



South African Reserve Bank

## National Payment System Department

Date: 2016-07-01

File ref. no.:18/2/1/7 C

### **Notice to stakeholders in the National Payment System (NPS), financial institutions and other non-bank institutions on payroll deductions in South Africa**

#### **1. Background**

- 1.1. The South African Reserve Bank ("the SARB") became aware of offers being made for payroll deduction services related to the administration of payrolls, including but not limited to government payrolls. These services are offered with prior agreement between employers and employees; and in certain instances requested or initiated by financial services intermediaries. The offering of payroll deduction services will provide preference to certain beneficiaries as their debits will be processed before other creditors or service providers are allowed to collect on the available funds credited to the bank account of the account holder.
  
- 1.2. Employers may not deduct money from an employee unless, the deduction is agreed in writing or the deduction is made in terms of law, collective agreement, a court order or arbitration award, as provided for by Section 34 (1) (a) and (b) of the Basic Conditions of Employment Act 75 of 1997. Deductions agreed to by an employee may be made for damage or loss caused by the employee if the employer followed a fair procedure, if it is agreed in writing and if this total deduction is not more than 25 percent of the employee's net pay. In addition, an employer who deducts amounts from an employee's remuneration for payment to another person must pay the amount to the person in accordance with the time period and other requirements specified in the agreement, law, court order or arbitration award.

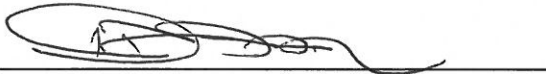
- 1.3. Deductions made in terms of law (hereinafter referred to as statutory deductions) are authorised by legislation, such as Income Tax Act (i.e. Pay as You Earn) and Unemployment Insurance Contributions Act 2002 (i.e. Unemployment Insurance Fund contributions). Other deductions not authorised by legislation or as provided for above would be discretionary deductions or non-statutory deductions.

## **2. Summary of issues**

- 2.1. The SARB is of the opinion that a payroll deduction service that enables payments to be effected to beneficiaries is a “payment system” as defined in the National Payment System Act 1998 (Act No. 78 of 1998) (NPS Act). A “payment system” is defined in the NPS Act as “a system that enables payments to be effected or facilitates the circulation of money and includes any instruments and procedures that relate to the system”. The payroll deduction services creates a closed loop payment system that limits access and constrains competition as “preferential treatment” is given to the payment instructions included in payroll deductions. If the payroll deduction system is allowed to expand to include more types of non-statutory deductions, it would have the potential of negatively impacting the broader NPS by becoming a general purpose system.
- 2.2. Preferential treatment of payment instructions is allowed in terms of the NPS Act if it is prescribed by law. Statutory deductions would thus qualify as exceptions to this rule of preferential treatment, given that they are prescribed by law. Any non-statutory deductions or repayment of obligations that are processed alongside statutory deductions on payment of the salary credit, are given the same preferential hierarchy as statutory deductions which results in an undesired preferential practice of certain beneficiaries. This is in conflict with the broader public policy objectives aimed at promoting transparency, competition, inclusion and broader access to the payment system.
- 2.3. In addition, the unintended consequences of allowing non-statutory payroll deduction services is that it competes against and negates the progress made in terms of the reforms of debit order systems, including the authenticated early debit order (AEDO) and non-authenticated early debit order (NAEDO) systems.

### 3. Notice

- 3.1. This notice serves to inform stakeholders in the NPS, financial institutions and other non-bank institutions that non-statutory payroll deductions have potential negative implications for the safety and efficiency of the NPS. Therefore, the SARB advises stakeholders and participants in the NPS to refrain from entering into or executing non-statutory commercial arrangements for payroll deductions services as this could be found to be in contravention of the NPS regulatory framework and / or could negatively impact the safety and efficiency of the NPS.
- 3.2. The SARB, in collaboration with the National Treasury, is currently in the process of investigating appropriate regulatory measures that should be implemented to address non-statutory payroll deductions.



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