

LEGAL NOTICE NO. 284

REPUBLIC OF TRINIDAD AND TOBAGO

THE FINANCIAL INSTITUTIONS ACT, 2008

ORDER

MADE BY THE MINISTER ON THE ADVICE OF THE CENTRAL BANK UNDER
SECTION 17(4) OF THE FINANCIAL INSTITUTIONS ACT

THE E-MONEY ISSUER ORDER, 2020

1. This Order may be cited as the E-Money Issuer Order, 2020. Citation
2. In this Order— Interpretation
 - “Agent” means a natural or legal person who conducts permissible activities on behalf of an e-money issuer upon the non-objection of the Central Bank;
 - “Bank” means the Central Bank of Trinidad and Tobago;
 - “cash-in” means the process by which the e-money account of a customer is loaded with e-money value equivalent to a cash amount;
 - “cash-out” means the process by which a customer deducts cash from their e-money account;
 - “Custodian Account” means an account at a deposit taking institution licensed pursuant to the Act for the purpose of ensuring that customer funds are properly and securely stored;
 - “e-float” means the total amount of e-money issued by an e-money issuer;
 - “e-money account” means an account held with an e-money issuer for the purpose of loading an e-money instrument and the term “e-money account holder” shall be construed accordingly;
 - “EMI” or “e-money issuer” means a person under clause 3 who is registered or who has applied to be registered to issue e-money under this Order and has been granted a provisional registration under clause 6;
 - “e-wallet” means a software application which allows a user to store e-money or m-money, check balances, make and receive payments and conduct any other permissible activity using an electronic device;

“Fintech” means technologically enabled financial innovation that could result in new business models, applications, processes or products with an associated material effect on financial markets and institutions and the provision of financial services;

“FIU” means the Financial Intelligence Unit established under the Financial Intelligence Unit Trinidad and Tobago Act;

“liquid assets” means cash held at a Custodian Account or any assets as the Central Bank may allow;

“Money Remitter” means a provider of electronic transfer who accepts funds from a payer for the purpose of making them available to a payee, through a data communication network or by an electronic platform that processes the data, without necessarily maintaining an account relationship with the payer or payee;

“m-money” means payment initiated and transmitted electronically by access to devices that are connected to mobile communication networks;

“Mobile Network Operator” means a telecommunications service provider or provider that offers wireless voice and data communication to its subscribed mobile users, possesses its own mobile license and mobile infrastructure and maintains a direct relationship with mobile users;

“non-reloadable e-money card” means an e-money instrument that facilitates a one-time initial loading for use of up to a period of one year;

“payment service” means a service which enables cash deposits and withdrawals, execution of a payment, the issue or acquisition of a payment instrument, the provision of a remittance service, and any other service functional to the transfer of money and the term “Payment Service Provider” shall be construed accordingly;

“permissible activities” means those activities defined in clause 7; and

“Technology Service Provider” means an entity or a person who provides hardware or software that allows a Payment Service Provider to provide payment services or instruments as well as the clearing and settlement of instruments.

3. (1) The following categories of persons, other than licensees, Categories of e-money issuer may apply to the Bank to be an e-money issuer:

- (a) entities registered with the Central Bank as a Payment Service Provider or Payment System Operator (PSO);
- (b) Money Remitters registered with the FIU;
- (c) Mobile Network Operators authorized by the Telecommunications Authority of Trinidad and Tobago;
- (d) Technology Service Providers; and
- (e) other financial institutions, such as credit unions, insurance companies and the Trinidad and Tobago Unit Trust Corporation.

(2) Where the Bank receives an application under subclause (1), it may, where it is satisfied that the applicant meets the requirements for registration as a e-money issuer, approve the application.

4. A person seeking approval to issue e-money shall satisfy all Registration requirements requirements of this Order.

5. (1) An EMI will be required to be registered separately as a Requirement to be registered separately as a Payment Service Provider Chap. 79:02 Payment Service Provider, pursuant to the Central Bank Act, to conduct payment service activities.

(2) An application to be a Payment Service Provider and EMI may be done simultaneously.

(3) An EMI shall apply for registration with the FIU within five business days after being granted approval or provisional registration by the Bank to operate as an EMI.

(4) An EMI shall pay such fees in relation to an application for permission and renewal of permission to issue e-money, as set out in Schedule 1.

6. (1) Notwithstanding clause 4, the Bank, where it is satisfied Provisional Registration that it is appropriate to do so having regard to the nature, scale, and complexity of an applicant's proposed activities, may vary or waive one or more of the requirements set out in this Order and grant provisional registration to an applicant.

(2) Provisional registration may be granted for an initial period of up to six months.

(3) The Bank may impose such other terms and conditions, as it considers appropriate, in the granting of provisional registration under this clause.

(4) The terms and conditions may include the extent and nature of the operations of the EMI, the size of its customer base, and limits on the monetary values that may be transferred or funded using an e-money instrument.

(5) The Bank may, as it considers appropriate—

- (a) extend a provisional registration for a further period of up to six months;
- (b) revoke, in accordance with its powers under section 17(5)(c) of the Act, any provisional registration granted; or
- (c) vary the terms and conditions of the registration under this clause,

and in the case of paragraphs (b) or (c), shall serve notice on the EMI of its intention to revoke or vary, which shall include its reasons, seven days prior to its revocation or variation.

Permissible
Activities for
E-Money
Issuers

7. An EMI shall conduct the following activities in Trinidad and Tobago dollars only—

- (a) issuance of e-money account;
- (b) cash-in;
- (c) cash-out;
- (d) provision of payment services; and
- (e) money transfer or remittances.

Capital

Schedule 2

8. (1) An EMI is required to have sufficient initial capital to mitigate risks, based on its size and scale, and shall maintain, at a minimum, the capital requirements outlined in Schedule 2.

(2) Notwithstanding the provision in subclause (1), the Bank can determine the capital requirement of an EMI based on considerations such as the size and type of business and the risks associated with its e-money operations.

(3) The capital determined by the Bank of an EMI may be above the minimum specified amount at subclause (1).

Corporate
Governance

9. (1) An EMI shall be a body corporate with its registered office in Trinidad and Tobago.

(2) An EMI shall submit to the Bank certified copies of the Articles of Incorporation, By-laws, the last Annual Return of the company and such other documents as the Bank may request.

(3) An EMI shall identify all acquirers, significant and controlling shareholders, directors and senior management of the company and submit such information in relation to those persons, as requested by the Bank, including a group chart showing all the entities in its group, that are either owned or controlled by the acquirer, controlling and significant shareholders of the EMI, to the Bank.

(4) An EMI, as well as all its directors, officers, acquirers, significant and controlling shareholders, shall be fit and proper, in accordance with the Fit and Proper Guidelines of the Bank and the Second Schedule of the Act and be subject to the approval process of the Bank.

(5) A business under this clause shall be directed by a minimum of two persons, at least one of whom shall possess the requisite experience and technical knowledge to direct the business activities of the EMI.

10. (1) An EMI shall open and operate a Custodian Account which shall— Safeguarding of customers' funds

(a) contain unencumbered liquid assets which are readily and easily available; and

(b) reflect, at all times, the amount of outstanding e-money issued.

(2) The Bank may require an EMI to keep its liquid assets in a Custodian Account at more than one financial institution in the interest of protecting customers.

(3) An EMI shall maintain a separate account, apart from the Custodian Account, to be used for operating expenses.

(4) Records pertaining to the liquid assets, as well as reconciliations, shall be made available to the Bank for inspection upon request.

(5) An EMI shall establish satisfactory measures to ensure that customers can retrieve funds in the event of the failure of the EMI or any other event requiring substantial conversion of electronic value into cash.

(6) The Bank may impose further requirements for the safeguarding of customer funds relevant to the liability for the losses of customers.

11. (1) An EMI shall demonstrate that it has all relevant procedures in place to effectively identify, analyze, assess, manage, monitor and report any risks to which it might be exposed. Risk management

(2) An EMI shall implement internal controls and risk management frameworks which address its key risks, inclusive of operational, settlement, liquidity, information technology or cyber, third party and money laundering or terrorist financing risks, including:

- (a) an Information and Communications Technology Risk Management Framework which should, at a minimum, address—
 - (i) access and authentication management;
 - (ii) availability;
 - (iii) vulnerability assessment and response;
 - (iv) incident and problem management;
 - (v) change and configuration management; and
 - (vi) privacy management;
- (b) appropriate security policies and measures intended to safeguard the integrity, authenticity, and confidentiality of data and operating processes;
- (c) business resilience and continuity plans and procedures;
- (d) an effective audit function to provide periodic review of the security control environment and systems; and
- (e) an Anti-Money Laundering or Combatting of Terrorist Financing programme which is risk based, with proportionate Know Your Customer and Customer Due Diligence applied to clients commensurate with their risks.

E-Money
Accounts

12. (1) E-money accounts should be issued against cash, debit cards, credit cards or direct debits via the Automated Clearing House.

Schedule 2

(2) An EMI may issue an e-money account to an individual or company up to a maximum limit as outlined in Schedule 2.

(3) An e-money account holder may be permitted to have more than one e-money account.

(4) The total amount loaded into all the e-money accounts of that e-money account holder shall not exceed the aggregate monthly transactional limits established in Schedule 2.

Reloading

13. E-money may only be issued or reissued to customers at the EMI or Agent acting on behalf of e-money issuers.

14. (1) Customers may redeem the full amount of e-money balances outstanding at any time or where the business is being wound-up or directed by the Bank to be discontinued. Redemption of E-Money

(2) Where redemption is provided in the event of discontinuance by an EMI, the redemption value shall not be in excess of the amount outstanding or the face value or loading limit for the e-money instrument.

15. (1) Non-reloadable e-money issued to e-money account holders would have a validity period of one year in order to protect the issuer from unreasonable or unduly extended periods of liability. Validity Period

(2) Upon the expiration date of the non-reloadable e-money account, the value of the outstanding funds remaining on the expired e-money instrument shall be transferred to a new e-money instrument and may be at a nominal cost to the e-money account holder.

16. (1) An e-money account that has registered no activity for a consecutive period of twelve months shall be considered inactive. Inactive and Dormant Accounts

(2) An EMI shall adhere to the following:

(a) the e-money account holder shall be notified no less than one month before the twelve-month mark that the e-money account will be suspended unless there is some form of activity and the customer would then be advised to either—

(i) perform a transaction to keep the e-money account active; or

(ii) close the e-money account;

(b) if no activity has still taken place by the end of the twelve-month period, the EMI shall block the e-money account, permit no further transactions until reactivated by the customer and the—

(i) reactivation shall be supported by provision of the original identification used to open the e-money account; and

(ii) EMI shall notify the customer that the e-money account is blocked and provide reactivation instructions;

(c) an e-money account that has been blocked for twelve months without reactivation by or communication from the e-money account holder shall be terminated by the EMI;

- (d) all outstanding balances in the account upon termination shall be transferred, along with identifying information on the e-money account holder, into a separate e-money account held by the EMI designated for this purpose and kept for a period of no less than seven years;
- (e) all identifying information relating to the e-money account and its closing balance shall be retained by the EMI and the bank for a period of no less than seven years; and
- (f) after the period of seven years has passed without claim from the original e-money account holder, the EMI shall transfer all such funds to the Bank and retain all identifying information.

Use of Agents
by E-Money
Issuers

17. (1) An EMI may utilize an Agent to conduct permissible activities on its behalf.

Schedule 3

(2) An EMI shall apply to the Bank for permission to use each Agent and provide the information set out in Schedule 3 to the Bank.

(3) The Bank shall, within sixty days of the receipt of all relevant information, indicate its objection or non-objection to the use of the Agent of an EMI.

(4) Where the Bank has objected to the use of an Agent, it shall provide written reasons for doing so.

Agent
Management

18. (1) An Agent shall be a registered business.

(2) An Agent may conduct cash-in, cash out, payment services, collect information and complete documents for opening e-money accounts.

Schedule 3

(3) An EMI shall have in place agency arrangements and management procedures with each Agent as set out in Schedule 3.

(4) Agency arrangements and management procedures shall be submitted to the Bank when applying for approval to use Agents.

(5) An EMI utilizing an Agent to conduct permissible activities is required to oversee the management of that Agent to the satisfaction of the Bank.

(6) An EMI shall ensure that its Agents maintain a bank account for the purpose of conducting permissible activities on its behalf.

- (7) An EMI shall be responsible and liable for—
- (a) the acts and omissions of its Agent in providing services within the scope of the relevant agency agreement and the agreement shall not exclude this liability; and
 - (b) any breach by its Agent of the requirements in this Order.

- (8) The Bank may—
- (a) request any information from an EMI on its Agent in respect of the conduct of permissible activities; and
 - (b) direct an EMI to terminate its agency agreement with an Agent in instances involving a breach of the requirements of this Order, fraud, dishonesty or other financial impropriety on the part of the Agent.

19. An EMI shall be required to—

Market
Conduct

- (a) disclose, in writing or on its website or applications (“apps”), all applicable fees, charges, terms and conditions for the use of e-money accounts, as well as any such information necessary for customers to contact the EMI or its Agents in the event of a query or concern;
- (b) establish terms and conditions for use of the e-money accounts which shall be fair, legible and written in plain language so as to be easily understood by the customer; and
- (c) establish and implement appropriate policies and procedures for addressing customer complaints and resolving disputes within thirty days from the date on which the complaint was submitted to the EMI.

20. An EMI is prohibited from—

Restrictions or
prohibitions

- (a) co-mingling the funds of the e-money account holder with any other EMI, entity or person;
- (b) buying, selling or dealing in foreign currency;
- (c) granting credit;
- (d) issuing or allowing joint accounts;
- (e) paying interest on the account of the e-money account holder; and
- (f) issuing e-money in currencies other than the Trinidad and Tobago dollars.

Regulatory
Oversight and
Reporting

21. An EMI shall—

- (a) submit audited financial statements within three months of its financial year end;
- (b) have its Anti-money laundering or Counter-financing of terrorism compliance programme reviewed by the external auditor and submit the report within four months of the end of each financial year to the Bank;
- (c) submit the following information, in a form prescribed by the Bank, on a quarterly basis or other frequency as the Bank may require:
 - (i) the number of e-money accounts issued by it;
 - (ii) volumes and values of its e-money transactions;
 - (iii) the total of outstanding e-money balances held by it;
 - (iv) value, type and location of liquid assets;
 - (v) incidents of fraud, theft or robbery, including at its Agents, number of complaints received, analyzed by category;
 - (vi) material service interruptions and major security breaches; and
 - (vii) any other information as may be required by the Central Bank from time to time;
- (d) provide the Central Bank with access to all its systems and databases for the purpose of reviewing the conduct of all permissible activities; and
- (e) comply with all relevant laws pertaining to Anti-money laundering, Counter-financing of terrorism or Counter-Proliferation Financing.

Record
Retention

22. An EMI shall have record keeping systems that retain customer and transaction files for a minimum period of seven years and in a format that will facilitate timely retrieval of information to satisfy requests for information from competent authorities.

Enforcement

23. Any breach of this Order or any other terms and conditions imposed by the Bank shall be enforced in accordance with this Order and the provisions of the Act.

SCHEDULE 1

(Clause 5)

APPLICATION AND REGISTRATION FEES

	Authorisation Fees
Application Fee – E-Money Issuer	TT\$10,000.00
Annual Registration Fee	
- E-Money Issuer	TT\$20,000.00
- Agent	TT\$1,000.00

SCHEDULE 2

(Clauses 8 and 12)

E-MONEY ACCOUNTS

TRANSACTIONAL LIMITS AND CAPITAL REQUIREMENTS

EMI Servicing Category-Individuals	Transaction Limit per transaction	Monthly Transaction Limit	Maximum Wallet Size	Capital
Micro-Transactions	Payments up to \$500	\$5,000/month	\$5,000	TT\$500,000 or 3% of the outstanding balance of the e-float, whichever is greater.
Mid-Value Transactions	Payments up to \$1,000	\$20,000/month	\$20,000	
High Value Transactions	Payments up to \$10,000	\$40,000/month	\$40,000	TT \$1,000,000 or 3% of the outstanding balance of the e-float, whichever is the greater.

SCHEDULE 2

(Clauses 8 and 12)

E-MONEY ACCOUNTS

TRANSACTIONAL LIMITS AND CAPITAL REQUIREMENTS—*Continued*

EMI Servicing Category- Businesses	Transaction Limit Per transaction	Monthly Transaction Limit	Maximum Wallet Size	Capital
Micro-Enterprises ¹	N/A	\$40,000/month	\$100,000	TT\$500,000 or 3% of the outstanding balance of the e-float, whichever is greater.
Small enterprises ² and Medium enterprises ³	N/A	\$80,000/month	\$200,000	TT \$1,000,000 or 3% of the outstanding balance of the e-float, whichever is greater.
Large enterprises ⁴ and Government employees	N/A	\$150,000/month	\$200,000	
¹ 1-5 employees, including the owner or manager; assets up to \$250,000 and annual sales up to \$250,000. ² 6-25 employees, including the owner or manager; assets up to \$1,500,000 and annual sales up to \$5,000,000. ³ 26-50 employees, including the owner or manager; assets up to \$5,000,000 and annual sales up to \$10,000,000. ⁴ 51 employees and above.				

SCHEDULE 3

(Clauses 17 and 18)

AGENT ARRANGEMENT AND MANAGEMENT

A. Agency Arrangements

EMIs that intend to utilize Agents shall submit the following information to the Bank:

- (i) the results of the due diligence conducted by the EMI to select the said Agent;
- (ii) the proposed geographic location of the Agent or Agent network;
- (iii) the services to be provided by the Agent on behalf of the EMI;
- (iv) copies of the Agent's—
 - (a) certificate of incorporation or registration of business;
 - (b) evidence of a registered office in Trinidad and Tobago;
- (v) documents demonstrating the financial soundness of the Agent. These should include one of the following, where applicable:
 - (a) audited financial statements;
 - (b) management accounts; or
 - (c) cash flow;

- (vi) a copy of the Agency agreement between the Agent and the EMI containing, at minimum—
 - (a) a clear indication of the duties and responsibilities of each party;
 - (b) any compensation arrangements;
 - (c) the scope of work to be performed by the Agent;
 - (d) a statement that the EMI is responsible and liable for the actions or omissions of an Agent providing the services on its behalf;
 - (e) a statement that the Agent shall ensure safekeeping of all relevant records and ensure that the records are, at pre-specified regular intervals, moved to the EMI who shall ensure safekeeping of these records for at least seven years; and
 - (f) an agreement by both parties to provide unrestricted access to the Bank to review the internal systems of the Agent, information, data and documents relevant to the conduct of permissible activities;
- (vii) the policies and procedures approved by the EMI for the provision of permissible activities through the Agent, including those pertaining to Know Your Customer or Customer Due Diligence;
- (viii) a description of the technology to be used for delivering Agency services;
- (ix) a risk assessment report of the provision of permissible activities through the Agent, including the control measures that will be applied to mitigate the risks;
- (x) a report regarding internal controls to be used for the agency business which shall be reviewed by an external auditor on an annual basis; and
- (xi) any further information that the Bank considers necessary.

B. Agent Management

An EMI shall—

- (a) maintain systems, policies and procedures, including risk management policies relevant to money laundering or terrorist financing risks, to exercise effective internal control over the provision of services by its Agents;
- (b) ensure that there is adequate training and support for its Agents with a view to providing safe and efficient services to customers;
- (c) submit an annual report prepared by an external auditor, in respect of the operations of its Agents, to the Bank within four months from the end of each financial year;
- (d) demonstrate its ability to track and maintain records of the payment transactions carried out by each Agent it uses to the satisfaction of the Bank; and
- (e) maintain a list of Agents used, and information relevant to these agents including name, address, Global Positioning System coordinates, telephone contact, including the contacts and addresses for each outlet of the Agent at which it will provide services on behalf of the EMI, which shall be submitted to the Bank on a quarterly basis.

Dated the 31st day of July, 2020.

C. IMBERT
Minister of Finance