

PAYMENT SYSTEMS ACT – COOPERATION AND DIVISION OF RESPONSIBILITIES BETWEEN FINANSTILSYNET (THE FINANCIAL SUPERVISORY AUTHORITY OF NORWAY) AND NORGES BANK

1. Purpose

The purpose of this document is to clarify work tasks, cooperation and division of responsibility between Norges Bank and Finanstilsynet pertaining to statutory duties pursuant to the Payment Systems Act, and relevant portions of the Financial Supervision Act, the Norges Bank Act, the Regulation relating to the use of information and communication technology and the Regulation relating to payment institutions.

With this clarification, the parties to this Memorandum of Understanding (MoU) seek to:

- avoid unclear division of responsibilities and duplication of efforts and ensure that tasks are performed
- optimally utilise the expertise at Norges Bank and Finanstilsynet
- ensure that relevant information is shared

If there is a difference of opinion between the parties on how this MoU is to be construed, the parties are obliged at the outset to seek and find a solution to which both agree.

The parties are obliged to inform each other of actions vis-à-vis interbank systems that may be important for both parties' areas of responsibility.

This document supersedes the document of 21 June 2002, "The Payments Systems Act etc. of 17 December 1999 - Cooperation and division of responsibilities between Norges Bank and Finanstilsynet".

2. Systems for payment services

Finanstilsynet's and Norges Bank's responsibilities for systems for payment services are set out in the Payment Systems Act and the Norges Bank Act, respectively.

Pursuant to Chapter 3 of the Payment Systems Act, Finanstilsynet has regulatory authority over systems for payment services. For that reason, Finanstilsynet is responsible for "...ensur[ing] that systems for payment services are organised and operated in a way that promotes secure and efficient payments and effective and co-ordinated execution of payment services" (cf. Section 3-1 of the Payment Systems Act).

Pursuant to Section 1 of the Norges Bank Act, Norges Bank is responsible for "...promot[ing] an efficient payment system domestically as well as vis-à-vis other countries".

Thus, responsibilities for systems for payment services pursuant to the Payment Systems Act and the Norges Bank Act overlap in part. Norges Bank and Finanstilsynet construe these provisions as follows:

- Finanstilsynet shall monitor technical and operational matters so that payment services are performed in a secure, efficient, streamlined and co-ordinated manner. Examples of this are:
 - evaluations of contractual arrangements between system owners and their subcontractors,
 - assessments of a system's technical solutions and of the place of the system in the overall infrastructure,
 - assessments of the operating stability of a system for payment services against reasonable expectations,
 - assessments of the operating stability and structure of the overall Norwegian infrastructure for systems for payment services,
 - publishing findings uncovered by supervisory agencies and assessments of the state of the system.

- The overall assessment of the security of various systems for payment services will be based on Finanstilsynet's assessments and recommendations.

- Norges Bank is responsible for assessing the efficiency of systems for payment services and the importance of these systems for the efficiency of the Norwegian payment system as a whole and its interaction with other countries' payment systems. Examples of this are:
 - assess the efficiency of payment services domestically as well as vis-à-vis other countries and identify any obstacles to robust and efficient payment systems,
 - publishing statistics on developments with regard to the use of various means of payment and prices for payment services,
 - examine costs in the Norwegian system for payment services,
 - monitor efficiency and cost developments in the Norwegian system for payment services and recommend improvements in the *Annual Report on Payment Systems*,
 - monitor international developments in the use of payment services.

3. Interbank systems

Section 1 of the Payment Systems Act defines interbank systems as “systems with common rules for clearing, settlement and transfer of funds between credit institutions”.

Norges Bank is responsible for licensing and supervision of Norwegian interbank systems (cf. Chapter 2 of the Payment Systems Act).

Pursuant to the regulations of the use of information and communication technology (ICT) in banks etc. (the ICT Regulations), Finanstilsynet may set requirements for various aspects of ICT operations in undertakings covered by the Regulations and monitor compliance through its ordinary supervisory activities.

Norges Bank's jurisdiction over interbank systems depends on whether the system is subject to licensing requirement or exempt.

- For licensed systems, Norges Bank shall ensure that the terms and conditions of the licence are met and may set additional requirements if developments or special circumstances so warrant.
- For systems exempt from a licensing requirement but still subject to non-statutory monitoring, Norges Bank's monitoring will be based on international recommendations (CPSS/IOSCOs recommendations for financial market infrastructures (FMIs)).
- Monitoring and statutory supervision of interbank systems in general:
 - Norges Bank will attach particular weight to assessments relating to financial stability and ensure that systems are robust to economic shocks.
 - Norges Bank will also follow up measures to secure the technical operation of the interbank system, including contingency plans in the event of a disruption in operations.

Norges Bank will base its work on interbank systems on Finanstilsynet's technical assessments of ICT, among other sources.

4. Monitoring of payment institutions

Finanstilsynet is the supervisory authority for payment institutions. As supervisory authority, Finanstilsynet shall ensure that payment institutions operate in an appropriate and satisfactory manner, in compliance with legislation and the intentions behind the formation, objects and articles of association of the institution.

Norges Bank shall ensure that approved payment institutions, where relevant, have access to interbank systems that have not been notified to the EFTA Surveillance Authority (ESA). Norges Bank shall:

- ensure that interbank systems that are non-licensed and not notified to ESA comply with the rules on participation in payment systems in Sections 5-1 and 5-2 in the Payment Systems Act,
- submit cases concerning a payment institution's access to interbank systems to the Norwegian Competition Authority, if necessary.

5. Notifying systems to the EFTA Surveillance Authority (ESA)

Finanstilsynet shall notify Norges Bank of the opening of insolvency proceedings against banks and payment institutions to enable Norges Bank to discharge its duty to ESA.

Pursuant to Section 4-5 of the Payment Systems Act, Norges Bank shall notify ESA of:

- systems that under the Act have legal protection for clearing and settlement agreements,
- opening of insolvency proceedings against a participant in such a system.

Finanstilsynet

Norges Bank