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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

SOUTH AFRICAN RESERVE BANK

NO. R. 472

21 APRIL 2020



South African Reserve Bank

**SECOND AMENDMENT OF THE DIRECTIVE FOR CONDUCT WITHIN THE NATIONAL
PAYMENT SYSTEM IN RESPECT OF THE COLLECTION OF PAYMENT INSTRUCTIONS FOR
AUTHENTICATED COLLECTIONS****SECOND AMENDMENT OF DIRECTIVE NO 1 OF 2017****1. Legal Framework and Background**

- 1.1 In terms of section 10 (1) (c)(i) of the South African Reserve Bank Act, 1989 (Act No 90 of 1989) (the SARB Act), the South African Reserve Bank (the SARB) is required to perform such functions, implement such rules and procedures and, in general, take such steps as may be necessary to establish, conduct, monitor, regulate and supervise payment, clearing or settlement systems. Furthermore, the National Payment System Act, 1998 (Act No. 78 of 1998) (the NPS Act) provides for the management, administration, operation, regulation and supervision of payment, clearing and settlement systems in the Republic of South Africa, and for connected matters.
- 1.2 The national payment system (NPS) encompasses the entire payment process from payer to beneficiary, and includes settlement between banks. The process includes all the tools, systems, instruments, mechanisms, institutions, agreements, procedures, rules or laws applied or utilised to effect payment. The NPS is a primary component of the country's monetary and financial system as it enables the circulation of money, assisting transacting parties to make payments and exchange value.
- 1.3 In terms of section 12 (1) of the NPS Act, the SARB may from time to time, after consultation with the payment system management body, issue directives to any person regarding a payment system or the application of the provisions of the NPS Act.
- 1.4 The Directive for Conduct within the National Payment System No. 2 of 2006 published in

the Government Gazette No. 28867, General Notice 680 of 2006 (Directive No. 2 of 2006) regulated the Early Debit Order (EDO) systems since 2006.

- 1.5 An in-depth investigation into the EDO environment, prompted by inefficiencies in the EDO systems, identified various issues, in both the Authenticated Early Debit Order (AEDO) and the Non-Authenticated Early Debit Order (NAEDO) systems. These issues spread across the payment system value chain from the customer who authorises the debit (payer) through to the collector (user), system operators, sponsoring and acquiring banks.
- 1.6 The issues included, amongst others, the growing number of disputes by payers relating to unauthorised debits and user complaints of illegitimate payer initiated reversals. A key concern for the SARB is the growing mistrust in the EDO systems and increasing complaints of abuse. These trends indicated the underlying structural issues to be addressed.
- 1.7 This culminated in the issuance of a Terms of Reference (ToR) by the SARB in July 2013, titled: "Collections Review: Terms of Reference for the Payments Association of South Africa". The ToR defined the scope and minimum requirements for the design, development and implementation of an appropriate approach to the EDO collections.
- 1.8 Following the issuance of the ToR, the 'Authenticated Collections (AC)', initiative was launched with the objective of creating a method of collection that protects both sides of the market (payers and users). The Payments Association of South Africa (PASA) in collaboration with the relevant stakeholders was tasked to develop new authentication options for early debit orders that should give payers the opportunity to authorise future dated debit order mandates through an authentication process.
- 1.9 Directive No. 2 of 2006 was repealed by the Directive for conduct within the National Payment System in respect of the collection of payment instructions for authenticated collections (AC), published in the Government Gazette No. 40930, Notice No. 475 of 2017 (Directive No. 1 of 2017), to implement AC.
- 1.10 Due to the complexity of the AC system, and subsequent to broad consultation and engagement with industry, the SARB amended Directive 1 of 2017 through the publication of the Amendment of the Directive for conduct within the National Payment System in respect of the collection of payment instructions for Authenticated Collections (First Amendment of Directive No. 1 of 2017) published in the Government Gazette No. 42100,

Notice 801 of 2018.

- 1.11 This Directive amends and restates First Amendment of Directive No. 1 of 2017.

2. Objective and Purpose

- 2.1 The main objective of AC is to address the safety and efficiency of debit order collections, by strengthening debit order mandates through the ability of payers to upfront authenticate and authorise future dated debit orders, thereby attempting to protect both sides of the market.
- 2.2 This Directive provides for the conduct of participants involved in the collection of payment instructions in the EDO environment.

3. Position of the SARB

- 3.1 The SARB supports AC and is issuing this Second Amendment to the Directive in support of the established authenticated collections mechanism in the EDO environment to address the risks associated with the level of unauthorised debits and dispute ratios to maintain a safe and efficient NPS.
- 3.2 The SARB acknowledges that payment systems that process debit order payment instructions in the early processing window, similar to the current EDO collections environment, are required by participants of the NPS, and should provide for appropriate risk management.
- 3.3 All the NPS participants who participate in the EDO payment clearing houses (PCHs), namely AEDO and NAEDO PCHs were required to have implemented AC by 31 October 2019 and to not allow any new, extended, re-negotiated AEDO and NAEDO collections agreements to be concluded from 1 May 2020. Due to the declaration of the national state of disaster in terms of the Disaster Management Act No. 57 of 2002, and with the aim of minimising risk to the collections ecosystem, certain timelines in the First Amendment of Directive No. 1 of 2017 need to be extended as set out below.

4. Interpretation and Definitions

In this Directive, unless the context indicates otherwise, the words and expressions used herein shall have the same meaning assigned to them in the NPS Act and related expressions shall have corresponding meanings. The additional definitions below are provided for clarity.

4.1 Authentication

Authentication is the electronic process whereby the payer, (i) confirms the prescribed elements of a debit order mandate; and (ii) authorises the paying bank to debit the payer's account in accordance with the debit order mandate.

4.2 Authorisation

Authorisation refers to the consent given by the payer to the paying bank to honour a debit order when presented to the payers account in accordance with the authenticated debit order mandate.

4.3 Authenticated Collections (AC)

Debit order instructions which have been authorised by the payer and which are presented against the payer's account for collection in the early processing window through the AC PCH established under the EDO PCH Participant Group.

4.4 Directive

Directive means Directive No. 1 of 2017 as amended and restated by this document.

4.5 Early processing window

Early processing window is the period or window where early collections are processed directly after bulk credits.

4.6 Implementation Date

Implementation Date means the implementation date for Authenticated Collections which was 31 October 2019.

4.7 Sunset Date

Sunset Date means the date on which the processing of AEDO and NAEDO payment instructions will be terminated being 31 October 2021.

5. Directive

5.1 Participants involved in the collection of payment instructions in the EDO environment are directed to:

5.1.1 facilitate the collection of randomised early debit orders through AC in the early processing window;

5.1.2 maintain the stability of the existing systems and minimise operational risk until Sunset Date;

5.1.3 comply with the applicable regulatory requirements, including the rules, compliance and enforcement framework set by PASA in respect of AC;

5.1.4 not allow any new, extended or re-negotiated AEDO or NAEDO collection agreements to be concluded from 1 May 2021;

5.1.5 migrate AEDO and NAEDO contracts to AC on or before the Sunset Date;

5.1.6 subject to 5.1.4, continue to process AEDO and NAEDO payment instructions until the Sunset Date;

5.1.7 prior to the Sunset Date, proceed to process AEDO and NAEDO payment instructions in the early processing window subject to AC debit order payment instructions and AEDO payment instructions being given priority over NAEDO payment instructions;

- 5.1.8 subject to 5.1.5, collect AEDO and NAEDO not migrated to AC on or before the Sunset Date as EFT debit orders through the EFT Debit PCH;
- 5.1.9 comply with the plan referred to in 5.2; and
- 5.1.10 provide progress reports on compliance with this Directive as and when requested by SARB in terms of section 10 of the NPS Act.
- 5.2 PASA, supported by all industry participants must develop a plan with milestones and delivery dates as approved by the SARB to ensure compliance with this Directive, monitor compliance with the plan by the participants and take appropriate (and where required) maximum enforcement action through an appropriate compliance and enforcement framework. Such compliance framework must include an escalation mechanism for each milestone missed.
- 5.3 PASA, supported by all industry participants must continue to improve the safety and efficiency of debit orders, including the introduction of measures to address risk emanating from debit order abuse.
- 5.4 PASA must make provision for AC, including the participation criteria, in the relevant PASA regulatory framework and rules.

6. Conclusion

- 6.1 This Directive is not exhaustive and may be supplemented or amended from time to time.
- 6.2 In order to maintain the effectiveness, efficiency and neutrality of the NPS, all participants in the NPS that are, or become involved in the AC PCH Participant Group as indicated herein are obliged to act in accordance with the NPS Act and in particular, this Directive.
- 6.3 This Directive is effective from the date of publication thereof in the Government Gazette (Effective Date).
- 6.4 Contravention of this Directive is an offence in terms of section 12 of the NPS Act. Any person convicted of an offence in terms of this Directive is liable to a fine or imprisonment or to both a fine and such imprisonment.

- 6.5 Persons who are uncertain as to whether their current or future business practices are aligned with this Directive should initiate discussions with PASA or the NPS Department of the SARB to clarify the matter.

Any enquiries or clarification concerning this Directive may be addressed to:

The Head: National Payment System Department

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0001

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