



BANK ĊENTRALI TA' MALTA
EUROSISTEMA
CENTRAL BANK OF MALTA

CENTRAL BANK OF MALTA

DIRECTIVE NO 19

in terms of the

CENTRAL BANK OF MALTA ACT
(Cap. 204)

ON THE USE OF CHEQUES AND BANK DRAFTS

Ref: CBM/19

**DIRECTIVE NO 19
ON THE USE OF CHEQUES AND BANK DRAFTS**

Issued on 7 July 2021

OBJECTIVE OF THE DIRECTIVE

1. In terms of article 34A(5) of the [Central Bank of Malta Act](#) (*Cap. 204 of the Laws of Malta*) (hereinafter referred to as “the Act”), the Central Bank of Malta (hereinafter referred to as “the Bank”) is empowered to issue directives in respect of, *inter alia*, the provision and use of payments services.
2. Within the Bank’s objective to promote the stable and sustainable development and provision of the payments landscape in Malta, as set out in article 34A(1) of the Act, this Directive seeks to ensure the safe and effective use of cheques and bank drafts, hereinafter also collectively referred to as ‘paper-based instruments’, by reducing the legal and operational risks associated with these payment instruments.

SUBJECT MATTER

3. This Directive lays down rules for the safe and effective use of cheques and bank drafts, where the payer, payee and the regulated institutions servicing the paper-based instruments are all located in Malta.
4. This Directive also lays down the responsibilities of the parties involved in the processing of paper-based instruments, ensuring that proper records of the parties involved and of the actions undertaken are retained.

SCOPE

5. This Directive shall apply to the following payment service providers:
 - (a) credit institutions licensed in terms of the [Banking Act](#) (*Cap. 371 of the Laws of Malta*), and agents and branches in Malta of credit institutions which are passporting their services in Malta;
 - (b) financial institutions licensed in terms of the [Financial Institutions Act](#) (*Cap. 376 of the Laws of Malta*), and agents and branches in Malta of financial institutions which are passporting their services in Malta;
 - (c) post office giro institutions which are entitled under Maltese law to provide payment services;
 - (d) the Bank when not acting in its capacity as monetary or public authority.
6. This Directive shall also apply to all natural or legal persons making use of paper-based instruments, without distinction.

DEFINITIONS

7. For the purposes of this Directive, the following definitions apply:
- i. ‘Bank draft’ means a cheque drawn by a licensed credit or financial institution, on itself or on another drawee institution;
 - ii. ‘Cheque’ means a signed, written or printed instrument issued by a drawer, ordering a drawee licensed credit or financial institution to pay, on demand, a specific sum of money from an account held with it according to the terms specified on the instrument;
 - iii. ‘Drawee institution’ means a licensed credit or financial institution authorised to pay a specific sum of money by a drawer according to the terms specified on the paper-based instrument;
 - iv. ‘Drawer’ or ‘payer’ means a natural or legal person who orders a drawee institution to withdraw money from an account to pay a named natural or legal person, also referred to as the payee, a specific sum according to the terms specified on the paper-based instrument;
 - v. ‘Endorsement’ means the signature placed on the back of the paper-based instrument authenticating the payee making use of the instrument where the payee is a natural person;
 - vi. ‘Only’ means that the specific sum of money ordered to be paid according to the terms of a cheque or a bank draft is strictly payable to the payee named by the drawer on the paper-based instrument;
 - vii. ‘Paper-based instrument’ or ‘instrument’ means either a cheque or a bank draft. For the purpose of this Directive ‘paper-based instrument’ or ‘instrument’ shall not include money orders governed by the Universal Postal Union, as well as the [Postal Services \(General\) Regulations](#) (S.L. 254.01);
 - viii. ‘Payee’ means a natural or legal person named by the drawer on the paper-based instrument who is to receive a specific sum of money according to the terms of the instrument;
 - ix. ‘Payer institution’ means any licensed credit or financial institution, which may not necessarily be the drawee institution, authorised to pay a specific sum of money to a named payee according to the terms specified on the paper-based instrument;
 - x. ‘Payment service provider’ means an institution listed in paragraph 5 of this Directive;
 - xi. ‘Payment service user’ means a natural or legal person making use of a paper-based instrument in the capacity of drawer/payer or payee, or both.

For the purposes of this Directive, unless otherwise provided or made clear from the context, terms used in this Directive shall have the same meaning as is assigned to them under the Act.

GENERAL RULES

8. Cheques and bank drafts issued in Malta shall clearly specify the sum to be paid and shall be made payable to a payee, and authenticated by the drawer. Such paper-based instruments shall be dated on the day they are issued. The drawee institution or payer institution, however, should negotiate any post-dated paper-based instruments upon presentation. Subject to paragraph 9 of this Directive, an instrument shall also bear on its face the word “Only”, and shall only be negotiable by a payment service provider.

9. Where an instrument bears on its face the words “Or Order”, the instrument shall only be negotiable by a payment service provider and may only be payable to the payee named by the drawer on the instrument. Credit and financial institutions shall discontinue the issuance of “Or Order” paper-based instruments as from the date of entry into force of this Directive.
10. (i) The drawer is obliged to provide all the following information on the paper-based instrument:
- The date of issue;
 - The payee;
 - The payable amount in words and figures which shall agree; and
 - The signature of the drawer or the authentication as agreed between the drawee institution and the drawer.
- (ii) A drawer can issue an instrument only for amounts exceeding twenty euro (€20).
11. Paper-based instruments payable to natural persons shall only be paid in cash if the payable amount does not exceed five thousand euro (€5,000). Paper-based instruments in excess of five thousand euro (€5,000) shall be deposited in the payee’s account. The drawee institution may decline to pay in cash cheques issued by a drawer over a very short period of time to the same beneficiary, if the institution considers the cheques to form part of the same obligation of the drawer with that beneficiary. Where the payee does not hold an account with the drawee institution, the drawee institution shall only be obliged to pay paper-based instruments up to this limit.
12. Subject to paragraph 11 of this Directive, where the payee is a natural person, the payee shall receive payment according to the terms of the paper-based instrument after endorsing it and presenting it to a drawee institution or payer institution for negotiation. The drawee institution or payer institution which negotiates the instrument is obliged to authenticate the identity of the payee through a valid publicly issued identification document. The date when the drawee institution or payer institution provided its service shall be recorded on the paper-based instrument, along with a reference to the payee’s officially issued identification document.
- The drawee institution or payer institution shall not pay in cash, instruments payable to legal persons. Where the payee is a legal person, instruments shall only be deposited in the payee’s account. The date when the drawee institution or payer institution provided such service shall be recorded on the paper-based instrument.
13. The drawee institution or payer institution negotiating the instrument shall ensure that the cash or deposit is only tendered to, or is only credited to the account of, the named payee, as the case may be.
14. A payer institution is under no obligation to negotiate a paper-based instrument for a payee who does not hold an account with it.
15. The drawee institution is obliged to authenticate the instructions of the drawer on the instrument before effecting payment.
16. Paper-based instruments are valid for six (6) calendar months from the date of issue.
17. The institutions listed in paragraph 5 of this Directive shall ensure that all information relating to a paper-based instrument is retained through electronic or physical means for a period of at least five (5) years from the date when the service is provided.

18. The drawee institution shall discontinue providing cheque issuance facilities to drawers for these instruments if, during the preceding twelve (12) calendar months, six (6) instruments presented to it for settlement could not be paid out either due to lack of funds, or due to not being in line with the requirements of paragraph 10 of this Directive. The suspension of cheque issuance facilities should remain effective for a period of at least twenty-four (24) months from the date when it becomes effective.

PENALTIES

19. (1) Where a payment service provider contravenes or fails to comply with a requirement contained in this Directive, the Bank may impose an administrative penalty in accordance with article 56 of the Act.

(2) Any administrative penalties imposed on payment service providers in accordance with the preceding sub-paragraph and in line with provisions laid down in CBM Directive No.12 on 'Administrative Measures and Penalties for Infringements under the Act', shall be effective, proportionate, and dissuasive.

(3) The Bank may make public any administrative penalty that is imposed against a payment service provider in failing to comply with a requirement under this Directive.

20. (1) Where a payment service user contravenes or fails to comply with a requirement contained in this Directive, the Bank may impose an administrative penalty in accordance with article 56 of the Act.

(2) Any administrative penalties imposed on a payment service user in accordance with the preceding sub-paragraph and in line with provisions laid down in CBM Directive No.12 on 'Administrative Measures and Penalties for Infringements under the Act', shall not exceed two hundred euro (€200) for each paper-based instrument issued, negotiated, deposited, or encashed in contravention of the requirements of this Directive.

Provided that if two or more payment service users are co-responsible for the contravention, the Bank may mete out a penalty to all users for the same contravention.

DISPUTE RESOLUTION

21. (1) Any complaints or disputes relating to an alleged infringement of this Directive by a payment service provider may be submitted by:

- a) a payment service user, being an eligible customer in terms of the Arbitrator for Financial Services Act;
- b) a payment service user, not being an eligible customer in terms of the Arbitrator for Financial Services Act; and
- c) other interested parties, including consumer associations.

(2) Complaints or disputes falling within the meaning of paragraph 22(1)(a) shall be directed to the Office of the Arbitrator.

(3) Complaints falling within the meaning of paragraph 22(1)(b) and (c) shall be directed to the Bank.

(4) The Bank shall assist the Office of the Arbiter to cooperate effectively with other relevant authorities for the resolution of disputes concerning the rights and obligations arising under this Directive.

FINAL PROVISIONS

22. This Directive shall enter into force on the 1 January 2022.