

No.3/3/2011-FSLRC
Government of India
Ministry of Finance
Financial Sector Legislative Reforms Commission

New Delhi, dated the 25th October, 2011

ORDER

Subject: - Working Group on Payment Systems

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Vide Resolution No.18/1/2011-RE dated 24th March, 2011, Ministry of Finance, Department of Economic Affairs constituted the Financial Sector Legislative Reforms Commission (FSLRC) with a view to rewrite and revamp the financial sector laws to bring them in tune with the current requirements. As per para 3 of the Resolution, the Commission has been authorised to device its own procedure and to appoint consultants, advisors and experts and outsource research work to institutions of repute and expertise in the relevant area for the purpose for which the Commission has been set up.

2. The Commission has decided to constitute Working Groups to study different sectors/aspects of the financial sector in detail. Accordingly, with the approval of the competent authority, it has been decided to set up a Working Group on Payment Systems with the following composition:

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|---------------------------|---|--------------------------------|
| (i) Dr. P.J. Nayak | - | Chairman |
| (ii) Shri Ranjit Tinaikar | - | Member [Partner, Mckinsey] |
| (iii) Shri Uttam Nayak | - | Member [Country Manager, VISA] |
| (iv) Shri Bharat Poddar | - | Member [Group Head, BCG] |
| (vi) Shri A.P. Singh | - | Member [JS, UIADI] |
| (v) Shri Abhishek Sinha | - | Member [CEO, EKO] |

The Working Group may co-opt other experts as special invitees.

3. The Terms of Reference of the Working Group is at **Annexure**. The Working Group will follow the broad principles and processes as approved by the Commission, while making their recommendations.

4. The Working Group will submit a draft report & draft law to the Commission by the end of July, 2012. The Working Group may also make interim presentations before the Commission for keeping the Commission informed as well as for seeking its advice.

5. The Working Group will be supported by the Headquarter Research Team of the Commission.

Sd/-
(A.K. Sinha)
Deputy Secretary, FSLRC

1. Chairman, FSLRC
2. Member Convenor, FSLRC
3. Secretary, FSLRC
4. All Members of FSLRC
5. All Consultants of FSLRC

6. Chairman and all Members of the Working Group on Payments.

CC to: Secretary, NIPFP

ANNEXURE: PAYMENTS SYSTEMS- TERMS OF REFERENCE

1. To identify what are the systemic risks to the financial system and to the real economy from payment systems. Payment systems can be systemically important, partly because shocks can originate within them, resulting in operational risks, but also because they can act as channels for propagating shocks originating outside their operations, through credit and liquidity markets. An understanding of the potential systemic credit, liquidity and operational risks in payment systems is thus required, so that criteria for identifying systemically important payment participants and systemically important payments systems can be formulated. Finally, to assess whether there are risks to financial stability arising from encouraging competition and innovation in payments.
2. To evaluate whether the regulatory system should cover all payment systems without exception, or instead merely those which are systemically important. Alternatively, to examine whether there should be a separate regulator for retail and small-value payment systems as compared to systemically important payment systems.
3. As shocks can spread through payment systems to other participants and lead to their bankruptcy, to examine the design of a uniform and quick process for handling payment-induced bankruptcy.
4. To review whether independent payment systems should be encouraged, not linked to payment participants, thereby minimising moral hazard through conflicts of interest, and encouraging technology infusion at a faster pace. This would in turn require a review of whether payments should be viewed as an offshoot of banking, or as a distinct industry in its own right. It would also require assessing whether "banks being special" militates against having independent payment systems. To assess whether existing legislation is adequately supportive of the absorption of fast-changing payments technologies.
5. To review whether RBI should remain the regulator of payment systems or whether instead a regulator independent of RBI should be set up. This involves identifying whether there are conflicts of interest and moral hazard, as also whether adequate domain knowledge gets continually upgraded, in the present regulatory structure.
6. To ensure compatibility with the recommendations of the Financial Action Task Force (FATF).
7. To suggest regulation to promote transparency, security, efficiency and certainty of payments; and to ensure that regulation is agnostic to ownership structures of the regulated, necessitating treating regulated entities in the public and private sectors on par. To also suggest constructive and creative ways of enforcement of regulations.

8. To develop a quick and clear appeals process when there is conflict, equally fair to both disputants, especially when one of them is the regulator. To frame dynamic laws for penalties and review the stringency of current laws.
9. To promote financial inclusion following the ideals proposed in various reports such as the 'Report of the Inter-Ministerial Group: Framework for delivery of Basic Financial Services Using Mobile Phones'; 'From Exclusion to Inclusion with Micropayments'; and UIDAI.
10. Any other matter the Working Group may consider relevant.
