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The Chairperson  
Standing Committee on Justice, Law and Human Rights  
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**Submission to the National Payment Systems Bill No.48 of 2020**

***Introduction***

My name is Lorenzo Patrick Samuela and I am a 33-year-old Fiji citizen of Rotuman and Roman Catholic descent. I have a modest wealth of experience and knowledge in various areas of life such as commerce, internet activities (including social media), law, accounting, economics, and, to a limited degree, finance. My credentials include a Bachelor of Electronic Commerce with Second Class Honors (2010) in Electronic Commerce Technology and Accounting from the University of Waikato; and I was employed with the Reserve Bank of Fiji (herein referred to as ‘the bank’) from 2010 to 2013 as an Analyst. I am currently self-employed and, hereby, wish to submit for consideration my personal views and comments on the National Payment Systems Bill No.48 of 2020 (herein referred to as ‘the bill’).

Payment systems play a vital role in any modern economy as they form the medium by which funds are transferred between people and institutions. These include established systems such as the bank’s Fiji-Clear payment system; the Point of Sale system; the Automated Teller Machine (interchange) system; mobile money/payment systems like MPaisa and Digicel Mobile Money; Yehdo, Cheque facilities; and payment gateways operated by licensed financial institutions (banks). Within the last decade or so, we have witnessed a surge in the adoption of electronic means of handling payments over complex boundaries and within different timelines, utilizing the concept of netting off or settling balances held between participants at the ‘end-of-day’ point in time. Coupled with the prevalence of electronic commerce and advancement in electronic finance, this brings about new challenges for policy makers and regulators in ensuring that the funds entrusted within a payment system by the ordinary customers (we, the general public) are safeguarded.

## *Comments/Views/Recommendations*

The impression I developed when reading the bill was that it is an accommodative tool (as explained in Section 1.4 of *Explanatory Note*), whereby, as time passes and new innovations become prominent in local and international payment systems, the bill is positioned in such a manner that would allow for relevant provisions to be added (or deleted), while maintaining the primary basis. It is, therefore, an all-encompassing bill that leaves room for innovation and expansion in the financial system; much how like the concept of “*sandboxes*” exists as one of the bank’s strategic financial inclusion tools over the past few years.

Most payment system issues have been satisfactorily addressed in the bill, reflecting the extent of scrutiny and deliberation on this piece of legislation. Nevertheless, I came up with a few cosmetic points which I thought may be interesting to consider/discuss further:

- ❖ To begin with, I raise - as a prominent issue in general - the flexibility and robustness of the bill to cater for an electronic-paperless payment system: implying clearing and settlement processes across complex national borders and diverse timelines. For instance, according to Clause 49 *Issuance of electronic money* subsection (1) (e): “***clearing and settlement mechanisms must facilitate the provision of final settlement not more than 24 hours after a payment instruction has been initiated.***” What is the counter plan if the time lapse exceeds 24 hours? Are there electronic mechanisms or contingencies in place when this happens? Perhaps subsidiary legislation (regulations) and policy statements, issued by the Minister of Finance and the bank respectively, will cover this in depth. However, specific disclosures to this revelation should be made in the bill beforehand.
- ❖ Next, there is an interesting point I wish to raise with regards to Clause 9 *Establishment of the National Payment Systems Council* and Clause 11 *Co-opted members* and that is whether the people appointed to oversee the administration of the national payment system will be remunerated and, if so, their remunerations should be disclosed or, at least, referenced in the bill.
- ❖ With reference to Part 3 *Licensing*, in general, the bill should specify who will be responsible, specifically within the bank or the council, for processing the new license applications. As an analyst at the bank, I found it common practice that an individual or a team of individual employees would be delegated this task. I am simply of the view that this should be disclosed in the legislation/bill to ensure that the role would not be, presumably, delegated to the Council or the Governor of the bank, for that matter.
- ❖ Also, a **schedule of fees** charged to payment system participants for registration/licensing purposes, etc should be attached to the bill as an appendix, along with an explanation of

the methodology by which the fees were determined. This is very important for transparency purposes.

- ❖ Section 53 *Protection for acts done in good faith* does not define ‘acts done in good faith’ and, in my experience, this seems very broad and leaves room for interpretation.
- ❖ The final point I wish to raise involves the effectiveness of the bill in resolving prevalent issues like financial inclusion and the sustainability of (and access to) funds held by all participants who use the payment systems. This includes the questionable security of funds transferred along mobile phone platforms in the form of electronic money, and the ease of use of (and access to) payment systems by persons with disabilities.

### ***Concluding Remarks***

Ultimately, any piece of financial legislation must confer with the practices and needs of its stakeholders, while also upholding the interests of the state, and this is evident in the contents of the bill. It is clear that numerous consultations were made over the duration of the bill’s appraisal, where regulators, corporate organizations, non-government institutions, individuals, and all stakeholders passed on their comments, views, and suggestions to improve the content and effectiveness of the bill.

My submission serves not to provide a radical amendment to the bill and its contents but to, rather, work within the imperfect understanding that I have developed over the course of my tenure with the bank as a financial policy analyst.

It is my hope that when the bill is passed in parliament, it reflects the solidarity, robustness and resilience of a sound financial system that is developing in this age of dematerialization and electronic advancement.



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(1,066 words)