



**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/21*

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

**Issued on 7 July 2021 and amended on 20 September 2024**

### **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. Cheques denominated in a currency other than the euro shall be deemed out of scope of this Directive.

## 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 institution to pay, on demand, a specific sum of money from an account held with it;
  - iii. 'Drawee institution' means a licensed credit or financial institution mandated 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. '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;
  - vi. '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);
  - vii. '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;
  - viii. '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;
  - ix. 'Payment service provider' means an institution listed in paragraph 5 of this Directive;
  - x. '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 of 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. (1) 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.
- (2) 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 not encash paper-based instruments in excess of this limit.
12. (1) For paper-based instruments paid in cash and where the payee is a natural person, the payee shall receive payment according to the sum certain in money indicated on the paper-based instrument after endorsing it and presenting it to a drawee institution or payer institution. The drawee institution or payer institution 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.
- (2) For paper-based instruments which are deposited in the account of the named payee, the drawee institution or the payer institution shall take all the appropriate measures to ensure that the paper-based instrument is deposited in the account of the named payee. The drawee or payer institution shall record the date of the deposit on the paper-based instrument and may retain a record of the person who made the deposit.
- (3) Without prejudice to Paragraph 12(2), the paper-based instrument may be presented to the drawee institution or a payer institution by a third party, who is a natural person, for deposit in the account of the named payee, subject to the third party providing the account number of the named payee.
- (4) 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. A payer institution is under no obligation to negotiate a paper-based instrument for a payee who does not hold an account with it.
14. The drawee institution is obliged to authenticate the instructions of the drawer on the instrument before effecting payment.
15. Paper-based instruments are valid for a maximum period of six (6) calendar months from the date of issue.
16. 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.

17. (1) The drawee institution shall discontinue providing cheque issuance services to drawers for these instruments if, during the preceding twelve (12) calendar months, six (6) cheques presented to it for settlement could not be paid out due to lack of available funds. The suspension of cheque issuance services shall remain effective for a period of at least twenty-four (24) months from the date when it becomes effective.
- (2) The drawee institution may discontinue providing cheque issuance services to drawers for these instruments if, during the preceding twelve (12) calendar months, six (6) cheques presented to it for settlement could not be paid out due to not being in line with the requirements of Paragraph 10 of this Directive. Where suspension of cheque issuance services is applied, this shall remain effective for a period of not more than six (6) months from the date when it becomes effective.
- (3) Pursuant to Paragraphs 17(1) and (2), the drawee institution shall notify the drawer in writing at least within five (5) working days from the fourth infringement, warning that on the sixth infringement the cheque issuance services will be discontinued for the established term.
- (4) Upon the discontinuation of the service, the drawee institution shall inform the drawer in writing and demand the return of any unused cheques.
- (5) Any cheques issued by the drawer prior to the time of suspension, if valid, should be honoured.

## **PENALTIES**

18. (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.
19. (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, 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.

## **COMPLAINTS AND DISPUTES**

20. (1) Payment service providers shall put in place and apply adequate and effective complaint resolution procedures for the settlement of complaints of payment service users concerning the rights and obligations arising from the provisions of this Directive.

(2) Notwithstanding the recourse set out in sub-paragraph (1), any complaints by payment service users and other interested parties, including consumer associations relating to an alleged infringement of this Directive by a payment service provider may be submitted to the Bank.

(3) Without prejudice to the recourse set out in sub-paragraphs (1) and (2), payment service users and other interested parties may resort to the Office of the Arbiter for Financial Services for the settlement of a dispute with a payment service provider concerning the rights and obligations arising under this Directive.

(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**

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