

MALTA CLEARING HOUSE

RULES AND REGULATIONS

December 2020

Version 2.0

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1.0 DEFINITION

- 1.1** The Malta Clearing House (MCH) is a formal agreement between the Central Bank of Malta, Credit Institutions licensed under the Banking Act, and Financial Institutions licensed under the Financial Institutions Act that provide clearing arrangements to cater for low value payments in the agreed currencies in Malta.
- 1.2** The MCH provides:
- (i) Clearing Facilities for paper based instruments (cheques) to enable participants to exchange and clear cheques as smoothly as possible.
 - (ii) Clearing Facilities for non-paper based instruments - Direct Debits, Direct Credits, Standing Orders and ATM transactions in the currencies specified for each product.
- 1.3** The rules, procedures, and contracts related to the MCH's operation are enforceable in all relevant jurisdictions. In particular, an FMI should have a high degree of certainty that such actions taken under such rules and procedures will not be voided, reversed, or subject to stays.

2.0 ADMINISTRATION

The business of the MCH shall be managed by a Committee, made up of one nominated representative (member) from each participating institution and chaired by the Central Bank of Malta as operator. The member can be assisted by experts whenever required.

- 2.1** RuThe Committee will meet every quarter. Any member of the Committee can propose items for the agenda of a meeting by advising the Chairman with details of the proposals at least five working days prior to the meeting of the Committee. The Chairman will forward all details to the other members at least four working days before the meeting.
- 2.2** A meeting shall be called at any time on the request of any member, specifying the business to be discussed, provided three days' notice is given. However, an urgent meeting addressing an issue can still be called subject to a 24-hour notice being given.
- 2.3** Members of the Committee shall be appointed for a period of two years, and may be re-appointed.
- 2.4** The Committee is responsible for the Rules and Regulations of the MCH (regulations) and may amend them from time to time.
- 2.5** The Committee is responsible for arbitrating on all disputes between the participating institutions arising out of their participation in the MCH. Disputing participating institutions will be automatically excluded from voting. The decisions taken by the arbitrating arrangements shall be binding on all parties concerned as indicated by the decision.

- 2.6** Decisions, which change these regulations, will need two-thirds of the votes of members eligible to vote, which participating institutions voting in favour should at least represent 50% of the volume of cheques presented. Members have equal voting rights. Should a matter raised during one meeting require further analysis by one or more members, voting on the specific proposal can be taken during the next meeting. For the purpose of this clause, the clearing volume is calculated at the end of each calendar year.
- 2.7** Each cheque issuing member shall have one vote and the Chairman, who is appointed by the Central Bank of Malta, shall have a casting vote.
- 2.8** The Committee can nominate working groups to address specific technical issues of interest to the operation or development of the MCH. Each member shall have the right to nominate technical representatives to such working groups.

3.0 PARTICIPATING INSTITUTIONS

- 3.1** Any credit or financial institution licensed to provide payment services is eligible for direct participation. It will be admitted as a direct participant of the MCH provided that:
- a) the institution has settlement facilities as required by this Agreement or settlement facilities as required for settlement for the respective instrument.
 - b) it is an institution licensed to provide payment services in a scheduled state as per **Appendix A**.
 - c) it has business contingency arrangements in place to achieve the minimum service level requirements stipulated for the specific instrument. These measures can include service agreements between members that will provide services in case of contingency.
- 3.2** Any credit or financial institution licensed to provide payment services is also eligible for indirect participation. An institution is eligible for indirect participation provided that:
- a) it has a contractual agreement for settlement purposes with a direct participant of the MCH .
 - b) the direct participant will assume all responsibility for the purpose of this Agreement on behalf of the sponsored indirect participant, including representation on the MCH Committee.
 - c) it is an institution licensed to provide payment services in a scheduled state as per **Appendix A**.
 - d) it has business contingency measures in place to achieve the minimum service level requirements stipulated for the specific instrument. These measures can

include service agreements between members that will provide services in case of contingency.

3.3 Application for access to this system does not in any way imply automatic right of access to any system required for settlement of claims arising under this agreement. However, a participating institution can opt out from the clearing of particular instruments or specific currencies by indicating clearly to the operator and other participating institutions of its decision.

3.4 A new application by an institution to participate in the clearing under this section will be processed within a maximum six months in the case of a cheque issuing institution, and two months in the case of a non-cheque issuing institution from the initial date of application. The application attracts any out-of-pocket expenses incurred by the existing participating institutions to accommodate the new institution. The prospective institution has the right to request an estimate from the Chairperson of the MCH for the total costs involved. This request has to be entertained within 40 working days, if the applicant is a cheque issuing institution, and within 20 days, if the applicant's business scope is the clearing of cheques received on behalf of its customers and drawn on the other MCH participants. If an existing non-issuing member opts to issue cheques, then the 40 working days will apply from the date of notification, and the same procedures for new applicants will apply. A new application will be processed as described in **Appendix P**.

4.0 CLEARING OF CHEQUES AND BANK DRAFTS

4.1 Scope

The instruments to be cleared shall be cheques and bank drafts denominated in Euro drawn on direct or indirect participating institutions of the MCH. The currency symbol to be used on cheques and bank drafts is Euro, Eur or €.

4.2 Operating Days

The exchange of physical cheques will take place between Monday and Friday on all days except national, public or banking holidays. The settlement of funds will take place on TARGET2 operating days. Special clearing for same day value is allowed between Monday and Friday, subject to a limit of minimum Euro 250,000.

Representatives from each participating institution shall meet at the Central Bank of Malta, St James Counterguard, in order to exchange cheques at 07.00 hours between Monday and Friday. To mitigate the risk of wrongly exchanged parcels between the MCH members an acknowledgement form, as per Appendix Q, will be prepared by the negotiating institution and signed by the representative of the receiving institution, as a receipt of the parcels received. Moreover, each MCH member should clearly indicate on each parcel who is the sender and who will be the receiver.

To ensure time efficiency, representatives are obliged to wait for a maximum period of 15 minutes. Any participating institution failing this time frame would be obliged

to deliver and collect cheques from the other participating institutions on the same working day by 11.00 am cut-off time.

Participating institutions which are open for business on Saturday may exchange the previous day's cheques on the same Saturday directly between themselves, at the contingency location. These institutions may collect the previous day's cheques from those participants not operating on Saturdays. To this effect they are to enter in bilateral agreements with the non-Saturday working participating institutions, which would like to provide cheques for this purpose.

Cheques should be individually pre-packed for each of the other participating institutions in a sealed envelope or container. Every package should be clearly marked (e.g. 1/1 or 1/2 and 2/2).

In case of any disruption of service, out-clearing cheques and data files should be delivered by 11.00 am. The participating institution presenting the cheques late should however allow for at most an extra working day for the return of cheques by participating institutions, which receive presentations after 9.00 am. In such circumstances, participating institutions should in any case endeavour to accommodate a shorter timetable on a best effort basis. Should it not be possible to meet the 11.00 am cut-off time, cheques and data files will be presented with the next day's clearing.

Wrongly listed cheques will be investigated and entertained up to a maximum of five years after the initial erroneous presentation.

Electronic data files are to be formatted as per **Appendix B** and delivered between participating institutions in a secure manner by means of the agreed encryption protocol. Data files should be sent by the negotiating institution on the day of negotiation, as long as the physical cheques are sent by the negotiating institution on the following working day.

4.3 Settlement

Every participating institution will be required to net its bilateral position vis-à-vis the other Clearing House Members and pay the respective amount to the other Clearing Member, whenever value of cheques that the other direct or indirect participating institution of the MCH has negotiated on its behalf and presented for settlement is greater than the value of cheques negotiated on behalf of the other institution, effecting settlement in TARGET2 as per settlement instructions in **Appendix C**. The receiving participating institution should have receipt of payment by 2.30 pm.

4.4 Unpaid Articles

- 4.4.1** Unpaid cheques will be advised by email/fax to the negotiating institution within one business day from time of presentation of cheques at the Central Bank of Malta and physically returned by the drawee institution through the MCH the next business day. Thus, cheques negotiated on a Monday and presented for clearing on Tuesday can be notified as unpaid by Wednesday at 15.30 and physical returned through the MCH on Thursday.

However, for participating institutions which are not open for business on a Saturday, unpaid articles emanating from cheques negotiated by other institutions on a Thursday will be advised by email/fax to the negotiating institution by Friday and physically returned by the drawee institution through the MCH on Monday. Likewise, unpaid articles emanating from cheques negotiated by other institutions on Friday will be advised by email/fax to the negotiating institution on Monday and physically returned by the drawee institution through the MCH by Tuesday.

- 4.4.2 The issuing institution must ensure that standards required for safe and efficient processing are adopted and is also responsible to ensure authentication.
- 4.4.3 All unpaid articles are to be marked with the reason for non-payment, as shown in **Appendix D**, dated but not necessarily initialled. These are listed in the format shown on form BOP5 – **Appendix E**. However, a cheque is considered as post-dated only if the date of presentation for clearing is before the actual cheque's date.

Cheques can be presented on the day they are dated through the MCH for settlement. The drawee institution shall present cheques returned to other participating institutions in the outward clearing file, as indicated in **Appendix E**. Acceptance of a cheque is a matter between the institution and its customer.

- 4.4.4 An image of a cheque is accepted in cases where the original cheque has been lost or misplaced. Such image should be duly authenticated by authorised officials from the negotiating institution. An indemnity should also be given as per established format – **Appendix F**. Details such as serial number, amount and account number are to be included in the Indemnity.

The time frames for issuing such indemnity are:

- (a) if an image of the lost cheque is available, this should be issued on the day, and if the cheque is still not found an indemnity should be issued within three days;
- (b) If an image of the lost cheque is not available, an indemnity has to be issued straight away on the day;

In the instance that the cheque is subsequently found, it should be sent at once to replace the indemnity, which should be sent back to the issuing institution for destruction.

- 4.4.5 **Appendix G** is the template to be used in informing the payee of the eventuality that the original cheque returned unpaid has been misplaced and would be unavailable. An authenticated scanned copy of this cheque which is to be included or attached to this letter will be considered as the original document and can be presented again by the payee.

- 4.4.6** If cheques are notified to be returned, or are returned unpaid to a presenting institution by an issuing institution by 3.30 pm, they will be paid back on the next clearing day. If there is no presentation, or there are technical problems with the day's presentations, the amount of returned cheques will be paid out independently within the deadline for settlement identified for the day's clearing. Failure to do so will make interest due payable, and may attract further sanctions to be determined by the MCH Committee, including expulsion from the MCH if the misconduct is repeated.

A cheque that has been lost or misplaced prior to its imaging can still be cleared and paid, provided an appropriate indemnity is given as per established format – **Appendix H**.

4.4.7 Suspected Fraud

The time-frame for returning cheques for suspected fraud is 5 years from presentation. However, in such cases the following conditions must prevail:

- (a) a Police Report is required, wherein the customer who is claiming fraud states (to the Police) that his/her signature has been copied, if that is the case;
- (b) declaration is also required from the customer, that fraud is suspected;
- (c) all normal banking checks, with particular reference to Section 4.4.2 have been made and the case referred to the relevant control department/s within the institutions.
- (d) The cheque in question will be kept by the paying institution. 'Suspected fraud' does not apply to cheques presented as Special Clearing.

4.5 Endorsement

- 4.5.1** A printed endorsement by way of a 'place to the credit' stamp, not accompanied by the paying institution official's signature should be considered sufficient as far as validity of the endorsement is concerned.

A cheque payable 'cash' can be either encashed by the drawer, or deposited in the drawer's account, only if endorsed.

4.6 Special Clearing

- 4.6.1** Special Clearing for same day value will take place between Monday and Friday on all days except national, public or banking holidays and is allowed subject to a minimum limit of Eur 250,000 per cheque. The cut-off time for presenting the cheques to the drawee institutions is:

1 January to 31 December - 12.30pm

Every participating institution will be required to pay on the same day the respective gross amount for cheques that every other direct or indirect participating institution of the MCH has presented for Special Clearing as per settlement instructions in **Appendix C**. The receiving participating institution should have receipt of payment by 2.30 pm.

Special Clearing between the participating institutions for items less than Eur 250,000 is also to be allowed provided that settlement is effected through the MCH on the next business day. The same Special Clearing Form (Appendix I) will be used, however these should not be included on the same form as for cheques in excess of €250,000. Three forms should be presented with the cheque. The receiving institution will send two copies to presenting bank, one of which will be sent by the presenting bank with the next working day's out clearing, as a replacement of the cheque.

In any case, Special Clearing will be accepted for payment without recourse, provided that the cheque is presented by the presenting institution at the counters of the branch of the institution on which it is drawn.

For Special Clearing form refer to **Appendix I**.

4.7 Account Number Structure and Cheque Specifications

For the account number structure and cheque specifications refer to **Appendix J**. The list of Branch Codes is found in **Appendix K**. **Appendix L** provides guidance for validating account numbers. **Appendix M** depicts a sample cheque.

5.0 NEGOTIATION OF FOREIGN CURRENCY CHEQUES DRAWN ON LOCAL INSTITUTIONS

5.1 Scope of Section

1. Cheques in foreign currency drawn on local institutions

Cheques in various foreign currencies drawn by institutions, financial intermediaries or personal customers on their respective accounts held with local institutions.

2. Currencies

Currencies of items covered by this Agreement are USD, GBP, AUD, CAD, YEN, CHF, NOK, SEK and DKK.

Any other currencies not specified above, will be treated outside this Agreement.

5.2 Operating Days

For operating days refer to Section 4.3.

Foreign currency cheques should be separately packed and marked using the Charge Slip as indicated in **Appendix N**. The negotiating institution will present all foreign currency cheques to the drawee institution for payment split up by currency of cheques.

These cheques should be presented as part of the out clearing total. This would then be keyed in with the rejects account number.

5.3 Settlement Cycle

- Day 1 Presentation of items at MCH - **Appendix N - Form I and II**,
- Day 2 Cheques returned unpaid with confirmation of net credit by drawee institution - **Appendix N - Form II**;
- Day 3 Payment- Settlement to Nostro accounts is to be made net of cheques returned unpaid on day 2.

The drawee institution will provide cover on the negotiating institutions' Nostro accounts by the 3rd clearing working day indicated on the latter's charge slip, less any dishonoured cheques. Drawee institution is to confirm credit on the charge form itself two days after presentation.

In case of any dishonoured cheques, drawee institutions are to return cheque/s on the 3rd day of the clearing cycle to the negotiating institution, stipulating the amount and the reason/s for dishonour. No charge is to be applied for this service.

The value of payment will be 3 days from presentation of cheques. This 3-day clearing cycle is shown in **Appendix O**.

6.0 BUSINESS CONTINGENCY ARRANGEMENTS

In case of any major incident that prevents the participants meeting at the Central Bank of Malta, the participants are to meet at HSBC Bank Malta p.l.c, 80 Mill Street, Qormi. The participants are to be contacted by the Central Bank of Malta representative and advised of the change of venue. A list of contact details is found in **Confidential Appendix 1**.

As a contingency measure a pen drive can be used for file transfer, formatted as specified in Appendix B.

7.0 INCIDENT REPORTING

The dedicated template found in Appendix Q should be duly completed in cases where an incident affecting the operations of the MCH occurs. A participating institution should inform the Central Bank of Malta on email address clearing@centralbankmalta.org, by the latest within an hour of the incident. Further

developments should be provided on the same email address as and when there are changes to the situation that warrant notification, or as requested by the Central Bank of Malta. Once the incident has been resolved, a full incident report comprising Section B of Appendix Q should be completed and submitted to the Central Bank of Malta on clearing@centralbankmalta.org within a week of the closure of the incident.

8.0. REFERRAL OF DIFFICULTIES

Any difficulties/problems relating to the clearing of any payment instrument would continue to be tackled by the MCH Committee.

9.0. GOVERNING LAW

These MCH regulations shall be governed by and construed in accordance with the Laws of the Republic of Malta.