

Success since the issuance of the Retail Payment Services and Card Schemes Regulations

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Background

The Central Bank of the UAE (“**CBUAE**”) issued last year the Retail Payment Services and Card Schemes Regulations (“**Regulations**”) which came into force in July 2021. In this article, we sum up its scope, use and impact.

Historically in the UAE, banks provided payment services. However, since the Regulations have come into force, the CBUAE has received many applications from FinTechs and other financial institutions looking to provide payment services in the UAE. It appears that the Regulations have allowed other financial service providers to compete with the banks to provide payment services.

Licensing regime

The Regulations set out the rules and conditions for acquiring and maintaining a licence for the provision of retail payment services and operating a card scheme. The term “retail payment services” comprises of nine different financial services of retail payments (see table below); 1) payment account issuance services; 2) payment instrument issuance services; 3) merchant acquiring services; 4) payment aggregation services; 5) domestic and 6) cross-border fund transfer services; 7) payment token services; 8) payment initiation service; and 9) payment account information services. Under the Regulations, the CBUAE can issue four different categories of licenses for retail payment services (each a “**Payments Category**”). Banks are exempted from applying for a payment license when providing payment account issuance services, payment instrument issuance services and domestic and cross-border fund transfer services. For all other retail payments services, a bank must obtain a no objection letter from the CBUAE prior to providing such services.

Retail Payment Service	Cat 1	Cat 2	Cat 3	Cat 4
Payment Account Issuance Services				
Payment Instrument Issuance Services				
Merchant Acquiring Services				
Payment Aggregation Services				
Domestic Fund Transfer Services				
Cross-Border Fund Transfer Services				
Payment Token Services				



Licensing requirements

In accordance with Article 4 of the Regulations, an applicant for a payment services license must: 1) fulfil the legal form; 2) meet initial capital requirements; and 3) provide the necessary documentation and information as specified in the application form to the CBUAE.

Applicants to the CBUAE applying for a license under any of the Payments Category must be a company incorporated in accordance with the UAE Federal Law No. 2 of 2015 on Commercial Companies. Although, companies incorporated in the financial free zones (namely the DIFC and ADGM) may not apply for payment services licenses, no further clarification is provided under the Regulations around whether companies incorporated in non-financial free zones can apply for a payment services license. However, there are indications that the CBUAE might be flexible to allow non-financial free zone companies to apply for payment services licenses.

The initial capital requirements vary across the different license categories and range from AED100,000 under Payment Category IV license to AED 3M under Payment Category I license. A licensee's aggregate capital funds may not fall below the prescribed initial capital requirement. The CBUAE expressly reserves the right to impose higher aggregate capital fund requirements if considered essential to ensuring that the payment service provider meets its regulatory obligations.

Article 10 of the Regulations stipulate ongoing requirements of the payment service provider and include corporate governance, reporting and risk management requirements. Of particular note are the corporate governance requirements to maintain effective, robust and well-documented corporate governance arrangements, including a clear organizational structure with well-defined, transparent and consistent lines of responsibility. These requirements are quite tough and conditions are imposed and enforced to give credibility to financial institutions in the UAE.

Payments services are often associated with money laundering and terrorist financing due to their speed, anonymity and cross-border nature. The Regulations make it a requirement that payment service providers comply with UAE AML Laws and Regulations (Article 12 of the Regulations) and have in place appropriate measures to manage and mitigate risks in accordance with applicable legal and regulatory requirements.

Access to Wage Protection System

Under to the Regulations, payment service providers are eligible to apply to the CBUAE to participate in and, be given access to Wage Protection System ("**WPS**"). They shall be given access to the WPS subject to an approval granted by the CBUAE. The Regulations allow the payment service provider to:

- engage with stored value facility ("**SVF**") scheme or a bank to allow wages to be credited to an account that can store and maintain the funds. Hence, if the payment service provider is licensed as SVF provider, both services can be provided by the same entity; and
- open WPS Payment Account upon being given access to WPS.

Based on the above, payment service providers that are licensed under one of the categories, can be given a special approval to access the WPS and provide the retail payment services to unbanked and underbanked segments.

Card schemes

Card schemes are required to obtain a license from the CBUAE based on the licensing conditions set out in Article 18 of the Regulations. A card scheme may take the legal form of either private or public sector entity. Similar ongoing requirements as that provided for payment services i.e. governance, risk management, reporting requirements, etc. apply for card schemes, although it should be noted that the CBUAE reserves a high level of discretion over issuing card scheme licenses.

Final words

The Regulations have allowed financial institutions other than banks to enter the market to provide payment services. This has resulted in a big upswing in the number of applications from non-banks who wish to provide payment services allowing for great innovation in the UAE within this sector while the initial and ongoing licensing requirements ensure that payment services providers in the UAE remain credible with strong controls in place mitigate any AML risk. The new Regulations have furthermore allowed underbanked segments easier access to banking services.

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