

SOUTH AFRICAN RESERVE BANK

NO. R. 181

21 FEBRUARY 2020

**Directive for conduct within the national payment system
in respect of domestic card transactions****Directive No. 1 of 2020****1. Background**

- 1.1 In terms of section 10(1)(c) of the South African Reserve Bank Act 90 of 1989, as amended (SARB Act), the South African Reserve Bank (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 78 of 1998 (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, and after consultation with the payment system management body (PSMB), issue directives to any person regarding a payment system or the application of the provisions of the NPS Act. The considerations for issuing a directive take account of the integrity, effectiveness, efficiency and security of the NPS and national financial stability as well as any other matters that the SARB considers appropriate.
- 1.4 The issuing of a directive may require a person to cease or refrain from engaging in the act or course of conduct to remedy the situation or perform such acts necessary to comply with the directive and effect a change.
- 1.5 A payment system enables payments to be effected or facilitates the circulation of money, and includes any instruments, procedures and rules for the transfer of funds between or among participants. Therefore, payment instruments such as cards are included within the definition of a payment system.
- 1.6 Instances exist where card transactions are concluded between South African cardholders and merchants, but the issuing of the card and/or the acquiring of these card transactions are provided by an entity that is not registered or incorporated in South Africa. Therefore, although the transactions occur in South Africa between domestic parties, such transactions are processed as if they were international or cross-border transactions by the foreign issuing and/or acquiring entities.
- 1.7 The conduct described in 1.6 above results in the circumvention of the South African legislative and regulatory framework, including the applicable rules.

2. Definitions

- 2.1 In this directive, unless the context indicates otherwise, the words and expressions used shall have the same meaning as assigned to them in the NPS Act, and similar expressions shall have corresponding meanings.
- 2.1.1 'Acquiring' means a process whereby a participant, such as a bank, acquires or accepts a payment instrument issued by a paying or an issuing participant.
- 2.1.2 'Card acquirer' means a clearing system participant and a member of a card scheme that enters into a contractual relationship with a merchant and the card issuer, for the purpose of accepting and processing card transactions.
- 2.1.3 'Card issuer' means a clearing system participant and a member of a card scheme that has entered into a contractual relationship with a cardholder, in terms of which a card is issued to effect a payment, withdraw cash or transfer funds.
- 2.1.4 'Cardholder' means the person or entity that enters into an agreement with a card issuer in order to obtain a card. Through this agreement, the cardholder is authorised to use the card to effect a payment, withdraw cash or transfer funds.
- 2.1.5 'Clearing system participant' means a bank, a mutual bank or a cooperative bank, a designated clearing system participant, or a branch of a foreign institution, as contemplated in the NPS Act, and a member of the PSMB.
- 2.1.6 'Domestic card' means a card payment instrument that is issued to a cardholder by a card issuer to perform card transactions within South Africa, although this card may be enabled to perform cross-border/international transactions.

- 2.1.7 'Domestic card transaction' means a transaction to effect payment, withdraw cash or transfer funds using a domestic card within South Africa, and which is acquired by a card acquirer within South Africa.
- 2.1.8 'Issuing' means a process whereby a card issuer provides a payment instrument to its customers to effect payment, withdraw cash or transfer funds.
- 2.1.9 'Merchant' means a retailer or any other entity, a firm or a corporation that enters into an agreement with a card acquirer to accept card payments, when properly presented, as payment for goods and services (including cash withdrawals), which will result in a transfer of funds in its favour. The merchant must:
- i. hold a business licence in South Africa, or be otherwise authorised to conduct business in South Africa;
 - ii. pay taxes in South Africa; and
 - iii. maintain an office or physical presence in South Africa.

3. Purpose

- 3.1 This directive provides for the issuing, acquiring and acceptance of cards as well as the conduct of card issuers, card acquirers and merchants in respect of card transactions within South Africa, also referred to as 'domestic card transactions' (as defined above).
- 3.2 The directive aims to level the playing field for all card issuers, card acquirers and merchants, providing card issuing, acquiring and acceptance services respectively relating to domestic card transactions.
- 3.3 The directive further aims to ensure that card issuers, card acquirers and merchants do not introduce risk into the NPS. The provision of card issuing, acquiring and acceptance services for all domestic card transactions should also adhere to all applicable South African laws.

4. Position of the SARB

- 4.1 The SARB is supportive of innovation within the NPS that improve efficiencies and facilitate transactions between buyers and sellers. However, the innovative solutions offered should not impede the safety or efficiency of the NPS or its participants, or impact negatively on the stability of the financial system.
- 4.2 Any entity that provides or offers card issuing, acquiring and acceptance services used to effect the payment of domestic card transactions, referred to as the 'card issuer' and the 'card acquirer' respectively, falls within the NPS regulatory ambit. Such services must only be provided by an entity that is a participant in the clearing system and is a member of the PSMB.

5. Directive

- 5.1 All card issuing, acquiring and acceptance services of a domestic card transaction must adhere to the South African legislation, PCH agreements, clearing and settlement rules.
- 5.2 The issuer of a domestic card must be a domestic clearing system participant, and must adhere to South African legislation, PCH agreements, clearing and settlement rules. No foreign card issuer may issue a domestic card used for domestic card transactions unless it is a domestic clearing system participant.
- 5.3 Domestic card transactions must be acquired by a domestic card acquirer, and must adhere to South African legislation, PCH agreements, clearing and settlement rules. No foreign acquirer may acquire domestic card transactions or provide domestic merchants' acquiring services.
- 5.4 The PSMB must assist the SARB in monitoring adherence to this directive, and report non-adherence to the SARB.

6. Conclusion

- 6.1 This directive is not exhaustive and may be supplemented and/or amended from time to time.
- 6.2 All participants that issue and acquire domestic cards are obliged to act in accordance with this directive. Any contravention of this directive is an offence in terms of section 12 of the NPS Act.
- 6.3 This directive will become effective within six months of publication to allow for transitional arrangements.
- 6.4 Participants that are uncertain as to whether their current and/or future business practices are aligned with this directive should initiate discussions with the National Payment System Department of the SARB to clarify such uncertainty.

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

The Head: National Payment System Department
South African Reserve Bank
PO Box 427
Pretoria
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OR to the following e-mail address: npdirectives@resbank.co.za