

LEGAL  
ALERT

Philippines  
29 August 2018

Author

**Felix Sy**  
Managing Partner  
Insights Philippines  
Legal Advisors (IPLA)  
felix.sy@insights-law.com

**Lorybeth Baldrias-Serrano**  
Partner  
Insights Philippines  
Legal Advisors (IPLA)  
lorybeth.serrano  
@insights-law.com

## BSP Mandates Availability of E-Payment Facilities & Employs RegTech

On 23 March 2018, the Bangko Sentral ng Pilipinas (“BSP”) issued Memorandum No. M-2018-12 (“MC 2018-12”) which directs BSP Supervised Financial Institutions (“BSFIs”) to ensure the availability of electronic payment facilities to their clients. The Memorandum was issued pursuant to an earlier issuance of the BSP, Circular No. 980, which adopted the National Retail Payment System (“NRPS”). As stated in the Circular, “BSFIs shall make electronic payments available in all its delivery channels whenever applicable.” The non-availability of electronic payment in a delivery channel requires written justification from the BSFI. On the other hand, BSFIs that already offer electronic payment services (e.g., e-banking) are required to ensure that they are able to offer both sending and receiving funds to its clients. The BSP aims to digitize 20% of total transaction payments by the year 2020, rocketing from a 1% share recorded in 2013.

Balancing its goal to modernise the retail payment system and the need to strengthen risk management in light of the technological advancements, the BSP is eyeing to employ regulatory and supervisory technology (“RegTech”). As cited in BusinessWorld Online, BSP Governor Nestor A. Espenilla, Jr. said that the BSP is exploring the “use of artificial intelligence for the conduct of bank supervision, which include the collection of industry data by way of electronic submissions as well as chat bots to process consumer complaints.” Just recently, BSP Deputy Governor Chuchi G. Fonacier said that the BSP has partnered with the RegTech for Regulators Accelerator (“R2A”) to “develop and test the next generation of digital supervision tools and techniques.”

### Overview of the NRPS

Through [Circular No. 980](#), the BSP formally instituted the NRPS regulatory framework towards its goal to promote the establishment of a safe, efficient, and reliable retail payment system in the Philippines. The NRPS framework applies to all domestic payments denominated in Philippine Peso. To be covered by the framework, the payment must meet at least one of the following characteristics: (a) the payment is not directly related to a financial market transaction; (b) the settlement is not time-critical; (c) the payer, the payee, or both are individuals or non-financial organizations; and (d) either the payer, the payee, or both are not direct participants in the payment system that is processing the payment.” This includes person-to-person, person-to-business, business-to-person, business-to-business, person/business-to-government, and government-to-person/business payments.

The NRPS framework has the following salient features:

- All clearing shall be done within the NRPS governance structure; exclusive bilateral clearing arrangements are not allowed.
- A reasonable market-based and transparent pricing mechanism shall be adopted by all BSFIs participating in the NRPS governance structure.
- The participating BSFIs can only impose fees and charges on the money sender, with the recipient to receive the amount in full.
- All BSFIs shall comply with “immediate credit” after electronic fund transfers are cleared. Near real-time transactions must be credited within 2 to 3 seconds from receipt of clearing advice by the receiving institution. For batched transactions,





turnaround time for credit to the payee’s account shall be agreed amongst the participants but not to exceed 2 hours from receipt of the clearing advice or not later than the next settlement cycle for multiple settlement cycles.

- Non-discriminatory participation shall be promoted in the retail payment system.

All BSFIs are highly encouraged to join the NRPS provided they meet the qualification criteria set on a per Automated Clearing House (ACH) basis. To date, there are two automated clearing houses under the NRPS framework – the Batch Electronic Fund Transfer Credit ACH called “PESO Net” and the Real Time Low Value Push ACH called “InstaPay.”

### The Automated Clearing Houses (“ACHs”): PESO Net and Instapay

An Automated Clearing House is a multilateral legally binding agreement amongst clearing participants which governs clearing and settlement determination. The first ACH launched under the NRPS is the [Peso NET](#). The Peso NET facilitates fund transfer from one account payer to one or several accounts payee/s. The fund transfers and/or payment instructions are processed in bulk and cleared at batch intervals. This ACH supports payments that are recurring and are not time critical, thus serving as a channel for government collections and disbursements and an alternative to the overwhelming use of cheques by businesses. In contrast, [Instapay](#), the second ACH established under the NRPS, facilitates real-time electronic fund transfers. The service is available 24/7 and credit to the account of the beneficiary is instant.

According to the BSP, “[the] NRPS has huge potential to make the financial system stable and efficient, contribute to higher economic growth, and help enhance the overall competitiveness of [the Philippine] economy.” It allows more Filipinos to have convenient and affordable access to financial transactions using any electronic device. However, the push to globalize the retail payment system must be met with corresponding efforts to reinforce security and internal control measures in light of the cyber threats and risks presented by globalisation and technology.

If you have any questions or require any additional information, please contact [Felix Sy](#) or [Lorybeth Baldrias-Serrano](#) or the ZICO Law partner you usually deal with.

---

*This alert is for general information only and is not a substitute for legal advice.*