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The Law on Payment Services: Overview of Rules for Ukrainian Payment Services Market

March 2023

The Law of Ukraine "On Payment Services" (the "**Law**") creating a new legal landscape for the provision of payment services in Ukraine, came into force on 1 August 2022. At the same time, certain provisions of the Law, which mostly relate to open banking, will become effective in 2025.

Considering that not all the necessary secondary legislation was in place when the Law came into force, the National Bank of Ukraine (the "**NBU**") reserved the right to hold payment service providers liable for non-compliance with the requirements of the Law and NBU's regulatory acts starting from the 1st December 2022.

The Law primarily establishes the basic requirements for the operations of payment service providers in Ukraine and determines the general parameters for the provision of the relevant services, while leaving a wide range of issues to the discretion of and separate regulation by the NBU. This alert provides the general overview of provisions of the Law that should be taken into account by providers of payment services in Ukraine.

Innovations of the Law



01 Clear classification of payment services



The Law expressly establishes the categories of payment services, defines the range of providers for each of the categories of payment services, and provides for restrictions on the combination of payment services with other activities.

Thus, the Law divides payment services into financial and non-financial payment services, services that are ancillary to payment services, and limited payment services. Market participants must be authorised by the NBU to provide the relevant payment service.

The Law also expressly provides that certain payment service providers (banks, payment institutions and electronic money institutions) may engage commercial agents for the provision of financial payment services to users and may cooperate with other legal entities in performing certain operational functions related to the provision of payment services.



Differentiation of the authorisation procedure for different payment service providers

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The Law provides:

- a simpler procedure for the authorisation of payment service providers by the state regulator – the appropriate license is obtained following the inclusion of the payment service provider in the Register of Payment Infrastructure;
- a partially simplified procedure for obtaining a license for small payment institutions that meet the restrictions on the maximum amount of payment transactions and other requirements set out by the Law and the NBU;
- the possibility to provide non-financial and limited payment services without having to obtain a license, but subject only to the inclusion of the provider of such services in the Register of Payment Infrastructure;
- the provision of payment services by banks under their existing banking license.

03 Accreditation of international payment institutions and new market participants



International payment institutions are able to operate in Ukraine through branches accredited by the Ukrainian regulator. Such accreditation is effected via the issuance of a license by the NBU and the inclusion of a branch of an international payment institution in the Register of Payment Infrastructure.

Upon the adoption of the Law, such new market participants as postal operators, public and local authorities, payment institutions and electronic money institutions are also able to provide payment services.



04 E-money regime in Ukraine



Not only banks are able to issue electronic money in Ukraine. Other payment service providers specified by the Law (except for payment institutions, providers of non-financial payment services and financial institutions entitled to provide payment services) are able to issue and conduct transactions with electronic money, including opening and servicing electronic wallets (subject to receipt of the relevant license).

In Ukraine, the circulation of electronic money issued outside Ukraine became possible. Users in Ukraine have the right to receive and use electronic money denominated in foreign currency issued by non-resident issuers outside Ukraine (in compliance with Ukrainian currency legislation and in accordance with the procedure for conducting payment transactions with electronic money approved by the NBU).

06 Open banking



The concept of open banking obliges institutions that service client accounts to provide, with the consent of the clients, permanent access to their accounts and financial information to other payment service providers. The introduction of open banking will allow:

- **clients** – to have access to their accounts opened with different payment service providers via one application; and
- **payment service providers** – to offer new services to clients for access to their integrated payment information from different payment service providers in one place, and to have the technological ability to exchange client information in real-time.

The provisions of the Law on open banking will come into force in August 2025.

Opening payment accounts by non-banking institutions

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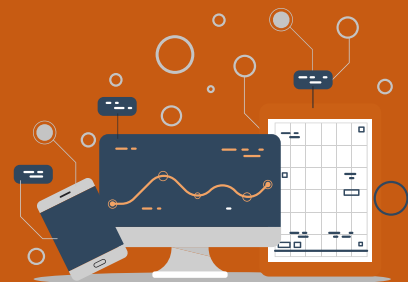
Non-banking payment service providers are entitled to open payment accounts for their clients and to hold funds in such accounts for the time required to perform the payment transaction.

Although payment accounts have a limited regime compared to bank accounts, in addition to performing payment transactions, users are also able to credit funds to a payment account and withdraw cash from such an account.

Regulatory platform for testing innovative solutions (regulatory sandbox)

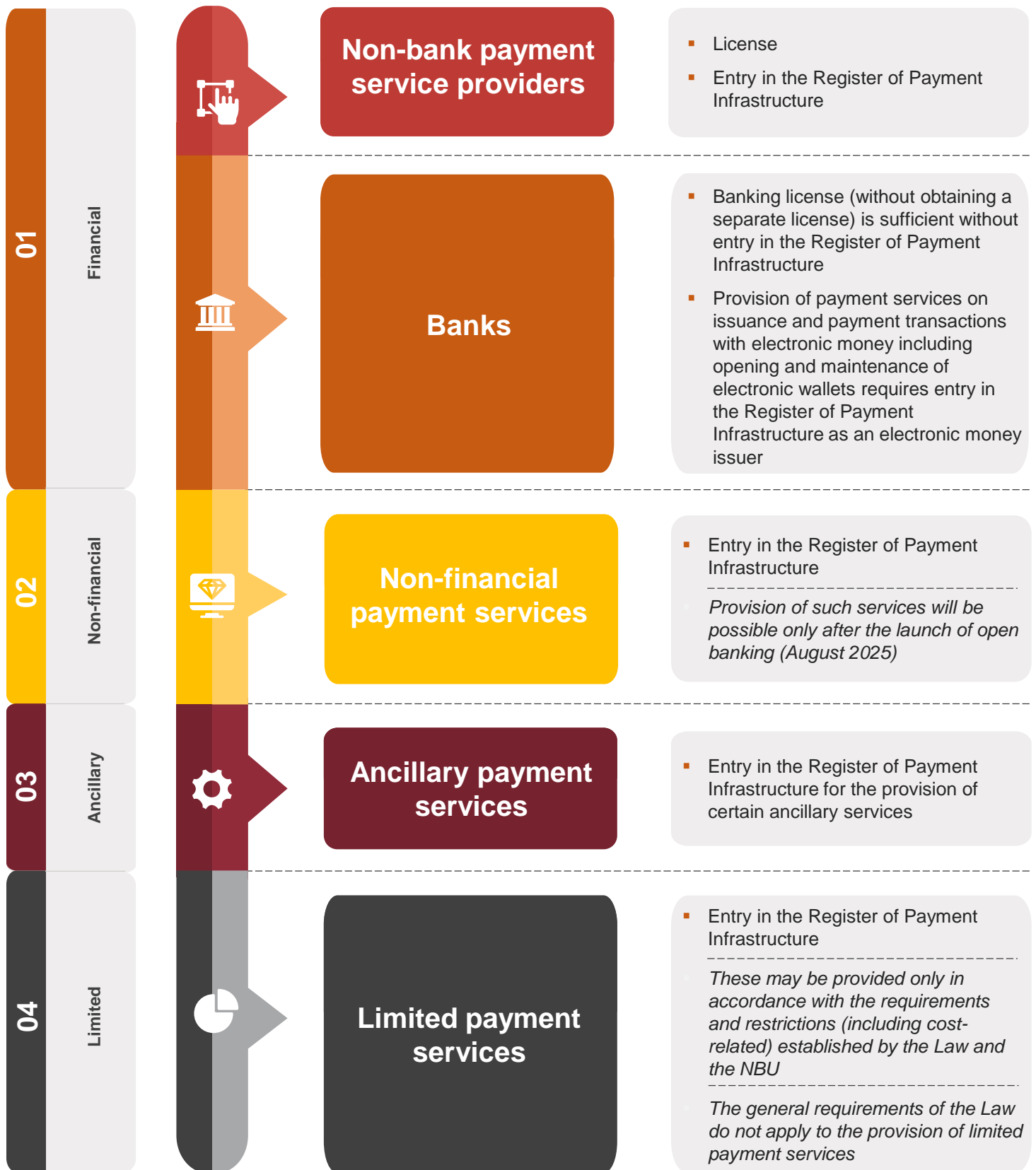
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The NBU will create a regulatory platform where participants can test their new financial products for the Ukrainian market and, after the test period, continue to provide the relevant payment services in Ukraine, subject to authorisation by the NBU. The Law specifies that such authorisation will occur in a simplified manner.



Matrix of payment services in Ukraine

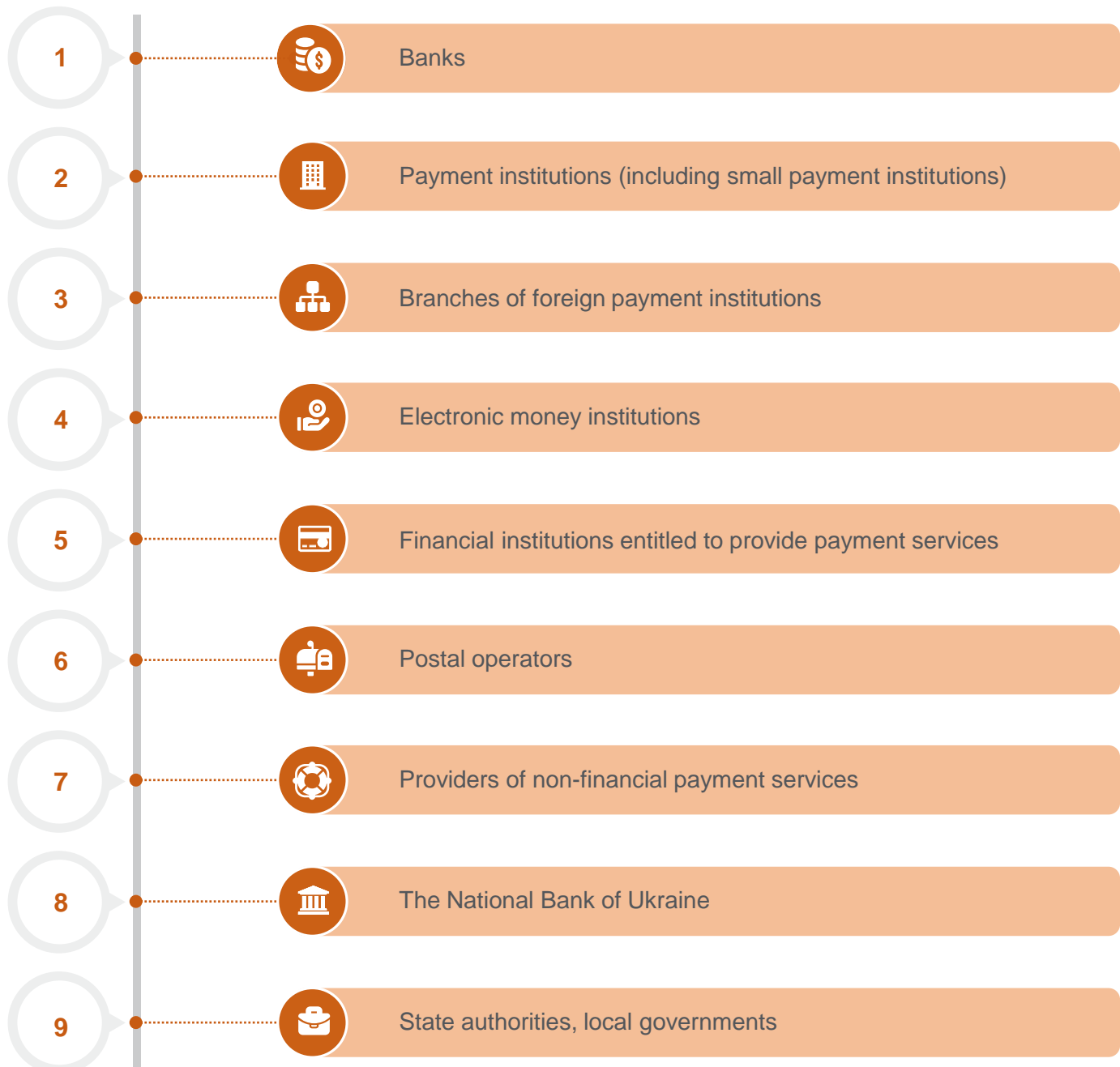






Categories of payment service providers

The Law defines nine categories of payment service providers that can provide payment services in Ukraine, subject to obtaining the appropriate license and inclusion in the Register of Payment Infrastructure (with the exception of banks, for which specific rules apply). Among these are totally new categories for Ukraine's legal framework, such as electronic money institutions and branches of foreign payment institutions.



The Law sets the basic requirements for the ownership structure of payment service providers, the minimum amount of their capital and sources of funds for the formation or increase of their authorised capital. At the same time, a wide range of regulatory issues, including requirements for the sources of funds used to form or increase the authorised capital of payment service providers, is regulated separately in the legal acts of the NBU.

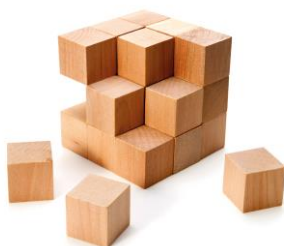
Updated requirements for the provision of payment services to users and information security



- The Law defines the basic requirements for agreements serving as the basis for payment services to be provided to customers and entitles the NBU to set additional requirements for such agreements.
- To enhance the transparency of payment services, the Law provides for the right of users of the relevant services to access all historical versions of public offers on the basis of which payment services are provided and stipulates that any issues of ambiguous interpretation of the rights and obligations of the parties to the payment services agreements should be resolved in favour of customers. In addition, the Law details the list of information that payment service providers are required to provide to customers before and during the provision of the relevant services.
- The Law also focuses on the requirements for payment service providers to ensure information security and, in particular, the safety of users' personal data.

Transition period for existing participants on Ukraine's payment services market

Existing market participants that currently provide payment services in Ukraine should pay special attention to the transitional provisions of the Law and additional requirements set out by the NBU. They set out the steps to be taken by existing payment service providers within a nine-month period after the entry into force of the Law in order to further be able to offer the relevant services to customers in Ukraine. For the most part, it is a matter of providing the NBU with the relevant information, but each case requires a separate analysis depending on the status of the payment service provider.



*For more information,
please contact:*



Illya Muchnyk

Counsel, Firmwide Head of Fintech

+380 44 490 9575
illya.muchnyk@kinstellar.com



Oleksandra Poliakova

Senior Associate

+380 44 490 9575
oleksandra.poliakova@kinstellar.com



Eduard Olentsevych

Associate

+380 44 490 9575
eduard.olentsevych@kinstellar.com