.) be deposited one hundred percent (100%) in the banking system; (ii.) be deposited in an account that is denominated a trusteeship account, the beneficiaries of which are the individual customers of the EMI entity that deposits the E-money; and (iii.) The trustee of which is the EMI entity that deposits the E-money. E-money so deposited shall remain the property of the customers of the said EMI entity, and the said EMI entity shall owe to said customers the fullest fiduciary duties recognized by applicable law regarding said E-money. Except with regard to (i.) the foregoing provision requiring that E-money be deposited in a trusteeship account; and (ii.) other requirements set forth in this regulation, the terms and conditions of deposit is totally dependent on bilateral arrangements between the EMI entity that deposits E-money and the bank that said EMI entity chooses as its depository. The "mother" or pooled account must be insured according to the provisions and limitations set forth by the Afghanistan Deposit Insurance Corporation (ADIC). In the event that ADIC does not exist (or fails to promulgate applicable provisions and limitations), the EMI entity shall otherwise ensure that E-money deposits are fully insured by a solvent, licensed insurer. Da Afghanistan Bank does not guarantee deposit accounts for any EMI entity. However, Da Afghanistan Bank, at its sole and exclusive discretion, may advise EMI licensees as to prudent depository operations. The EMI entity must address in its Dispute Resolution Policy an acceptable redress mechanism in place to ensure any instances where transactions may be misdirected or considered lost in the system.
- e.** The EMI entity must continuously work to ensure reduction, to the point of elimination, of such possible occurrences regardless of their frequency. This Dispute Resolution Policy must include, but shall not be limited to:

  1. EMI entity must provide, with availability at least during normal business hours, a free-of-charge telephone hotline for customer comments and complaints;

2. EMI entity, in their verbal and written explanations of functions to customers, must clearly explain how a customer may stop a transfer that was initiated erroneously or without the customer’s consent; how the customer will be informed that a transfer has actually been executed; and how the customer can find out his current E-money balance and a list of recent transactions. An EMI entity must, at all times, fulfill the right of redemption of any customer since the customer’s E-money account is a liability of the EMI entity,
- f. The EMI is responsible for ensuring that customers can verify that an enterprise representing itself as an authorized agent is actually an authorized agent. These measures should include a combination of some or all of the following mechanisms, at the discretion of the EMI: a publicly available database of agents; signage that cannot be copied; unique agent number and photo at every location along with customer assistance telephone numbers, and a general consumer awareness program.

Any determination made by Da Afghanistan Bank under this Section shall be made at Da Afghanistan Bank’s sole and exclusive discretion.

**15.0 Transaction and e-money balance limitations:**

The EMI entity offering mobile money services are required to enforce the following transaction limits:

<b>FROM ENTITY</b>	<b>TO ENTITY</b>	<b>MAXIMUM AMOUNT PER TRANSACTION</b>	<b>NO. OF TRANSACTIONS PER DAY</b>
Business	Business	No limit	No Limit
Business	Consumer	No limit	No Limit
Consumer	Consumer	AFN. 15,000	10 Transitions
Consumer	Business	No limit	10 Transitions

Note that the Consumer to Consumer transaction is considered Peer-to-Peer (P2P) transaction.

The maximum money mobile money balance on an account of a customer at any given time is AFN. 150,000. For International Remittance, the maximum amount per mobile money transaction is AFN. 150,000.

DAB may amend these limits from time to time, at its sole discretion, by official circular, and not by further amendments to this regulation.

**16.0 Corporate governance and organizational requirements:**

Da Afghanistan Bank shall not issue an EMI license to any legal person that fails to maintain the organizational attributes contained in items a-b of this Section 2.5.12. To the extent that Da Afghanistan Bank has issued a license to a legal person that fails to maintain the said organizational attributes, Da Afghanistan Bank shall suspend such license until the relevant licensee shall have caused itself to observe and maintain said organizational attributes. For the avoidance of doubt, the word “fails” as used in this Section 2.5.12 shall mean the absence of

inadequacy of systems and structures sufficient to ensure adherence to the letter and spirit of this Regulation. Da Afghanistan Bank shall, in its sole, exclusive, and non-appealable discretion, determine the presence or adequacy of said systems and structures.

- a) An EMI's organizational structure shall, as part of its Corporate Governance, include at least all the safety, soundness, and security features of the EMI platform's functionalities, including all measures taken to ensure consumer protection in the event of breach or compromise of these security measures.
- b) The EMI entity's Management Team must have the following key positions to be considered a functional organization. None of these positions are to be shared with the Parent Company and the right to remain in this position is subject to Da Afghanistan Bank's Fitness and Propriety Test. However, for the first 12 months of the period of effectiveness of any license granted hereunder to duly-licensed Mobile Network Operators, provided that such grant is made within the 12 months following the date of effectiveness of this regulation, the following positions may be assumed by a single individual:
  1. Chief Executive Officer (CEO);
  2. Head of Operations;
  3. Head of Finance;
- c) The following position must be held, and actual exercised, by an individual who does not hold any of the foregoing 3 positions:
  1. Compliance Officer (CO):
    - ✓ The CO is subject to strict qualifications, training, accounting experience and the attainment of on-going professional training;
    - ✓ The CO must pass the required qualification and certification testing provided by Da Afghanistan Bank through the Afghanistan Institute of Banking and Finance (AIBF).
    - ✓ The CO should go through an annual Anti-Money Laundering (AML) and Counter Financing Terrorism (CFT) update with Da Afghanistan Bank or as may be required due to special cases or conditions.

Da Afghanistan Bank is empowered to conduct, at its sole and exclusive discretion, background checks of these key positions in conjunction with other government institutions.

#### **17.0 Mobile Money Systems Functionality:**

The EMI entity must ensure that the mobile money system must use technological and other standards which will permit eventual interconnection and operation of other mobile money systems. The mobile money system should have built-in Application Programming Interface (API) in order to have the capability to interconnect and/or interoperate with other payment systems such as, but not be limited to:

- a. Mobile Banking;
- b. Bill Payments;

- c. Money Transfer System;
- d. Others;

### **18.0 Basic Functionality:**

The EMI entity must have a system that can provide basic mobile money functionalities such as, but not be limited to:

- a. Transfer virtual money from one virtual wallet to another virtual wallet via:
  - 1. Peer-to-peer (P2P) or Person-to-person transfer;
  - 2. Bill Payments;
  - 3. Airtime Top-up or Electronic Voucher reload;
  - 4. Money Transfer or Remittance;
  - 5. Domestic (within Afghanistan);
  - 6. International (outside Afghanistan);

### **19.0 Advance Functionality:**

The EMI entity, may at its discretion, have a system that can provide advance functionalities or interconnect with other payment systems that can provide advance functionalities in the future.

These advance functionalities may include, but not be limited to:

- a. Mobile Banking;
- b. Microfinance;
- c. Microcredit;
- d. Micro insurance;
- e. Others

### **20.0 Internal Control Systems:**

The EMI entity must have a system that has built-in control mechanism for a complete audit trail. These control mechanisms include, but not limited to:

- a. Tracking and monitoring all E-money transactions;
- b. Automatic Alerts and Flags on suspicious transactions;
- c. Detection of Patterns of Transactions;
- d. Multiple Account Transactions (A Single person maintaining 2 or more mobile money wallets and doing mobile money transactions simultaneously);

### **21.0 Security:**

The EMI entity must have a system that provides adequate security capabilities in order to ensure data integrity. These security capabilities should include, but not limited to:

- a. Data Security up to the lowest data structure;
- b. Authorization Levels according to Internal Control Policies and Procedures;
- c. Complete Audit Trail;

- d. Automated Reporting;
- e. All methods of reporting should be automated to ensure data integrity;
- f. Ad hoc reports should be provided due to special cases or conditions, as determined by Da Afghanistan Bank;

## **PART 'C' - OPERATIONS AND PROCEDURES:**

### **22.0 Operational policies and procedures:**

The EMI entity must strictly implement Operational Policies and Procedures that conform to the following principles:

- a. Sound, Prudent Management, Administrative, Accounting Policies and Procedures;
- b. Adequate Internal Control Mechanisms;
- c. Properly designed Computer Systems and Applications that undergo rigorous testing procedures such as:
  - 1. System Acceptance Testing (SAT);
  - 2. User Acceptance Testing (UAT);
  - 3. Pilot Testing;

### **23.0 Security Policies and Procedures:**

The EMI must strictly implement Security Policies and Procedures that ensure:

- a. Data Integrity;
- b. Data Authentication;
- c. Confidentiality;
- d. Approval Levels and Authorization;

### **24.0 Business Continuity Policies and Practices:**

The EMI entity must ensure complete business continuity in case of natural (force majeure) or man-made disasters. This shall include, at a minimum, different levels of back-up procedures for:

- a. Hardware Systems;
- b. Software Systems;
- c. Application Systems;
- d. Data;

### **25.5 Disaster Recovery Management:**

The EMI entity must ensure separate locations of hardware and software systems to protect the operations of these systems from all kinds of disruptions and total collapse.

### **26.0 Audit Functions:**

The EMI entity shall perform periodic audit review both internally and externally with the professional assistance of a reputable external audit company to ensure that generally acceptable accounting principles and procedures are strictly followed.

**27.0 Know-Your-Customer (KYC) Policies and Procedures:**

- a. The EMI entity should strictly enforce KYC procedures based on a Risk-based approach that determines the different risk categories in implementing customer identification. The different risk categories are limited to Consumer-to-Consumer (C2C/P2P) transactions. These are as follows:

<b>Risk Categories</b>	<b>Minimum Amount per transaction</b>	<b>Maximum amount per transaction</b>	<b>Customer ID Requirements</b>
Low Risk	AFN. 1.00	AFN. 2,500	No Limit
Medium Risk	AFN. 1.00	AFN. 12,500	No Limit
High Risk	AFN. 1.00	As per Maximum limit, P2P amount per EMIs Regulation	According to Banking Regulation on KYC

- b. Simple Customer Identifications (IDs) shall mean any of the following:

1. Any government-issued document or identity card that is specific as to the holder thereof;
2. Any privately-issued document that adequately portrays the individual identity of the bearer thereof;
3. Any device or practice, whether customary or otherwise, that specifically distinguishes or identifies an individual; or
4. Otherwise consistent with relevant AML/CFT regulations;

DAB may amend these limits from time to time, at its sole discretion, by official circular, and not by further amendments to this regulation.

- c. The KYC procedures must include, but are not limited to the following:

1. Clear and Pre-defined Process;
2. Customer Identification;
3. Record Keeping and Retention;
4. Covered Transaction Reporting (CTR);
5. Suspicious Transaction Reporting (STR);
6. Rejection Transaction Reporting (RTR);
7. EMI Large Cash Transaction Reporting (LCTR);

- d. As to any transaction governed by this regulation, an EMI must report any transfer, inbound or outbound, of an amount equal to or greater than 10,000 AFN. Such transactions are known as “EMI Large Cash Transactions.” The report required hereby must be made to FinTRACA on a calendar-monthly basis and no later than the 5<sup>th</sup> business day of the month following the month covered (or to be covered) by the report. Any two (2) transactions by and between the same two parties that occur within 2 business days of one and other, which transactions aggregate 10,000 AFN or greater, constitute an EMI Large Cash Transaction.

## **28.0 AML/CFT Policy:**

The EMI must have a fully-articulated AML/CFT policy that addresses, and provides detailed mitigating strategies against the following potential AML/CFT risks:

- a. Risk that authorized agents will not fully implement customer acceptance and customer identification requirements.
- b. Risk that individual transactions, or patterns of transactions that are suspicious will not be detected.
- c. Risk that the E-money Subscriber Identification Module (SIM) will be used for E-money by someone other than the original, identified subscriber, for the purposes of committing fraud, money laundering, or terrorist financing. Mitigating strategies against this risk must address the possibilities that the mobile device, including the SIM, may be stolen, bartered, or be traded for cash. At a minimum, access to SIM must be restricted to those in possession of related personal Identification code (PIN).
- d. Risk that a fraudulent, money-laundering, or terrorist-financing transaction will be concealed by dividing it among multiple E-money subscribers.
- e. Risks that the E-money subscriber will acquire, possess, and utilize multiple SIMs, in contravention of this regulation.

The adequacy of the policy and the extent to which the EMI complies with its own policy will be a subject of DAB's regular on-site examinations.

## **29.0 Training Programs:**

The EMI entity must conduct a complete and regular training program in order to ensure the proper implementation of procedures and practices on KYC, Audit, Security, Internal Control and Financial management. These training programs should be conducted on a quarterly or yearly basis depending on business needs and requirements. These training programs should be given to the following:

- a. EMI entity Employees and Staff;
- b. Third Parties such as:
  1. Agents;
  2. Merchants;
  3. Partners;
  4. External Auditors;

The EMI is responsible for ensuring that it's authorized e-money agents, merchants, and partners have received proper and adequate training on their AML/CFT responsibilities, including customer acceptance and customer identification. DAB may, from time to time, at its discretion, specify the form, content, and frequency of this mandatory training.

## **30.0 Reporting and Review:**

- a. The EMI entity must provide automated reports to the appropriate regulatory institutions such as Da Afghanistan Bank, AML/CFT Councils, Financial Intelligence Unit, on a timely basis as required by these institutions.

- b. Da Afghanistan Bank will provide the proper templates and formats for these reports. These monthly reports shall include the following E-money transactions:
1. Beginning Balance;
  2. Inflows or Cash-in;
  3. Payments;
  4. E-money Transfers;
  5. Outflows or Cash-out;
  6. Net (Inflows/Outflows);
  7. End-of-month Balance;

### **31.0 Additional Reporting:**

- a. The EMI entity shall provide additional monthly reports on:
1. Payment for goods and services;
  2. Salary payments;
  3. Bills payments;
  4. Loan disbursements for microfinance institutions (MFIs);
  5. Loan repayments for MFIs;
  6. Customer Complaints (number, nature, and manner of resolution thereof);
  7. Monthly Balance Sheet and Profit and Loss Statements;
  8. Quarterly report on authorized agents, merchants, partners, including a list of such agents, merchants, partners in each district or province in Afghanistan where these agents, merchants, partners are located or do business.
- b. The EMI entity must provide the appropriate regulatory departments or Institutions the results and findings of the Internal Audit;
- c. The EMI entity must provide audited Financial Statements to the appropriate regulatory institutions on a timely basis. Annual report of an external auditor, including audited financial statements with statement of financial condition, statement of profit and loss and statement of cash flows, in which the auditor comments on the accuracy of the information provided to DAB, the adequacy of internal audit and internal controls, and the adequacy of information security, business continuity, and disaster recovery;

### **PART 'D' - FEES, CHARGES & PENALTIES:**

#### **32.0 Application & Licensing Fees:**

The EMI entity is subject to licensing fees, administrative charges, and reporting penalties, all of which are subject to change. In addition, at no point in time should EMI entity together with other EMI entities or MNOs conduct charges or fees to their customers that may, directly or indirectly, indicate collusion or monopolistic practices to the detriment of their customers.

**a. Application Fee:**

All entities applying for an EMI license to Da Afghanistan Bank must pay a one-time application fee of AFN 25,000.

**b. License Fee:**

All entities that have successfully attained an approved EMI license from Da Afghanistan

Bank must pay a licensing fee of AFN 10,000,000. This EMI license is valid over a period of five (5) years. This licensing fee will be payable over five (5) years with the following payment schedule:

**Year 1:** 250,000 AFN

**Year 2:** 750,000 AFN

**Year 3:** 2,000,000 AFN

**Year 4:** 3,500,000 AFN

**Year 5:** 3,500,000 AFN

**33.0 Recurring Fee:**

After the 5<sup>th</sup> year of operating E-money services, all EMI entities will pay a recurring fee of AFN 5,000,000. This license fee will be valid from one (1) day after the 5<sup>th</sup> year to the 10<sup>th</sup> year of operations. This will be payable every year with a minimum payment of AFN 1,000,000. After the 10<sup>th</sup> year of operating E-money services, the EMI entity will pay a recurring license fee of AFN 3,000,000. This license will be valid from one (1) day after the 10<sup>th</sup> year to the 15<sup>th</sup> year of operations and shall be payable every year with a minimum payment of AFN 600,000.

**34.0 Assessment Fee:**

The EMI entity shall pay an annual assessment fee of AFN 250,000. This assessment fee is payable one (1) day after the end of each Fiscal Year of the EMI entity.

**35.0 Transaction Fees:**

All entities holding a valid EMI license shall charge the appropriate and reasonable transactions fees on their E-money services. These transaction fees may apply, but not be limited to businesses, partners, merchants, agents and consumers.

**36.0 Commission Charges:**

All entities holding a valid EMI license are to declare in their business plan all sets of charges in their commission structure with consumers. This commission structure will be submitted to Da Afghanistan Bank as part of their reporting responsibility.

**37.0 Reporting Penalties:**

All entities holding a valid EMI license are subject to the following reporting penalty:

- a. AFN 5,000 – Penalty per day for late reporting;
- b. AFN 500,000 – For one (1) month non-reporting in lieu of the daily rate; EMI entity will also receive a warning letter from Da Afghanistan Bank;

- c. AFN 1,000,000 – For two (2) months non-reporting; EMI entity will also receive a warning letter from Da Afghanistan Bank;
- d. AFN 2,500,000 – For three (3) months non-reporting; EMI entity will also receive a warning letter from Da Afghanistan Bank and one-month suspension without pay of Compliance Officer;
- e. If the EMI entity fails to send the appropriate reports to Da Afghanistan Bank beyond three (3) months period, Da Afghanistan Bank reserves the right to revoke the EMI license and charge a flat monthly fee of AFN 500,000 per month plus the initial three (3) months of non-reporting penalty stated in point (4) above.

#### **38.0 Non – Compliance Penalties:**

All entities holding a valid EMI license are subject to strict compliance measures as outlined by the AML/CFT Law and Regulations of Da Afghanistan Bank, violation of which can lead directly to reporting penalties outlined in Subsection(4) and (5) of 2.7.6 mentioned above. Additionally, the EMI management may be subject to criminal liability and/or prosecution depending on the severity of violation.

#### **39.0 Fraud and Falsification of Documents:**

All entities holding a valid EMI license are obliged to ensure all documents and information provided to any Da Afghanistan Bank representative are genuine and accurate, to the best of their abilities. Any intent to defraud Da Afghanistan Bank or non-reporting of any specific transaction is subject to penalties stated in points (iv) and (v) above.

#### **40.0 Effective date of regulation:**

This regulation is effective immediately upon adoption by the Supreme Council of Da Afghanistan Bank.