

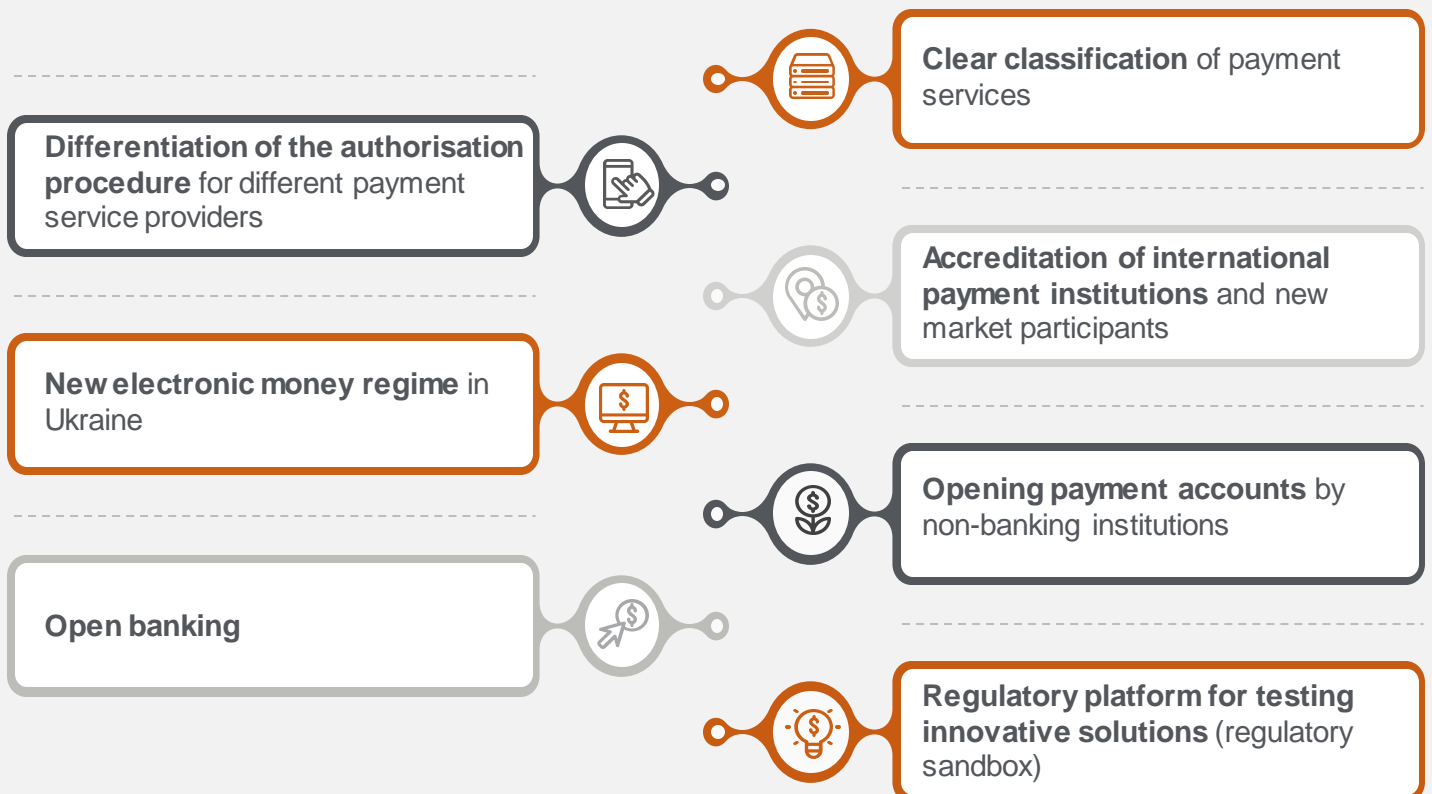
New law on payment services will change the rules of the game for payment services in Ukraine

At the end of June 2021, the Ukrainian parliament adopted the Law of Ukraine "On Payment Services" (the "**Law**"), which aims to modernise the payment infrastructure in Ukraine, make the payment services market more transparent and open to new players, expand the range of payment solutions, and improve the quality of payment services. With the exception of certain provisions, the Law enters into force on 1 August 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 further regulation by the state regulator, i.e., the National Bank of Ukraine (the "**NBU**").

It will therefore take time and will require appropriate subordinate legislation in order to see the full potential of the new Law in operation. However, it is already worth paying attention to some of its individual provisions, which will significantly change the landscape of the Ukrainian payment services market.

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:

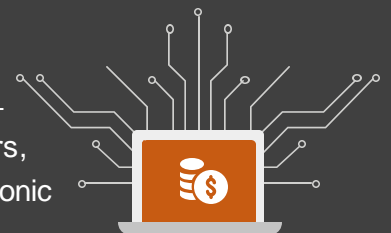
- a simpler procedure for the authorisation of payment service providers by the state regulator – the appropriate license is obtained following the inclusion of the payment service provider in the Register of Payment Infrastructure;
- a simplified procedure for obtaining a license for small payment institutions that meet the restrictions on the maximum amount of payment transactions. This procedure will be determined by 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 will be able to operate in Ukraine through branches accredited by the Ukrainian regulator. Such accreditation will be 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 authorities and local government bodies, payment institutions and electronic money institutions will also be able to provide payment services.



04 New electronic money regime in Ukraine



Not only banks will be able to issue electronic money in Ukraine. Other payment service providers specified by the Law (except for providers of non-financial payment services and financial institutions entitled to provide payment services) will be 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 will become possible. Users in Ukraine will 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 to be 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.

05 Opening payment accounts by non-banking institutions

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

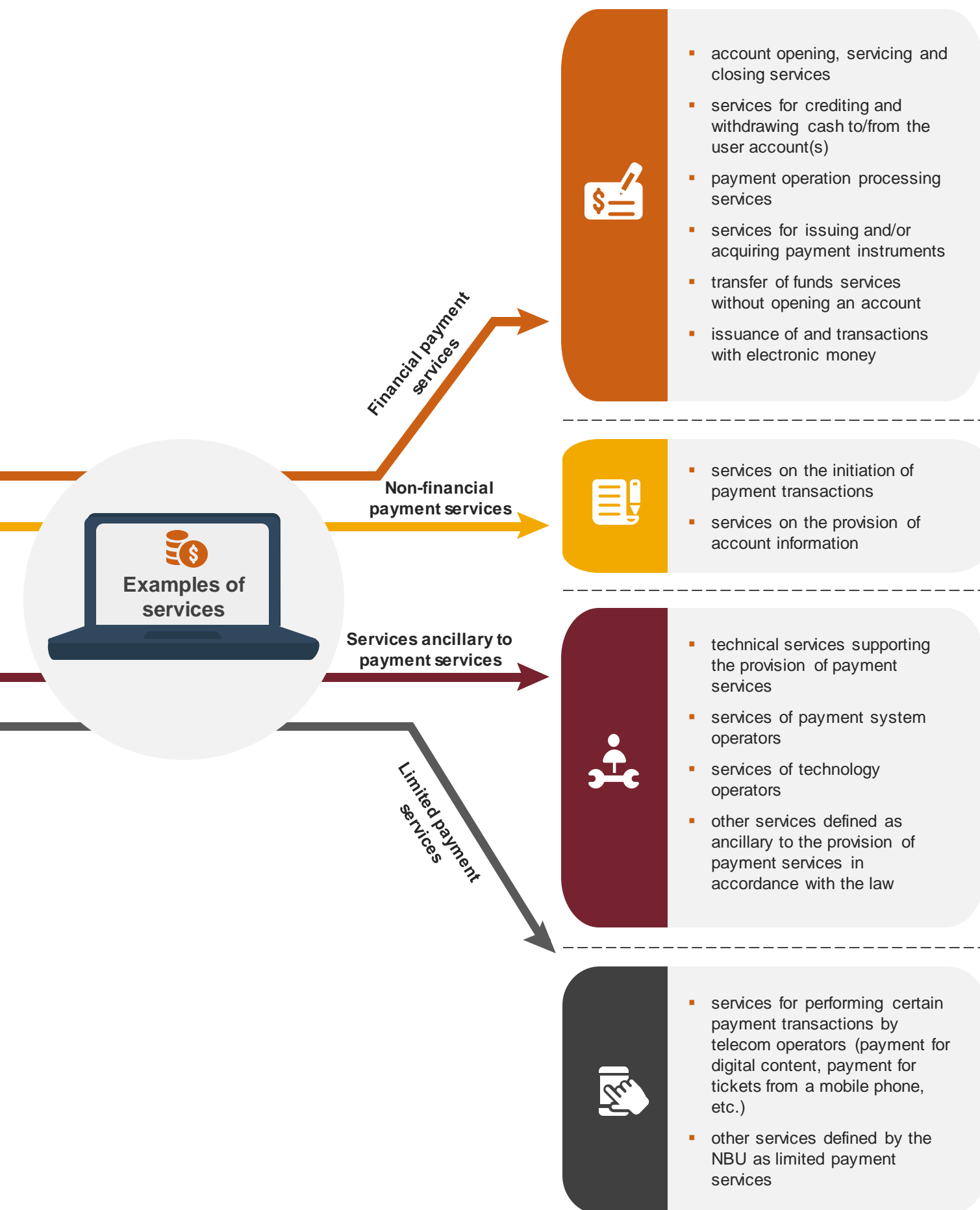
Although payment accounts will have a limited regime compared to bank accounts, in addition to performing payment transactions, users will also be able to credit funds to a payment account and withdraw cash from such an account.

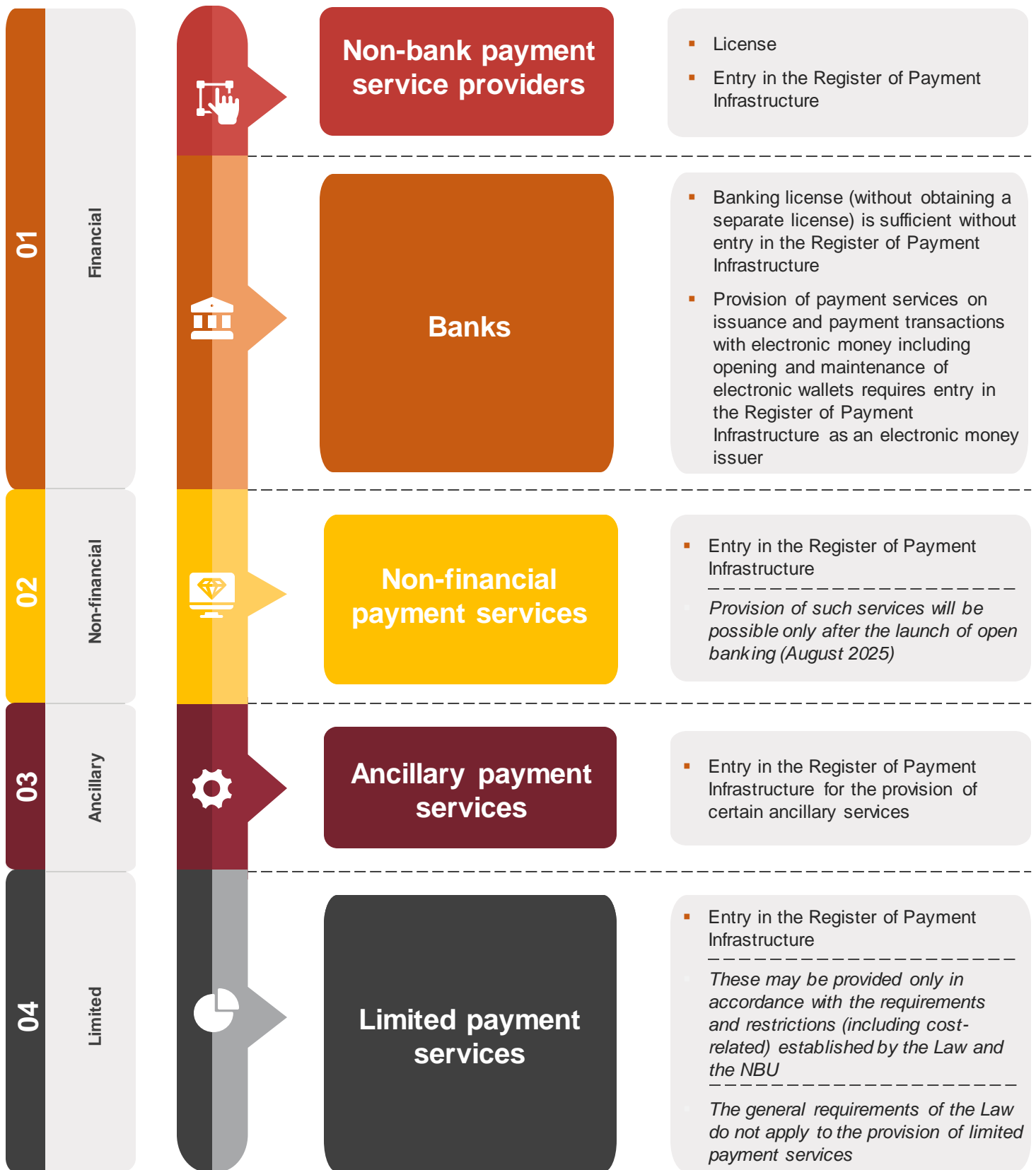
07 Regulatory platform for testing innovative solutions (regulatory sandbox)

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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.



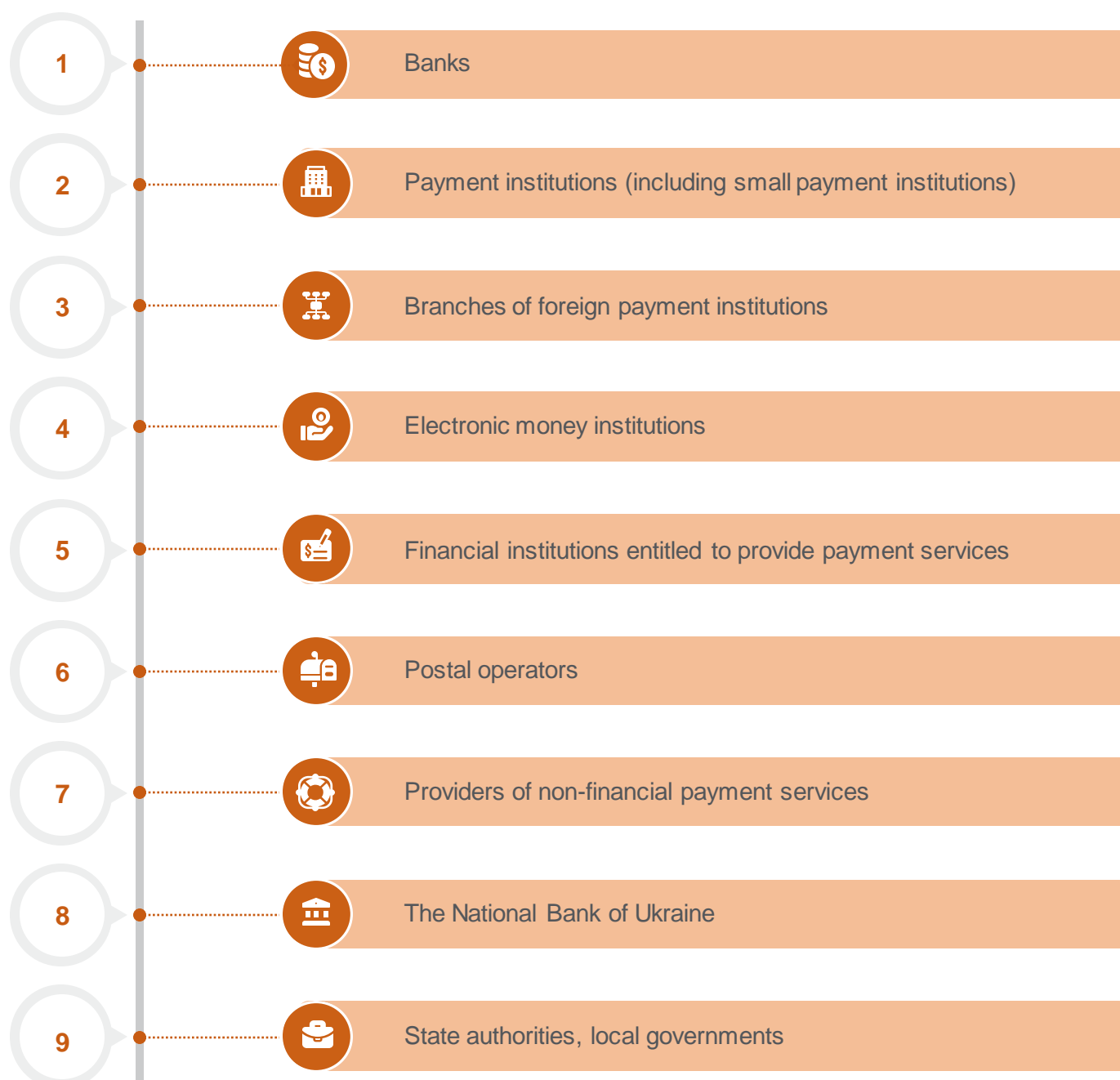






New categories of payment service providers

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.



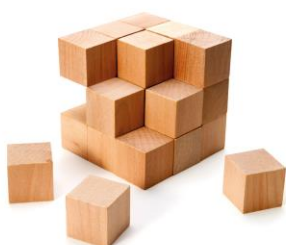
The Law sets the basic requirements for the ownership structure of payment service providers, the minimum amount of their capital and sources of funds for the formation or increase of their authorised capital. At the same time, a wide range of regulatory issues, including requirements for the sources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



- 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 and plan to continue their activities after the Law enters into force should pay special attention to the transitional provisions of the Law. They set out the steps to be taken by existing payment service providers within a six-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.



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