

The Law
of the Republic of Abkhazia
On the National Payment System by Electronic Means of Payment

The National Payment System by electronic means of payment of the Republic of Abkhazia is established to provide participants of the civil circulation with modern banking products, services and non-cash payment facilities, and to create a payment card infrastructure in the Republic of Abkhazia.

Chapter 1. General Provisions

Article 1. The object of regulation of this Law

1. This Law establishes the foundations of legal and organisational functioning of the National Payment System by electronic means of payment of the Republic of Abkhazia (hereafter – NPS).
2. This Law establishes the principles of organisation, general requirements for the functioning of the NPS and the supervisory procedure of the NPS, and the legal foundations for the use of electronic payment facilities on the basis of information technologies.
3. The provision of payment services, payment infrastructure services and the acceptance of payments on the territory of the Republic of Abkhazia are allowed only in accordance with the requirements of this Law.
4. This Law does not regulate the interbank settlement system.

Article 2. Basic concepts and definitions used in this Law

For the purposes of this Law, the following basic concepts and definitions are used:

national payment system – a single electronic payment system and electronic settlement system on the territory of the Republic of Abkhazia, which is organised as an association of participants in the payment system and legal relations between them, transactions with payment instruments and bank cards, and also legal relations between the participants, which arise as a result of issue, maintenance and settlement of transactions by electronic means of payment, as required by this Law;

exchange of electronic messages – the exchange of electronic payment documents, which contain the payment orders of the participants of the payment system, and the exchange of official, non-payment, informational, technological and identification messages;

participant of the payment system – a legal entity which carries out the issuing and/or acquiring of bank cards and other electronic means of payment, and the settlement and payment operations in the payment system;

electronic means of payment – electronic information instruments, including bank cards, other electronic and information instruments (or) procedures and instruments of payment and settlement information exchange, allowing the clients of the participants of the money transfer system to prepare, certify and transfer payment orders for the purposes of transferring money in accordance with requirements of the Civil code of the Republic of Abkhazia and of this Law;

electronic payment instruments – a bank transfer payment system which uses payment notices, a network of self-service payment terminals, systems based on the ATM network, systems of payment for goods and services in the suppliers' workplace, Windows terminals, POS terminals at the registers of retail chains, payments using instant payment cards, electronic money, internet banking;

bank card – a payment card which allows its holders to carry out repeated transactions in their bank accounts, which includes making non-cash payments and receiving money from their bank accounts. The types of transactions, which the card holders may carry out in their bank accounts, are established by law and (or) by a contract between the holder and the issuer of the bank card;

payment card – an identification document intended for the carrying out of repeated settlement operations by its holder;

retail card – a payment card which confirms the availability of pre-payment for goods (works, services) and allows its holder to repeatedly purchase goods (works, services) within the pre-paid amount;

emission – a sequence of actions of the credit institution for the production, personalisation and issue of bank cards to their holders;

issuer – a credit institution which issues bank cards and has the ownership of the bank cards simulated by it, and which is responsible before the bank cards' holders and acquirers in matters related to their rights for bank card settlements;

acquiring – a process of settlement carried out by a credit institution with merchants of goods (works, services) on bank cards transactions;

acquirer – a credit institution which carries out the acquiring;

processing – a process to ensure the collection, processing and dissemination of information between participants in the payment system, as well as maintenance of emission and acquiring of bank cards and electronic means of payment, which take place in the payment system;

processing centre – the organisational and technological division of a credit institution or a specialised company which maintains the cycle of electronic means of payment;

holder of a bank card – an individual who uses a bank card issued in his name, in accordance with the Law and the contract with the issuer;

payment transaction – payment for goods (works, services) which is carried out with the use of a payment terminal or an ATM in cash or by electronic means of payment, including a bank card;

payment terminal – a device that allows to carry out payment transactions with the use of bank cards and (or) cash and to generate payment receipts for transactions performed;

ATM – a device that allows the bank card holder to receive and (or) deposit cash using self-service, and which generates payment receipts for transactions performed;

certification authority – an electronic information center for the registration and certification of electronic digital signatures for systems and the infrastructure of payment systems, bank card holders and other electronic means of payment in the payment systems or an exchange of electronic messages within the infrastructure of payment systems, which work in accordance with the Law of the Republic of Abkhazia from August 2, 2006, No. 1442-c-XIV "On the electronic digital signature in the banking system" (hereafter – the Law of the Republic of Abkhazia "On the electronic digital signature in the banking system");

authorisation – a procedure for obtaining permission from the issuer of electronic means of payment, including bank cards, by telephone, electronic or other means of communication, according to the rules laid down in the NPS;

rules of the national payment system – a normative act accepted by the Abkhazian payment and settlement association which regulates the order of evaluation and risk management in the payment system, the procedure for ensuring the fulfillment of obligations of participants in the payment system for the transfer of funds, the procedure for changing the rules of the payment system, and the responsibility for non-compliance with the rules of the payment system and other norms;

personal data – any information related to a particular individual or to an individual determined on the basis of this information (the subject of personal data), including his surname, name, patronymic, year, month, date and place of birth, address, family, social and property status, education, profession, income and other information.

Article 3. The legislation on the National Payment System

The legislation on the NPS consists of this Law, other laws, and also normative acts of the National Bank of the Republic of Abkhazia (hereafter – the Bank of Abkhazia) which are adopted in accordance with this Law.

Chapter 2. The Fundamentals of the National Payment System

Article 4. The structure of the National Payment System

1. The National Payment System of the Republic of Abkhazia includes the following organisational and structural elements:

- Abkhazian payment and settlement association (APRA) – a non-profit association of participants in the NPS;
- Settlement Bank (the functions of the Settlement Bank are assigned to the Bank of Abkhazia);
- Banks and other legal entities – participants in the NPS (partners, preferred partners and providers);
- Processing centre (a division of the Bank of Abkhazia).

2. APRA is formed as a non-commercial partnership and operates on the basis of the Charter.

3. Participants in the APRA are the Bank of Abkhazia, credit and other institutions of the Republic of Abkhazia in accordance with Article 5 of this Law.

4. Membership in the NPS is voluntary and open.

5. Legal entities which are not credit institutions may be partners – providers of the NPS. Their interaction with the NPS and its participants is based on contracts.

6. Credit institutions which are among the participants of the NPS shall adhere to the rules of the NPS.

7. Electronic payment instruments used in the NPS shall bear distinctive features (trademarks, service marks), allowing to identify their emission by a member of the NPS.
8. Electronic payment instruments should be certified according to the criteria of the Bank of Abkhazia. The Bank of Abkhazia approves the list of electronic payment instruments permitted to be used in the NPS.
9. The use of electronic payments and electronic payment instruments for making payments on the territory of the Republic of Abkhazia outside of the NPS is not allowed.

Article 5. Abkhazian payment and settlement association

1. The Abkhazian payment and settlement association (hereafter – APRA) is a non-profit organisation in the form of a non-profit partnership, which unites the Bank of Abkhazia, credit institutions and other legal entities, whose activities are related to the functioning of the NPS, such as an aggregate of structural elements (legal entities and individuals), and also relations and procedures arising between them in matters of the issue of bank payment cards and other electronic means of payment, the processing of settlements on transactions which have been carried out using such payment instruments as bank payment cards and other electronic means of payment.
2. APRA has a bank account in the Bank of Abkhazia.
3. The legal status of APRA and its form of management is established by this Law.
4. The cost of managing APRA is borne by the Bank of Abkhazia.
5. The Bank of Abkhazia is the founder of the APRA, it has the rights of a privileged partner and it determines the payment amount the processing centre charges APRA partners for processing services.
6. The Charter of APRA will not have a provision on the possibility of compulsory exclusion of the Bank of Abkhazia from APRA members.
7. The functions of APRA are:
 - 1) the development and approval of the NPS rules and control over their implementation;
 - 2) managing the process of entry and exclusion of participants in the NPS;
 - 3) the conclusion of contracts with other payment systems;
 - 4) the conclusion of contracts with providers of payments, which have been made by cardholders on the devices of participants;
 - 5) determining the amount of commissions the processing center charges participants for processing services;
 - 6) organising a unit for providing maintenance of the terminal devices of the participants;
 - 7) the provision of services to participants in the process of the ATM cash collection and their monitoring;
 - 8) other functions in accordance with this Law and the Charter of APRA.

8. APRA partners are credit institutions – residents of the Republic of Abkhazia who have the license of the Bank of Abkhazia, who have been admitted into APRA in accordance with the Charter of APRA and who are certified for the purpose of issuing and/or acquiring APRA cards, as well as receiving payments from the public. Each APRA partner has two votes in the making of decisions at the APRA meeting, with the exception of partners indicated in parts 9, 10 of this Article.

9. The privileged partners of APRA are the partners which have been certified by APRA to issue and acquire APRA cards and which meet the conditions outlined in the Charter of APRA. A privileged APRA partner has four votes in the making of decisions at the APRA meeting.

10. The provider partners are legal entities – residents of the Republic of Abkhazia (not credit institutions) who have been admitted into APRA in accordance with the Charter of APRA without the right to issue and acquire APRA cards and who are certified by APRA to provide APRA partners with electronic and information services, which would facilitate the expansion of the APRA payment infrastructure and/or improve the safety level of APRA. The provider partner has one vote in the making of decisions at the APRA meeting.

Article 6. Rules of the National Payment System

1. The rules of the NPS are mandatory for all APRA participants.

2. In accordance with this Law, the following rules of the NPS are public: rules of the NPS concerning the terms and conditions for participation in the NPS, conditions for the transfer of funds, with the exception of rules regulating the security and protection of information in the APRA.

3. The rules of the NPS should meet international standards, they must not contradict the legislation of the Republic of Abkhazia and they should contain provisions on how to identify the owners of electronic means of payment, on the procedure for using electronic means of payment, on the procedure for making transactions and payments, and on the protection against fraudulent activities by electronic means of payment.

4. The rules of the NPS must not contain rules that discriminate against users or certain categories of users, including limitations on the disposal of funds on the account that uses electronic means of payment.

Article 7. Participation in the National Payment System

1. Each participant of the NPS, in accordance with the rules of the payment system, is assigned an identification code (number) that uniquely identifies the participant of the payment system and the type of his participation in the payment system.

2. Participants in the NPS shall fulfill the requirements for risk assessment and risk management provided by the rules of the payment system.

3. Participants in the NPS shall provide the Bank of Abkhazia with information on their activities (in order to ensure participation in the payment system) in accordance with the rules of the payment system.

4. Participants in the NPS shall fulfill the requirements for ensuring the reliability of the payment system.

5. The Bank of Abkhazia, acting in accordance with this Law as a settlement and processing centre, is obliged to comply with the requirements established by the rules of the NPS.

Article 8. Certification of information systems, technologies, means of their provision and licensing in the National Payment System

1. Information systems of the NPS and other information systems, including processing centres of third organisations that connect to the NPS, which are intended for information, payment and settlement services to citizens and organisations, are subject to certification in the manner established by the legislation of the Republic of Abkhazia.
2. Information systems connected to the NPS information systems, which process documented information on payment and settlement transactions and personal data of participants, as well as means of protection of these systems are subject to mandatory certification of the NPS.
3. The order of certification is determined by the Bank of Abkhazia. Certification of information systems of these systems' information files should be carried out on the basis of a special standard for information systems and information security published by the Bank of Abkhazia.

Article 9. Protection of information and personal data in the National Payment System

1. The aims of protecting information in the NPS are:
 - 1) prevention of leakage, theft, loss, distortion, forgery of information;
 - 2) prevention of threats to the security of the individual, society and the state;
 - 3) prevention of unauthorised actions to destroy, modify, distort, copy and block information;
 - 4) prevention of other forms of unlawful interference with payment and settlement information processes and information systems and the provision of a legal regime of documented information as an object of ownership of participants in payment and settlement transactions;
 - 5) protection of the constitutional rights of citizens to preserve personal secrets and confidentiality of personal data available in the information systems of the NPS;
 - 6) preservation of state secrets, confidentiality of documented information in accordance with the legislation of the Republic of Abkhazia;
 - 7) ensuring the rights of the NPS entities in information processes and systems in accordance with the legislation of the Republic of Abkhazia.
2. Any documented information about participants in the NPS is subject to the protection of information, the misuse of which can damage its owner. The mode of information protection is established as follows: concerning data classified as state secret – by authorised bodies on the basis of the Law of the Republic of Abkhazia of February 23, 1998, No. 408-c-XIII "On State Secrets"; concerning confidential documented information and personal data of participants – by the owner of information resources or an authorised person on the basis of this Law.
3. The use of information, information technologies, information protection, processing of personal data in the payment system shall be carried out in accordance with the normative acts of the Bank of Abkhazia.
4. The protection of personal data in the NPS is carried out by the Bank of Abkhazia and credit organisations-participants in the NPS in accordance with the rules on bank secrecy of the Law of the Republic of Abkhazia of March 10, 2011, No. 2859-s-IV "On Banks and Banking Activity".

Article 10. Risk management system in the National Payment System

1. While organising the NPS, in order to ensure the continuity of its operation and to minimise risks, it is envisaged to create a risk management system in the payment system that corresponds to the nature and scale of operations performed by the payment system.
2. Requirements for the risk management system in the NPS are established by the normative acts of the Bank of Abkhazia.

Article 11. The fulfillment of obligations by participants in the National Payment System for the transfer of funds

1. The rules of the NPS provide for the procedure for ensuring the fulfillment of obligations by participants in the payment system for the transfer of funds.
2. The procedure for ensuring the fulfillment of obligations by participants in the NPS for the transfer of funds is established by the Bank of Abkhazia.

Article 12. Taxation

Operations related to the issue (emission) of bank cards are exempt from value added tax.

Chapter 3. The Bank of Abkhazia in the National Payment System

Article 13. The role of the Bank of Abkhazia in the National Payment System

1. The Bank of Abkhazia shall:
 - 1) ensure control over the compliance of participants in the NPS with its rules;
 - 2) ensure the reliability of the NPS in accordance with requirements established by the normative acts of the Bank of Abkhazia;
 - 3) ensure the possibility of pre-trial consideration of disputes with participants of the payment system, in accordance with the rules of the NPS.
2. In case of violation of the rules of the payment system by the participants in the NPS, the Bank of Abkhazia has the right to apply measures against them in accordance with the rules of the NPS.

Article 14. The Bank of Abkhazia – the settlement center of the NPS

1. The Bank of Abkhazia is the settlement centre of the NPS.

The settlement centre performs settlements using the bank accounts of direct participants in the NPS, which have been opened in the settlement centre.

Settlements can be carried out on behalf and at the expense of the NPS participant, on behalf of the NPS participant and at the expense of his client, on behalf of the NPS participant and at the expense of another NPS participant.

2. The settlement centre carries out its activities in accordance with the rules of the NPS and on the basis of contracts for the provision of operational services concluded with the NPS participants.

3. In the event that the contract for the provision of operational services provides for the settlement centre to provide customers-participants of the NPS with services for transferring money, provided to the participants of the payment system, the settlement center shall provide customers with the possibility of transferring payment orders to the participant of the payment system using technical means and methods agreed upon by the contract.

Article 15. The Bank of Abkhazia – the processing center of the NPS

1. The Bank of Abkhazia is the processing centre of the NPS.

2. The functions of the processing center are:

1) providing the banks-participants in APRA with processing services for issuing and acquiring;

2) providing the settlement centre with information necessary for making settlements between banks-participants;

3) providing the banks-participants with information on transactions carried out with the use of bank cards and devices of the banks-participants;

4) calculating commissions for inter-institutional transactions and their distribution between the issuer, acquirer and APRA according to the rules of the NPS;

5) providing services to banks-participants for remote servicing of cardholders of banks-participants by the operators of the processing centre.

3. Information received by the Bank of Abkhazia from an APRA participant, while the Bank of Abkhazia performs the functions of a processing centre, cannot be transferred to third parties, including other APRA participants.

4. The processing centre has the right to:

1) give permissions and carry out transactions with the use of electronic payment instruments for organisations – participants in the NPS;

2) suspend transactions on the issuer's bank cards, if the issuer does not comply with the conditions of the contract with the processing organisation.

5. The processing centre shall:

1) provide for the transactions carried out by electronic means of payment, which are issued by the participants in the NPS;

2) stop transactions by electronic payment instruments of a credit institution, if the credit institution loses its license to carry out bank transactions;

3) ensure confidentiality and protect the information about the transactions of participants in the NPS.

6. The processing centre of the Bank of Abkhazia performs the identification and personalisation of electronic means of payment and electronic payment instruments.

7. ATMs and payment terminals, and other electronic payment instruments which are registered in APRA may not be connected to other processing centres.

8. Processing centres of third-party organisations, which provide information support of banking operations, may not perform the personalisation and issue of electronic means of payment and use electronic payment instruments.

9. Third-party organisations have the right to provide information services for the processing of payment and settlement operations for credit organisations on the basis of a contract with APRA.

Chapter 4. Credit institutions – Participants in the Payment System

Article 16. The information of credit institutions – participants in the payment system

1. Credit institutions shall provide their clients with information about the types and conditions of payment services, the amount of commission, dispute settlement procedure, and also other information provided by the law of the Republic of Abkhazia.

2. The information should be provided to be reviewed by the clients before the conclusion of the contract and at any time during working hours at the request of the client.

Article 17. Functions of the issuing bank and the acquiring bank

1. The functions of the issuing bank are the issue of APRA cards and the account management of APRA card holders.

2. The functions of the acquiring bank are the installation and maintenance of terminal devices, which allow to carry out transactions on APRA bank cards, and the account maintenance of trade and service enterprises, where terminal devices of the acquiring bank are installed. The devices allow APRA card holders to pay with their bank cards for goods (works, services), which are provided by trade and service enterprises.

Article 18. Requirements for the activities of credit institutions – participants in the payment system for the transfer of funds

1. Credit institutions with the right to transfer funds on behalf of individuals without opening bank accounts may transfer funds using prepaid electronic means of payment.

2. The transfer of funds with the use of rechargeable means of payment is carried out in accordance with the following conditions:

1) establishing the limit on the funds provided by the individual as prescribed by the normative acts of the Bank of Abkhazia;

2) with mandatory identification of the individual in accordance with the legislation of the Republic of Abkhazia on prevention of legalisation (laundering) of criminal proceeds and financing of terrorism;

3) without interest on cash or payment of fees for the use of funds provided by the individual.

3. Information about the remaining funds, provided by the individual in order to transfer funds, and the amount of funds transferred with the use of rechargeable prepaid electronic means of payment are provided by credit institutions to authorised state bodies and their officials following the procedure and in cases prescribed by the Law of the Republic of Abkhazia "On Banks and Banking Activity" for the purposes of obtaining information which constitutes bank secrecy.

4. Transactions with funds provided by the individual in order to transfer funds with the use of rechargeable prepaid electronic means of payment may be suspended following the procedure and in cases, which are similar to the procedure and cases of suspension of account transactions prescribed by the legislation of the Republic of Abkhazia.

5. Fees may be levied from the funds, provided by the individual in order to transfer funds with the use of rechargeable prepaid electronic means of payment, in cases stipulated by law or a contract.

6. Payment and settlement operations with funds from individuals to third parties may be made only by credit institutions, unless otherwise provided by law.

Article 19. Credit institutions as recipients of funds

1. Credit institutions organise the reception of various payments from the population and for this, they should conclude contracts with legal entities and individual entrepreneurs – clients of the bank who are engaged in the sale of goods, works and services.

2. Funds deposited by electronic payment instruments, in accordance with part 1 of Article 18 of this Law, should be on a separate bank account, which is opened by the credit institution. They must not be used for any purposes other than for the transfer to individuals in whose favour the funds have been received. The credit institution should transfer funds from this account to the settlement account of the recipient (legal entity or individual entrepreneur) not later than in three working days.

3. The funds on the separate bank account cannot be used to pay for the obligations of the credit institution.

4. The credit institution shall provide the Bank of Abkhazia with information on the services, which are provided to accept payments in accordance with the procedure and in the amount established by the normative act of the Bank of Abkhazia.

Article 20. Bank accounts of individuals

Individuals (residents and non-residents) can open bank accounts only with the use of bank cards (except for deposit accounts).

Chapter 5. Supervision and Monitoring of the National Payment System

Article 21. Supervision and monitoring of the activities of participants in the National Payment System

1. For the purposes of this Law, supervision in the NPS signifies the activity of the Bank of Abkhazia which aims to monitor the compliance of participants in the payment system with the requirements of

the Law on the NPS. Normative and legal regulation of bank card circulation and other electronic means of payment, the issuing and acquiring of bank cards is carried out by the Bank of Abkhazia.

2. For the purposes of this Law, monitoring of the NPS signifies the activity of the Bank of Abkhazia to monitor and assess the activity of participants, the organisation and the functioning of the payment system, the use of the payment infrastructure.

3. The main aims of supervision and monitoring of the NPS are to provide an efficient, uninterrupted functioning and development of the NPS, which contribute to the maintenance of stability of the financial system.

4. The following measures can be used as precautionary:

1) bringing to the attention of the authorities of the credit institution – participant in the NPS of the information on the discovered shortcomings (violations);

2) sending to the authorities of the credit institution recommendations for correcting the identified shortcomings and ways to minimise the negative consequences;

3) proposing to the authorities of the credit institution to submit to the Bank of Abkhazia a program of measures aimed at eliminating shortcomings (violations).

5. If the precautionary measures are ineffective, the Bank of Abkhazia sends to the credit institution a demand to eliminate violations with an indication of the time limit for its implementation. If the credit institution does not fulfill this demand, the Bank of Abkhazia may use measures of responsibility for credit institutions, in accordance with the Law of the Republic of Abkhazia of 4 January, 1999, No. 475-c-XIII "On the National Bank of the Republic of Abkhazia (Bank of Abkhazia)".

Chapter 6. The Use of Foreign Electronic Means of Payment and Payment Instruments. Territorial Restrictions on the Distribution of Bank Cards of the National Payment System

Article 22. Conditions for the circulation of foreign electronic means of payment and electronic payment instruments

1. Foreign bank cards and other electronic means of payment may be distributed on the territory of the Republic of Abkhazia on condition that a contract for the acquiring (servicing) in the NPS is concluded between the operator of a foreign payment system and APRA.

2. The use of electronic payment instruments of foreign payment systems is not allowed on the territory of the Republic of Abkhazia.

Article 23. Territorial restrictions on the distribution of bank cards of the national payment system

1. Bank cards of the NPS are used and distributed on the territory of the Republic of Abkhazia.

2. Electronic means of payment, including bank cards of the NPS can be used outside the territory of the Republic of Abkhazia in accordance with rules of the NPS and the contracts concluded by APRA with foreign payment systems.

Chapter 7. Final Provisions

Article 24. This Law's entry into force

This Law will enter into force on December 1, 2011.

Article 25. Final provisions

1. The effect of Article 20 of this Law shall apply to banks which are included in the APRA system.
2. The Bank of Abkhazia shall bring its normative and legal acts in compliance with this Law within three months from the date of its entry into force.

Adopted by the National Assembly –
Parliament of the Republic of Abkhazia
on November 14, 2011

PRESIDENT
OF THE REPUBLIC OF ABKHAZIA

A. ANKVAB

Sukhum

November 24, 2011

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