



CENTRAL BANK OF
TRINIDAD & TOBAGO

Payments Quarterly

Payments Quarterly is a newsletter on developments in the Payments System in Trinidad and Tobago

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Inside this issue:

What's New on the Legal Scene -
The Data Protection Act No. 13
of 2011, (Part II) cont'd

Payments System
Council Outreach 2012 –
Participation at ICATT/
ISACA Seminar on IT
Governance

Operator's Spot:
Government Securities
Settlement System

Payments Glossary

Safe-tt & ACH and
Cheques Volume Meter

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published quarterly by the
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details or would like to offer any
suggestions please contact the
Payments System Department at
the Central Bank of Trinidad and
Tobago.*

*Please see our full contact details on
the last page.*

In this edition of Payments Quarterly,

Part II of the Data Protection Act, No. 13 of 2011 is examined. The legislation, which was proclaimed on 6th January 2012, is expected to have a significant impact on the transfer, storage and administration of data in the electronic environment, including e-commerce and e-payments-related issues in Trinidad and Tobago.

1 In keeping with the electronic commerce theme started in the June issue, the second article in this edition provides highlights of a Seminar hosted by The Institute of Chartered Accountants of Trinidad and Tobago (ICATT) in collaboration with the Information Systems Audit and Control Association (ISACA), Trinidad and Tobago Chapter. The Seminar was entitled IT Governance: *Sustaining Regulatory Compliance, Laws, Securities and Policies*.

2 In the Operator's Spot, an update on the Government Securities Settlement System is provided. ■

3 WHAT'S NEW ON THE LEGAL SCENE?

4 The Data Protection Act No. 13 of 2011 Part II cont'd

5 In the September edition of the *Payments Quarterly*, a summary of Part II (Sections 9-13) of the Data Protection Act No.13 of 2011(Act) was published. In this Issue, the overview of Part II of the Act is continued with a focus on Sections 14-18, 22, 23, 25(1), 26 and 28 which were proclaimed.

Section 14: the Office of the Commissioner must have a seal which the Commissioner will keep in his possession. This seal can be placed on documents and instruments, and must be done so in the presence of the Commissioner at all times. The seal must be placed on documents which require it, and the Commissioner must also sign these documents as proof that he was the one affixing the seal. All decisions made must be signed by the Commissioner. Where a Deed has to be executed by the Commissioner's Office, his seal must be placed on the Deed. This signifies that it has been validly executed by the Office.

Section 15: explains the protocols for the submission of documents to the Commissioner.

Section 16: where the Office wishes to execute a document it must contain the signature of the Commissioner. Where it is executed outside of Trinidad and Tobago another person(s) may sign, but he must have obtained the authorization of the Commissioner to sign these documents. This authorization must be in written form and be attached to the document to be signed.

A cheque, a bill of exchange or an order for the payment of money which must be executed by the Commissioner can also be executed by another person once he has obtained the authorization of the Commissioner.

WHAT'S NEW ON THE LEGAL SCENE? The Data Protection Act No. 13 of 2011 Part II cont'd

Section 17: the Commissioner, where he considers it necessary, can employ persons who will be of assistance to him and his work as Commissioner. The salaries to be paid to these persons and the terms and conditions of their duties will be agreed upon by the Commissioner and the person(s) to be hired. The maximum amount which this person can receive will be decided by the Minister. Other related matters include:

- **Secondment of members in the public service**

A member of the public service, or Statutory Authority, can be temporarily transferred to the service of the Office of the Information Commissioner. This must be done with the consent of the member itself, and with the approval of the appropriate Service Commission or Statutory Authority. This period of transfer shall be for three years and may be extended for two more. Where this member of the public service has been transferred to the Office of the Commissioner, he must take up the post on terms that are not less favourable than those which he previously enjoyed.

- **Pension Plans**

The employment of a person who is transferred may be terminated where he has either died, retired, been retrenched or his post was abolished. Pension plans can be set up by the Commissioner and those employed with the Office are eligible as members. Where this cannot be done, arrangements for membership in an existing plan can be set up and he will be paid superannuation benefits by this pension plan. Superannuation benefits which had already accumulated

to this member of the public service will be preserved till the date of his employment by the Commissioner. These benefits will continue to accumulate under the relevant pension law until he becomes a member of a pension plan set up by the Commissioner.

- **The Commissioner's Pension Plan**

Where a worker is to receive a pension under that Pension Plan arranged by the Commissioner, the calculation of the superannuation benefits to be received shall be based on criteria set out in the Act.

Section 18: the Commissioner can authorize persons to exercise certain powers or carry out certain duties and functions of the Commissioner, based on their qualifications. He may also delegate particular responsibilities only to the Deputy Commissioner. These responsibilities include the review of personal information which is exempt from disclosure.

Section 22: the expenses of the Office are to be met with money which is provided by Parliament. Revenues of the Office are to be placed in the Consolidation Fund. The Accounts of the Office are to be audited by the Auditor General in accordance with the provisions of the Exchequer and Audit Act.

Section 23: a statement made or an answer given by a person during an investigation or enquiry launched by the Commissioner cannot be used in court as evidence. However there are some circumstances where it can be used:

- a) Where the court matter at hand concerns the offence of perjury, and in particular, a sworn testimony made before the Commissioner;
- b) Prosecution for an offence specified under this Act;
- c) An application for judicial review under this Act, or an appeal from a decision concerning a judicial review application.

Judicial review concerns the review of a decision, action, or omission, of a Public Body by the Courts, which may then make certain orders to make good that decision, action or omission.

Section 25(1): the Commissioner and anyone acting for or under the direction of the Commissioner cannot disclose any information which they have gained knowledge of while performing their duties under the Act.

Section 26: proceedings cannot be taken against the Commissioner or a person acting under his direction for anything done, said or reported in good faith, and in the performance of a duty under this Act.

Section 28: the Commissioner must publish in at least 2 daily newspapers which are in circulation in Trinidad and Tobago, a list of countries which have similar safeguards for personal information, as those under this Act.

This concludes the summary of the Data Protection Act. ■

Contributor:
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PAYMENTS SYSTEM COUNCIL OUTREACH 2012 -

Participation at the ICATT/ISACA Seminar on IT Governance

The Institute of Chartered Accountants of Trinidad and Tobago (ICATT) recently hosted a training session in collaboration with the Information Systems Audit and Control Association (ISACA), Trinidad and Tobago Chapter. The session which took place on July 26th, 2012 at the Harry Neal Room, at the Arthur Lok Jack Graduate School of Business in

Mount Hope was entitled *IT Governance: Sustaining Regulatory Compliance, Laws, Securities and Policies*.

Presenters were Mr. Nigel Chinapoo – Director, Rolley Holdings and Chair of the T&T Chamber of Commerce Ms. Joan John – Deputy Governor Operations, Central Bank of Trinidad

and Tobago; Mr. Kevin Nurse – Senior Associate, Johnson, Camacho & Singh; Mr. Roger St. Hiliare – IT Strategist; and Sergeant Amos Sylvester – Head of the Cybercrime Unit, Trinidad and Tobago Police Service.

Overall, the session was aimed at addressing IT Governance and its

PAYMENTS SYSTEM COUNCIL OUTREACH 2012 - Participation at the ICATT/ISACA Seminar on IT Governance cont'd



Mr. Subert Gilbert, General Manger of The Institute of Chartered Accountants of Trinidad & Tobago (ICATT), addresses participants at the ICATT/ISACA Seminar.

impact on and implications for various stakeholders in the business sector. Specifically, it explored IT Governance as it related to Accounting, Financial Management and Payments.

One presenter, **Mr. Nigel Chinapoo** explored IT and its role in Corporate Governance, Risk & Compliance. He emphasised the fact that an organisation's IT strategies must be directly related to its overall business strategy and that an organisation's various goals and objectives must correlate with its IT development.

One of the most interesting questions posed by Mr. Chinapoo which gave many participants pause was whether IT and IT Governance and the subsequent investment in this area should be left for larger companies only.

Another presenter, **Mr. Kevin Nurse** said that traditional contract law no longer encompasses every aspect of e-commerce and that just as technology was changing, developing and improving – so too should the laws of Trinidad and Tobago as they relate to trading electronically.

Mr. Nurse also presented a summary of the Trinidad and Tobago Electronic Transactions Act of 2011, its origins, its current status (what sections had been passed and what was still pending), and what it is hoped that this Act can accomplish. The stated purpose of the Act includes:

- The facilitation of electronic transactions and commerce and electronic filing of documents with public bodies;

- The promotion of public confidence in the integrity and reliability of electronic records and electronic commerce; and

- Fostering the development of electronic commerce through the use of electronic signatures to lend authenticity and integrity to correspondence in any electronic medium.

Mr. Nurse concluded his presentation by informing the audience that the Electronic Transactions Act, 2011 now allows for official recognition of electronic transactions once certain specified criteria are satisfied. Additionally, the creation of contracts by electronic means has been put on a statutory footing by the Act. In addition, he noted that parties were now free to enter into transactions using electronic signatures as long as such signatures meet the reliability and integrity of the authentication test prescribed by the Act or the standards agreed to by the parties.

Sergeant Sylvester informed the audience about the current trends in cybercrime in Trinidad and Tobago and internationally as well as the Police Service's response to these trends. He also listed the current laws that addressed these matters, namely:

- Computer Misuse Act, 2000
- Forgery Act, Chapter 11:13
- Offences against the Person Act, 2000
- Children Act 2012 (Child Pornography)
- Interception of Communications Act, 2011
- Electronic Transfer of Funds Crime Act, 2000
- Data Protection Act, 2011

He indicated that the Police Service has recommended the creation of a Cybercrime Bill, and the Ministry of National Security has formed a Steering Committee to look at cybercrime

legislation and to advise on computer policy as it relates to cybercrime.

Ms. Joan John focussed on IT and how it related to the Electronic Payments System operations. She stressed that it is the obligation of financial professionals to understand, practice and endorse IT Governance because business transactions generally involve payments. She noted that a recent survey showed that one of the concerns of businesses pertained to the way payment information was generated and the resulting reconciliation process. Therefore, some understanding of what is developing in the payments arena in Trinidad and Tobago would enable financial professionals to appreciate these changes and better advise and guide their organizations.

Ms. John also informed the attendees about the Payment System Council (PSC), which was formed ... *to support the achievement of sound and efficient payments, clearance and settlement systems in the country and to participate in regional and international efforts aimed at maintaining ordered conditions in regional and international payment systems.* She spoke about the composition of the Council and its achievements to date.

Attendees were also able to garner much needed information about the National Payment System and the differences in paper versus electronic payment environments as well as the implications for the recording of transactions. ■



Participants at the Seminar including Mrs. Cynthia Reddock-Downes, member of the Payment System Council.

Contributor:
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OPERATOR'S SPOT

The Government Securities Settlement (GSS) system is an electronic auction and registry system for domestic government and government-guaranteed securities. Activity on the GSS system consists primarily of the issuance of three types of securities; namely, treasury bills (for debt management and open market operations purposes), treasury notes and bonds. Debt management treasury bills are issued to the general public as a short-term investment instrument. In 2012, there were 36 such treasury bill issues with face values ranging between \$50 million and \$100 million and with tenors of three and six months. Treasury bills and treasury notes issued for open market operations are offered only to commercial banks and other designated primary dealers for the Bank's execution of monetary policy. OMO treasury bills are issued with a tenor of up to one year, while OMO treasury notes may have a tenor between 366 days and up to five years. There were 168 issues of OMO bills and notes during calendar year 2012, at a total cost basis of \$31.385 billion. The average nominal OMO issue size was approximately \$200 million, with auction sizes ranging from \$50 million to \$687 million.

The Central Bank auctioned three bonds via the GSS system in 2012 - one on behalf of Government and two on behalf of state enterprises. All three bonds were issued at a premium, as the yield to maturity at auction was below the coupon rate. The bid-to-cover ratio, which is the ratio of the total bids received to total issue size, averaged 3.7 to 1, with a high of 6.3 to 1 and a low of 2.26 to 1. There were also two maturities of Government bonds on the GSS system in 2012, including a non-amortizing bond with a principal value of \$674.301 million and an amortizing bond whose original face value was \$100 million.

A full version upgrade to the GSS system was implemented in January 2012, and an upgrade patch was also applied in April of that year. These upgrades were geared primarily towards the maintenance of efficient links to the Real Time Gross Settlement (RTGS) system. Another full-scale upgrade to the GSS system is carded for completion early in the second quarter of 2013, and this should lead to improvements in some aspects of reporting available to the Central Bank. ■

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Payments Glossary



Here are 5 terms applicable to the Payments System:

1. Draft	a written order from one party (the drawer) to another (the drawee) to pay a party identified on the order (payee) or to the bearer a specified sum, either on demand (sight draft) or on a specified date (time draft).
2. Bill of exchange	a written order from one party (the drawer) to another (the drawee) to pay a specified sum on demand or on a specified date to the drawer or to a third party specified by the drawer. Widely used to finance trade and, when discounted with a financial institution, to obtain credit.
3. Clearance	the process of transmitting, reconciling and, in some cases, confirming payment orders or security transfer instructions prior to settlement, possibly including the netting of instructions and the establishment of final positions for settlement. Sometimes the term is used (imprecisely) to include settlement.
4. Delivery versus payment	a link between a securities transfer system and a funds transfer system that ensures that delivery occurs if, and only if, payment occurs.
5. Delivery versus delivery	a link between two securities transfer (settlement) systems that ensures that a delivery occurs if, and only if, another delivery occurs and vice versa.

Source: *A Glossary of Terms used in Payments and Settlement Systems, March 2003, BIS-CPSS.*

Safe-tt, ACH and Cheques Volume Meter

Safe-tt, ACH and Cheques statistics 2009-2012

(Million)

	2009	2010	2011	2011	2012
				Oct - Dec	Oct - Dec
Safe-tt	0.05	0.05	0.05	0.01	0.01
ACH	2.59	2.89	3.13	0.85	0.91
Cheques	9.74	9.65	9.46	2.44	2.52
Total	12.38	12.59	12.64	3.30	3.44

Sources: Central Bank of Trinidad and Tobago, Trinidad and Tobago Interbank Payments System Ltd.

If you require any further details or would like to offer any suggestions, please contact the Payments System Department at the Central Bank of Trinidad and Tobago at

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