



## **E-PAYMENT DISPUTE ARBITRATION FRAMEWORK**



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- 1) **Introduction (Mandate and Membership of the Sub-Committee)**
- 2) **Definition of Key Terms**
- 3) **Objectives and Scope of the Framework**
- 4) **Criteria for Admitting Complain**
- 5) **E-PAYMENT DISPUTE Liability Shifts**
- 6) **Documents Required for E-PAYMENT DISPUTE Arbitration & Strategy for determining the liable party**
- 7) **Structure of the Panel**
- 8) **Administration of the Panel**
- 9) **Funding**
- 10) **Ways for Making all parties submissive to the Panel**
- 11) **Sanctions and Enforcement**
- 12) **Other Matters**

## **1. INTRODUCTION**

The Sub-Committee on The E-PAYMENT DISPUTE Arbitration Framework was inaugurated by the Central Bank of Nigeria with the following terms of reference:

- ❖ Determine the objectives and scope of the arbitration framework
- ❖ Determine the types of E-PAYMENT DISPUTES that should go to the arbitration panel
- ❖ Develop a comprehensive strategy for enforcing the E-PAYMENT DISPUTE arbitration framework
- ❖ Develop a detailed strategy for the application of liability shifts.
- ❖ Determine the suggested approach to handle or resolve each type of dispute.
- ❖ Determine the documents required to facilitate arbitration for each type of the identified disputes.
- ❖ Determine the different models (structure/composition) and ways of funding the arbitration panel
- ❖ Any other relevant issue that would support the process of E-PAYMENT DISPUTE Arbitration to resolve E-PAYMENT DISPUTE and restore confidence of users.
- ❖ The Sub-Committee members are as follows:
  - **Access Bank**
  - **Ecobank**
  - **FCMB**
  - **First Bank**
  - **UBA**
  - **Zenith Bank**
  - **Interswitch**

- **NIBSS**
- **Digital Encode**
- **Unified Payments**
- **EFCC**
- **Public Complaint Commission**
- **Consumer Protection Council**
- **Central Bank of Nigeria**

## **2. DEFINITION OF TERMS**

- a. Payment Card: Refers to any card that a cardholder can use and a merchant will accept for payment of a purchase or in payment of some obligation.
- b. Cardholder: Customer who owns a Card
- c. Issuer: Bank who issues cards to customers
- d. Acquirer: Bank that owns terminal placed in a merchant location.
- e. POS: Point of Sale
- f. Switch: An organization that switches and routes transactions involving multiple issuers, acquirers, transaction types and card types.
- g. Arbitration: The resolution of disputes outside the courts.
- h. Terminal: Any device that allows cards as a means of transacting.
- i. PTSP: Payment Terminal Service Provider
- j. PTSA: Payment Terminal Service Aggregator
- k. ATM: Automated Teller Machine

- I. A Payment Card is deemed to be reported stolen if cardholder has called in with the Bank Contact Center, written a letter or sent an e-mail to that effect.

### **3. OBJECTIVES AND SCOPE OF THE ARBITRATION FRAMEWORK**

**The Objectives of the Arbitration Framework include:**

- To provide speedy redress to E-PAYMENT DISPUTE complaints without involving the courts
- To define criteria for admitting the complaints
- To facilitate the identification of the entity that is at fault
- To shift the liability against the erring entity
- To provide ways of enforcing the judgement of the arbitration panel

**The E-PAYMENT DISPUTE Arbitration framework shall cover the following:**

- **Untreated complaints:** Which is a complaint involving a Payment Card that a Cardholder has reported to the issuer and which the issuer has not treated after 14 days from the date of receipt of the complaint.
- **Unsatisfied Responses:** Which is any fraud or dispense error involving a Payment Card that a cardholder has reported to the Issuer, and is not satisfied with the Issuer response.

### **4. The criteria for admitting complaints by the E-PAYMENT DISPUTE Arbitration Panel include the following:**

- The Cardholder should make complaint to the issuer within 45 days from the date of the fraud
- Evidence of reporting the complaint to the issuing institution must be provided (email is acceptable). The Central Bank of Nigeria will mandate banks to provide acknowledgement to the customer.

- The cardholder must have reported to the issuer and his/her complaint remains untreated or unresolved after 14 days of making the report.
- The case is not being handled by any other judicial process.

E-PAYMENT DISPUTE eligible for submission to the Arbitration Panel include any disputed “card present” and “card not present” transactions as listed below:

- Payment Card used contrary to the mandate of the cardholder.
- The Cardholder never requested a Payment Card
- The card is counterfeit
- Not Received as Issued
- Unresolved dispensed error
- The transaction occurs on a domestic terminal with a domestic card.
- Any other card related dispute
- Complaints could be forwarded to the arbitration panel by email or downloaded form with a written letter.

## **5. E-PAYMENT DISPUTE LIABILITY SHIFTS**

- a. Where a Cardholder uses a non EMV Payment Card on a non EMV Terminal and a fraud occurs, liability is on the Issuer.
- b. Where a cardholder uses a non EMV Payment Card on an EMV Terminal and fraud occurs, liability is on the Payment Card Issuer
- c. Where a Cardholder uses an EMV Payment Card on a non EMV Terminal and fraud occurs, liability is on the Acquirer

- d. Where a Cardholder uses an EMV Payment Card on an EMV Terminal and fraud occurs, liability is on the Cardholder. However, it is the responsibility of the issuer to prove to the arbitration panel that the Payment Card issued was the Payment Card used and the Payment Card was not reported stolen.
- e. Where a Cardholder uses a hybrid Payment Card on a non EMV Terminal and fraud occurs, liability is on the Acquirer
- f. Where a Cardholder uses a hybrid Payment Card on an EMV Terminal and the Payment Card is treated as magnetic stripe for authorization and fraud occurs, liability is on the Payment Card Issuer
- g. Where a Cardholder uses a hybrid Payment Card on an EMV Terminal and the Payment Card is treated as EMV for authorization and fraud occurs, liability is on the Cardholder. However, it is the responsibility of the issuer to prove to the arbitration panel that the card issued was the card used, and the Issuer did not receive a lost or stolen report for the Payment Card.
- h. A situation where it is determined by the arbitration panel that negligence of the switch through the breach, contravention/non-compliance of industry guidelines, policies and circulars which directly causes or contributes to the fraud, the liability will be on the switch.

## **6. DOCUMENTS REQUIRED FOR E-PAYMENT DISPUTE ARBITRATION**

- General Documents Required for Arbitration irrespective of channels

| DOCUMENTS REQUIRED FOR ARBITRATION   | TO BE PROVIDED BY |
|--|-------------------|
| Signed letter, email backed with the response from the issuer and downloaded forms from the Cardholder.  | CARDHOLDER        |
| Where the bank has not responded to the cardholder, a Signed letter from the Cardholder or email backed with the acknowledgement of the complaint will suffice | CARDHOLDER        |
| Completed Arbitration form indicating that the issue is  | CARDHOLDER        |

|  |                      |
|--|----------------------|
| <b>not being handled by a court or any law enforcement body</b>  |                      |
| <b>Account statement indicating the contested transactions (If available)</b>  | CARDHOLDER           |
| <b>Card request form or any evidence of selecting the channel the card will be used on (Mandate of the customer)</b> | ISSUER or CARDHOLDER |
| <b>Issuing register or form showing where and when customer collected card and PIN</b>                               | ISSUER               |
| <b>Report showing the first PIN change where applicable</b>  | ISSUER               |

**For ATM**

| DOCUMENTS REQUIRED FOR ARBITRATION   | TO BE PROVIDED BY |
|--|-------------------|
| <b>Report showing the contested transactions as valid transactions</b>                     | Acquirer          |
| <b>Report showing the EMV compliance level of the ATM at the time of fraud.</b>            | Acquirer/Switch   |
| <b>Image capture for the transaction</b>   | Acquirer          |
| <b>Report to validate whether it was the actual card issued that was used or otherwise</b> | Issuer            |
| <b>ATM receipts of the transaction where available</b>                                     | CARDHOLDER        |

**For POS**

| DOCUMENTS REQUIRED FOR ARBITRATION  | TO BE PROVIDED BY    |
|---|----------------------|
| <b>Due diligence report on the POS Merchant and Terms of the Agreement setting up the Merchant</b>  | Acquirer             |
| <b>Agreed value limits set with POS Merchant</b>  | Acquirer             |
| <b>Receipt showing the good purchased</b>   | Merchant/Acquirer    |
| <b>Provide evidence of goods purchased /services rendered which must be considered with the average value of goods/services rendered in the normal course of the business</b> | Merchant/Acquirer    |
| <b>Photo Identity where agreed limit is exceeded</b>  | Merchant/Acquirer    |
| <b>Report showing the EMV compliance level of the POS</b>   | Acquirer/Switch/PTSA |
| <b>Report to validate whether it was the initial card issued that was used or otherwise</b>   | Issuer               |

**For Disputed Transactions on Web Payments**

| DOCUMENTS REQUIRED FOR ARBITRATION   | TO BE PROVIDED BY |
|--|-------------------|
| <b>Due diligence report on the WEB Merchant and Terms of the Agreement setting up the Merchant</b> | Switch/Acquirer   |
| <b>Document showing integrity checks carried out on the site</b>                                   | Switch/Acquirer   |
| <b>Report to validate whether it was the initial card</b>  | Issuer/Switch     |

|  |                 |
|--|-----------------|
| <b>issued that was used or otherwise</b>   |                 |
| <b>Report showing the compliance level of the Site (e.g. CVV, Token)</b>                                     | Issuer/Switch   |
| <b>Agreement on set limits and line of Business of the Merchant if not covered under due diligence above</b> | Switch/Acquirer |
| <b>Receipt of purchase</b>   | Cardholder      |

**FOR DISPUTED TRANSACTIONS ON MOBILE PAYMENTS**

| DOCUMENTS REQUIRED FOR ARBITRATION   | TO BE PROVIDED BY                      |
|--|--|
| Document showing integrity checks carried out on the platform  | Switch/Mobile Payment Operator         |
| Agreement with various stakeholders as it relates to provision and subscription to services in connection with mobile payments | Switch/Mobile Payment Operator /Issuer |
| Account Mandate card showing the Phone number used in line with the account mandate  | Mobile Payment Operator/Bank           |
| Report showing that transactions occurred with registered phone  | Mobile Payment Operator                |

**For Cardless ATM Transactions**

| DOCUMENTS REQUIRED FOR ARBITRATION   | TO BE PROVIDED BY      |
|--|------------------------|
| Document showing integrity checks carried out on the platform  | Switch/Acquirer/Issuer |
| Report showing the EMV compliance level of the Platform (e.g. CVV, Token, any other 2nd level)             | Switch/Acquirer/Issuer |
| Report showing the code used is tied to the initiating card  | Switch                 |
| Journal Report showing that Cash was collected   | Acquirer               |
| Image capture for the transaction  | Acquirer               |
| Report to validate whether it was the initial card issued that was used or otherwise to initiate the code. | Issuer                 |

## **7. ADMINISTRATION OF THE ARBITRATION PANEL**

- a. The Arbitration Panel should have a secretariat to be located at the Consumer Protection Council Office in Lagos.

- b. The Panel shall meet at least once in a month depending on the volume of cases reported
- c. Documentary evidence required by the Panel shall be provided within 5 days, failing which it will be assumed that the party could not provide the document. Failure to provide the requested document may count against the defaulting party in the process of award of judgement.
- d. The Panel shall award judgement on the reported complaints within 45 days from the date of receipt of the complaint.
- There shall be no representation of parties at the sittings of the Panel except on invitation by the Panel
- The E-PAYMENT DISPUTE Arbitration Framework should be applicable to E-PAYMENT DISPUTE cases that occur from date of publication.

❖ **ESTIMATED ANNUAL COST FOR THE COMMITTEE:**

|  | =N=                  |
|--|----------------------|
| ▪ Annual Cost of Courier (N75,000 per month *12)           | 900,000              |
| ▪ Annual Cost of Flight (N60,000 *10members *12)           | 7,200,000            |
| ▪ Sitting Allowance ( N30,000 *10members*12)               | 3,600,000            |
| ▪ Accommodation/dinner for 1night (N30,000*10*12)          | 3,600,000            |
| ▪ Lunch During Meetings (N2,250*10*12)                     | 270,000              |
| ▪ Other Cost that would be required in running secretariat | <u>3,000,000</u>     |
| <b>Total</b>   | <b>=N=18,570,000</b> |

## **8. FUNDING**

The E-PAYMENT DISPUTE Arbitration Panel should be funded as follows:

- All the Deposit Money Banks who had signed into the Arbitration Framework would be expected to pay annual contribution of **=N=750,000** irrespective of volume of transactions
- All companies operating as switches in Nigeria would pay an annual fee of **=N=350,000**
- All PTSPs would pay **=N=25,000** annually
- All Card Schemes in the country would pay **=N=250,000**
- There should be **a grant** from the CBN for the take-off of the Arbitration Panel.

## **9. STRUCTURE OF THE ARBITRATION PANEL**

The membership of the Arbitration Panel should not be more than nine (9) persons which will include the following:

- A lawyer engaged in private practice with at least 10 years post NYSC experiences with proof of specialization in e002Dbanking.
- A Banker with at least 10 years banking experience and must have worked in a Card and E-banking Department either as an Operator or Controller. He may or may not be in the service of any Bank at the time of appointment. A Chartered Banker is preferable.
- A representative of EFCC/NFIU with knowledge of e-banking investigation.
- Two representatives of the Customer related agencies like CPC and PCC. (Lawyers may be preferred here)
- A representative of the Risk Department of the Deposit Money Banks involved in the monitoring of Card and E-banking Operation

or investigation, provided that the member's bank is not involved in the case under consideration.

- A representative of Card Operation Department of the Deposit Money Banks provided that the member's bank is not involved in the case under consideration.
- A representative each of the Switching Companies who is involved in the following operations;
  - Risk Management
  - Operations
- A representative of Central Bank of Nigeria.

In addition to the above members, there should be a Registrar to the Panel who must be a staff of the Central Bank of Nigeria.

- The Central Bank of Nigeria should appoint the Chairperson of the Panel from among the Panel members while the Panel members should appoint the Vice Chairperson.
- Members should serve in this committee for not more than 2 years(renewable for second term) after which the Central Bank of Nigeria will replace them unless where they change their job or the body they represents decides to withdraw their services.
- Any 5 of the above members including the Registrar should form the quorum to start the business of the day.
- At any particular sitting, there must be a member with vast knowledge on card operations.
- The members of the Panel should be on non-permanent basis and hence should not earn salary for now but may earn only sitting allowances as may be approved by the Central Bank of Nigeria.

## **10. WAYS FOR MAKING ALL PARTIES SUBMISSIVE TO THE PANEL**

### **FOR CARDHOLDER:**

- The cardholder must sign application form for card issuance which should contain a clause which states that in the event of any disagreement between the cardholder and the bank or the issuer, the matter will be referred to the CBN E-PAYMENT DISPUTE Arbitration Panel
- Existing cardholders should be given a timeline within which to obtain the application form with the new clause and sign for updating their records
- The CBN should issue a circular to banks for complying with the two points above.

### **For Banks, Switches, Acquirers (IADs and merchants):**

- The CBN should issue a circular notifying bank, switches, issuers, Mobile Payment Operators, Card Schemes and Acquirers that the E-PAYMENT DISPUTE Arbitration Framework and the E-PAYMENT DISPUTE Arbitration Panel exist and all unresolved E-PAYMENT DISPUTES must be referred to the Panel based on the criteria set in the framework.

## **11. SANCTIONS AND ENFORCEMENT**

- a. Every decision given by the arbitration panel should be final in all cases of card related fraud till a court of competent jurisdiction rules otherwise.
- b. The Registrar should pass decisions taken by the panel to the CBN for implementation within 3 working days.
- c. The Panel should refer consistently erring parties to the CBN for administrative sanction.

## **12. OTHER MATTERS**

### **LOST/STOLEN CARD**

- Where there is a fraud on a customer's Payment Card due to reason of loss or theft and the customer has failed to notify the issuing Bank liability will be borne by the customer

### **TRAPPED CARD**

- Liability arising in the case where a card is trapped in an ATM is to be borne by the **Acquirer** for card present transactions whilst the card is trapped.
- Whenever Card Not Present transactions (CNP) occur while an ATM has trapped a Payment Card, it becomes the liability of the **Cardholder**. Where the acquirer notifies the issuer for the Payment Card to be hot listed the liability shifts to the **Issuer**.
- In this regard, efficient processes should be put in place with logs to trace the negligent party. The Central Bank of Nigeria will mandate the acquirer to move the trapped card to the closest branch of the Issuing Bank/Institution within 2 working days.
- All ATM acquirers are to display the contact numbers of all acquiring banks beside their ATMs

### **POS**

- No POS reversal should be initiated from the POS or by the Merchant after the consummation of the transaction, however all reversal of POS transaction should be through the recommended dispute or charge process for each card scheme.
- There shall be no cash advance except where it is done inside the bank premises or through licensed merchants.
- There shall be no offline transactions/authorizations. All transactions must be sent upstream to the issuer for authorization.
- SIM and SAM cards must be registered with NCC

## WEB

- There must be standardized integration parameters of every web merchant and payment gateway
- All web merchants are to register their host IP(DNS) providers with Nigeria Internet Registry Authority (NIRA)
- XML traces logs to be kept by web merchants & payment for 10 years

## MOBILE

- Only registered SIM cards will be allowed to be enrolled for mobile banking/payment
- Multi-factor authentication is required for card not present transactions.

## OTHERS

- Customer should be mandated by the Issuer to change their PIN as soon as they pick-up their Payment Card
- Where a customer fails to change PIN after 7days the Issuing Bank is mandated to place a hold on the Payment Card
- Where there is a fraud on the Payment Card before the 7<sup>th</sup> day card after the Payment Card was issued, liability will be borne by the cardholder
- Any fraud on the Payment Card after the 7<sup>th</sup> day of issuing the Payment Card to the cardholder liability will be borne by the issuer
- Collection of card and PIN by customers should be done in the Banking premises
- Liability of E-PAYMENT DISPUTE resulting from operational lapses from the issuing bank will be borne by the issuing bank.
- **TRANSACTION ALERT IS MANDATORY ON ALL TRANSACTIONS**

- This E-PAYMENT DISPUTE document will be reviewed periodically by the E-PAYMENT DISPUTE Arbitration Panel.
- Any stakeholder can initiate a review.
- E-PAYMENT DISPUTE Arbitration Framework will be applicable for transactions initiated, switched and completed by Companies/Institutions registered in Nigeria.
- Any dispute outside the scope of this document would be treated in line with International Card Scheme dispute resolution.

EXPOSURE