



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$8.00

WINDHOEK - 14 October 2022

No. 7927

CONTENTS

Page

GENERAL NOTICE

No. 571 Determination under the Payment System Management Act, 2003 (Act No. 18 of 2003), as amended 1

General Notice

BANK OF NAMIBIA

No. 571

2022

DETERMINATION UNDER THE PAYMENT SYSTEM MANAGEMENT ACT, 2003 (ACT NO. 18 OF 2003), AS AMENDED

In my capacity as Governor of the Bank of Namibia (The Bank), and under the powers vested in the Bank under Section 14 of the Payment System Management Act, 2003 (Act No. 18 of 2003), as amended, I hereby issue this **Determination on the Conduct of Electronic Funds Transfer Transactions in the National Payment System (PSD-9)**. This Determination will come into effect six months from date of publication in the Government Gazette.

J. !GAWAXAB
GOVERNOR
BANK OF NAMIBIA

Windhoek, 27 September 2022

Payment System Determination (PSD - 9)**CONDUCT OF ELECTRONIC FUNDS TRANSFER (EFT) TRANSACTIONS
WITHIN THE NATIONAL PAYMENT SYSTEM****Arrangement of Paragraphs****PART I
Preliminary****PARAGRAPH**

1. Short Title
2. Application
3. Definitions
4. Authorisation

**PART II
Statement of Policy**

5. Purpose
6. Scope
7. Position of the Bank
8. Application of the Act

**PART III
Implementation**

9. Treatment of Domestic EFT Debit Transactions
10. Treatment of Cross-Border EFT Debit Transactions
11. Treatment of Domestic EFT Credit Transactions
12. Treatment of Cross-Border EFT Credit Transactions

**PART IV
Other Regulatory Requirements**

13. General
14. Penalties
15. Repeal of PSDIR-1
16. Effective date
17. Enquiries

PART I: PRELIMINARY

1. **Short Title** – Conduct of EFT Transactions
2. **Application** – This Determination will apply to all persons who engage in the processing of EFT transactions in and from Namibia.
3. **Definitions** – In this Determination, unless the context otherwise indicates, the words and expressions used herein will have the same meaning assigned to them in the Payment System Management Act, 2003 (Act No. 18 of 2003), as amended, and in the Banking Institutions Act, 1998 (Act No. 2 of 1998), as amended, and cognate expressions will have corresponding meanings:

- 3.1. “**Act**” means the Payment System Management Act, 2003 (Act No. 18 of 2003), as amended.
- 3.2. “**Bank**” means the Bank of Namibia as referred to in section 2 of the Bank of Namibia Act, 2020 (Act No. 1 of 2020).
- 3.3. “**Banking institution**” refers to a banking institution as defined in section 1 of the Banking Institutions Act, 1998 (Act No. 2 of 1998), as amended, means a public company authorised under that Act to conduct banking business, or deemed to be so authorised.
- 3.4. “**Body**” means Body as referred to in section 1 of the Payment System Management Act, 2003 (Act No. 18 of 2003), as amended.
- 3.5. “**CMA**” means the area in which exchange and monetary arrangements are co-ordinated in accordance with the Multilateral Monetary Agreement concluded on 6 February 1992 between the Republic of Namibia, the Kingdom of Lesotho, the Republic of South Africa and the Kingdom of Eswatini.
- 3.6. “**Clearing system**” means clearing system as referred to in section 1 of the Payment System Management Act, 2003 (Act No. 18 of 2003), as amended.
- 3.7. “**Correspondent Banking Arrangements**” means an arrangement under which one banking institution (correspondent) holds deposits owned by other banking institutions (respondents) and provides payment and other services to those respondent banking institutions.
- 3.8. “**Cross-Border EFT Transactions**” means an EFT transaction between a payer and payee located in different countries, within countries inside of the CMA and/or SADC region, respectively.
- 3.9. “**Cross-border payments**” means payments to a person that is not registered or based in Namibia. These payments are either initiated via a collection/debit order agreement with account holders of authorised Namibian financial institutions or by a Namibian account holder to a beneficiary in a foreign jurisdiction.
- 3.10. “**Domestic financial institution**” refers to a banking institution or a non-banking financial institution as defined and authorised under the relevant laws and by-laws overseen by the Bank of Namibia.
- 3.11. “**Domestic EFT Debit Transaction**” means a payment instruction initiated or directed by a domestic beneficiary (payee) to the bank account of a paying customer (payer) of a domestic financial institution in terms of an authority or valid mandate granted by the paying customer (payer) to such a beneficiary (payee). This is also known as a debit order or direct debit.
- 3.12. “**Domestic EFT Credit Transaction**” means when a customer of a domestic financial institution (payer) initiates or issues a payment instruction to their financial institution through various delivery channels (e.g. internet, bank branch or call centre) to make an EFT to a beneficiary (payee) that is also a customer of a domestic financial institution.
- 3.13. “**Domestic Interbank EFT Credit Transactions**” means all domestic EFT credit transactions involving or connecting two or more domestic financial institutions.

- 3.14. **“Domestic Intra-bank EFT Credit Transactions”** means all domestic EFT credit transactions involving one domestic financial institution.
- 3.15. **“Domestic Interbank EFT Debit Transactions”** means all domestic EFT debit transactions involving or connecting two or more domestic financial institutions.
- 3.16. **“Domestic Intra-bank EFT Debit Transactions”** means all domestic debit transactions involving or connecting one domestic financial institution.
- 3.17. **“EFT Payment Clearing House (PCH) Rules”** means the document issued by the Payment System Management Body (the Body) as defined in the Act that outlines the rules, standards and processes under which system participants in the EFT clearing house must adhere to when conducting EFT transactions.
- 3.18. **“Electronic Funds Transfer Transactions” or “EFT Transactions”** means a transaction initiated through a mechanism such as an electronic terminal, telephone or computer that instructs a system participant either to credit or to debit a user’s account at a financial institution.
- 3.19. **“Foreign financial institution”** means a person authorised or registered to conduct payment system services under the laws of any state, country, colony or territory other than Namibia, and which conducts banking business in such other state, country, colony or territory.
- 3.20. **“Foreign collectors” or “Foreign entities”** refers to any person that has entered into credit/commercial agreements with Namibian residents and collects funds from the said Namibian residents.
- 3.21. **“Foreign payment service provider”** refers to a payment service provider registered outside of Namibia.
- 3.22. **“International EFT Transactions”** means EFT transactions performed between Namibia and countries outside of the SADC region.
- 3.23. **“On-us transaction” (in-house payment)** means payments processed within an institution with its own customers within a specific jurisdiction’s national boundaries. This definition is thus not applicable to cross-border payments. Payments processed within an institution’s branches or subsidiaries in two or more jurisdictions in the CMA, SADC or rest of the world constitute cross-border transactions.
- 3.24. **“Payment Service Provider”** means a person registered as contemplated in section 3(6)(a) of the Act.
- 3.25. **“Persons”** means both natural and juristic persons which includes financial institutions and companies.
- 3.26. **“Regional EFT Transactions”** means EFT transactions performed between Namibia and other SADC member countries.
- 3.27. **“SADC”** refers to the Southern African Development Community which is an intergovernmental organisation established on 17 August 1992 through the SADC Declaration and Treaty, with the objective of spearheading economic integration of Southern African.

- 3.28. **“Settlement system”** means settlement system as referred to in section 1 of the Payment System Management Act, 2003 (Act No. 18 of 2003), as amended.
- 3.29. **“Splitting of EFT Debit Orders”** means the act of dividing a single amount of an EFT debit order into two or more deductions from a customer’s account, and simultaneous submission of such split amounts.
- 3.30. **“System Participant”** means system participant as referred to in section 1 of the Payment System Management Act, 2003 (Act No. 18 of 2003), as amended.
- 3.31. **“Valid Mandate”** means a mandate compliant with the minimum requirements for such mandate as stipulated in Schedule 12 to the EFT PCH Rules, as may be amended from time-to-time.
4. **Authorisation** – Authority for the Bank to issue this Determination is provided for under section 14 of the Act.

PART II: STATEMENT OF POLICY

5. **Purpose** – The purpose of this Determination is to provide for the conduct of EFT transactions in the National Payment System, to ensure safety, security, efficiency and cost-effectiveness of these transactions.
6. **Scope** – This Determination governs the conduct of domestic EFT transactions (EFT debits and credits) and cross-border (regional and international) EFT transactions.
7. **The Position of the Bank** – It is the position of the Bank that EFT transactions in Namibia should be governed to ensure that any risks emanating from EFT transactions are known, monitored, reported on and controlled within Namibia. Both domestic EFT Debit and Credit transactions should be processed through domestic financial institutions, payment service providers, clearing and settlement systems. The Bank considers any practice that by-passes the Namibian clearing and settlement systems as inefficient and undesirable because part of the Namibian domestic exposure and risks remain outside Namibia. A typical example of such a transaction is the collection of insurance premiums from Namibian residents through debit orders facilitated by foreign financial institutions or payment service providers. This practice also extends to retail companies, micro-lenders and gyms, to mention a few. Cross-border EFT transactions should be processed through the appropriate regional and international channels as directed by this Determination. The treatment of cross-border EFT Debit and Credit Transactions must be in line with either correspondent banking arrangements or via the clearing and settlement systems so designated by the relevant regional or international payment systems oversight bodies.
8. **Application of the Act** - Unless expressly stated otherwise, the provisions of the Act, as well as related Determinations and Directives will apply to the conduct of EFT transactions in Namibia.

PART III: IMPLEMENTATION

9. **Treatment of Domestic EFT Debit Transactions**
- 9.1. All intrabank Domestic EFT Debit Transactions must be processed / facilitated via a domestic financial institution.

- 9.2. All interbank Domestic EFT Debit Transactions must be processed / facilitated via domestic financial institutions, and domestic clearing and settlement systems.
- 9.3. The processing / facilitation of a Domestic EFT Debit Transaction via a foreign payment service provider is prohibited. For example, a domestic financial institution or a domestic merchant may not use the services of a foreign debit order collection payment service provider to collect domestic EFT debit orders.

10. Treatment of Cross-Border EFT Debit Transactions

- 10.1. All regional EFT Debit Transactions must be processed / facilitated through either –
a) authorised regional clearing and settlement systems; or
b) correspondent banking relationship.
- 10.2. The processing of cross-border EFT debit transactions without a valid mandate is prohibited.
- 10.3. Cross-Border EFT Debit Transactions may not be classified as on-us transactions between a Namibian and foreign financial institution or other foreign entities.
- 10.4. Foreign collectors/entities with Namibian presence must collect via their Namibian counterparts, irrespective of whether the credit/commercial agreement is between the foreign collector/entity and the Namibian customer. The Namibian counterpart may thereafter facilitate the transfer of funds to its foreign counterpart.
- 10.5. Foreign collectors/entities without Namibian presence must open bank accounts in Namibia with domestic financial institutions to collect all debit orders in line with the Namibia EFT PCH Rules. All foreign collectors must ensure they follow the Supplier Registration Process and acquire an Abbreviated Short Name (ABS) to display on all Debit Transactions as per the EFT PCH Rules.
- 10.6. Albeit 10.5 above, customers are not precluded from effecting monthly credit payments from Namibia via the regional clearing system either manually or as recurring payments. Where payments are effected in this manner, foreign collectors/entities need not open domestic bank accounts for collection purposes.

11. Treatment of Domestic EFT Credit Transactions

- 11.1. All intrabank Domestic EFT Credit Transactions must be processed / facilitated via a domestic financial institution.
- 11.2. All interbank Domestic EFT Credit Transactions must be processed / facilitated via domestic financial institutions, authorized payment service providers and clearing and settlement systems.
- 11.3. The processing / facilitation of a Domestic EFT Credit Transaction via a foreign payment service provider is prohibited.

12. Treatment of Cross-Border EFT Credit Transactions

- 12.1. All regional EFT Credit Transactions must be processed / facilitated through either –
a) authorised regional clearing and settlement systems; or
b) correspondent banking relationship.

- 12.2. Financial institutions processing/facilitating regional EFT Credit Transactions are required to comply with the requirements provided for under the CMA Cross-border Payment System Oversight Committee Revocation Notice of the Determination for Regularisation of Clearing and Settlement of Cross-border Low Value Credit Electronic Funds Transfers Transactions within the CMA, Directive No. 01 of 2018, and any subsequent amendments thereto.
- 12.3. All international EFT Credit Transactions must be processed / facilitated through correspondent banking relationships or such other systems and arrangements as may be implemented from time-to-time.
- 12.4. Treatment of cross-border EFT Credit Transactions as on-us transactions is prohibited.

13. **General**

- 13.1. The processing of Domestic EFT Transactions must be done in accordance with the general EFT Payment Clearing House (PCH) EFT rules and principles, as determined by the Body.
- 13.2. The splitting of an EFT debit order collection amount or the consolidation of several debit orders by a financial institution, payment service provider or Namibian company without the customer's written consent is prohibited.
- 13.3. Financial institutions and payment service providers that receive debit order deduction files from institutions that have split the collection amount or consolidated several debit orders without the customer's written consent should not process such transactions and should report such practices to the Bank, in the manner as prescribed by the Bank.
- 13.4. The collection of domestic EFT debit orders must be governed by a valid mandate/ agreement between the collector (corporate) and the customer and, must address all aspects stipulated as minimum requirements for a mandate, as per Schedule 12 of the EFT PCH Rules, as may be amended from time-to-time.
- 13.5. Financial institutions must ensure that the service level agreement entered into with the deducting institutions makes provision for the minimum requirements listed under Schedule 12 of the EFT PCH Rules to ensure that all information provided for the purposes of the processing of debit orders is an accurate representation of the agreement between the merchant and said customer.
- 13.6. A financial institution and a payment service provider should have in place a service level agreement to enable the payment service provider to collect debit orders through the financial institution's system or platform.
- 13.7. Every financial institution must ensure that their respective dispute resolution policies incorporate that the treatment of dispute resolution and customer complaints regarding EFT transactions are dealt with in the following manner:
 - 13.7.1. Disputed EFT Transactions must be investigated and resolved in line with the EFT PCH Rules.
 - 13.7.2. Disputed EFT Transactions should be resolved in accordance with the general EFT PCH EFT rules and principles, as determined by the Body.

- 13.7.3.** A customer should be able to lodge a complaint regarding EFT Transactions at a financial institution's branch, website or customer call centre free of charge.
- 13.8.** This Determination does not override the obligations as set out in Section 34; read with Regulation 32 of the Financial Intelligence Act, 2012 (Act No. 13 of 2012) (FIA), as amended. Accountable and Reporting Institutions listed in Schedules 1 and 3 of the FIA are still required to comply with these provisions.
- 13.9.** Persons who are uncertain as to whether their current or future business practices are aligned with this Determination should initiate discussions with their financial institutions or with the National Payment System Department of the Bank of Namibia for further clarity.
- 13.10.** This Determination is not exhaustive and may be supplemented and / or amended from time-to-time.
- 14. Reporting and Oversight -**
- 14.1.** Financial institutions must submit reports i.e., returns etc., as prescribed by the Bank in line with this Determination.
- 14.2.** In order to ensure that it is effectively overseeing financial institutions, the Bank reserves the right to inspect all records, data and other relevant information, whether in the possession of the financial institution or its agent, in compliance with this Determination.
- 15. Administrative Penalties** – Any person that contravenes or otherwise fails to comply with this Determination will be subject to administrative penalties as provided for under the Act, and its relevant Determinations, Directives and Guidelines.
- 16. Repeal of PSDIR-1** – This Determination repeals and replaces the Directive on the Conduct of EFT transactions within the National Payment System No.183 published on 29 June 2007 on the effective date.
- 17. Effective Date** – This Determination will come into effect six months from date of publication in the *Government Gazette*. All financial institutions and Namibian persons who engage in EFT transactions are required to implement the necessary infrastructural and system changes to process / facilitate EFT transactions in accordance with this Determination.
- 18. Enquiries** – All enquiries related to this Determination may be forwarded to:
- Director: National Payment System
Bank of Namibia
P.O. Box 2882
71 Robert Mugabe Avenue
Tel: +264-61-283-5111
-