



South African Reserve Bank

For consultation

**Draft Directive for conduct within the national payment system in
respect of the processing of retail payments in South Africa**

Directive ... of 20...

1. Legal framework and background

- 1.1 In terms of section 10(1)(c)(i) of the South African Reserve Bank Act 90 of 1989 (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. The power to perform the functions as provided in the SARB Act and the NPS Act are performed by the National Payment System Department (NPSD) within the SARB.
- 1.2 The national payment system (NPS) encompasses the entire payment process from payer to beneficiary, and includes settlement between banks. Further, the process includes all tools, systems, instruments, mechanisms, institutions, agreements, procedures and 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 In 2013, the NPSD became aware that some of the clearing system participants (mostly banks) had migrated the processing of their card transactions offshore. The offshore switching and processing of domestic retail payment transactions could potentially lead to loss of domestic processing capability, exposing South Africa to potential business continuity risks, financial instability and sovereign/ geopolitical risks. As a result, the NPSD issued a notice in 2013 – requiring the Payments Association of South Africa (PASA) card clearing members to consult the NPSD prior to migrating the processing of their card transactions to offshore processors (i.e. Visa and MasterCard). Due to the increased number of planned migration by some clearing members, the NPSD took a decision, on 2 July 2018, to impose a moratorium on any planned migration of processing of card transactions offshore pending formulation of clear domestic processing policy.
- 1.5 Although the phenomenon of processing retail transactions offshore was limited to the card payment clearing house (PCH), the NPSD is concerned that it may also occur in other PCHs such as the automated teller machines (ATM) and electronic funds transfer (EFT) PCHs.

2. Objective and purpose

- 2.1. The main objective of this Directive is to address the offshore processing of domestic retail payments to mitigate potential sovereign/geopolitical risks and concerns relating to loss of domestic processing capability.
- 2.2. This Directive provides for the conduct of participants involved in the processing of retail payment instructions such as the card, ATM, EFT debit and credit as well as real-time clearing payments.

3. Position of the SARB

- 3.1 A large volume of NPS transactions are processed through the retail payment streams/systems such as automated clearing houses (PCH SOs) and card schemes, which are mainly used to process transactions for the purchase of goods and services, bill payments, person-to-person payments and cash withdrawals. These retail payment systems are essential to the economy as they facilitate the circulation of money and boost trade of goods and services. Any dysfunction of these systems may impact the financial stability of the country. Hence, it is important for the SARB to implement appropriate regulation, oversight and supervision frameworks in relation to these systems.
- 3.2 The offshore switching and processing of domestic retail payment transactions in the card, EFT and other streams could lead to loss of domestic processing capability, exposing South Africa to potential business continuity risks and financial instability. This may be the case where the offshore processor unexpectedly withdraws processing services for geopolitical or other reasons. Domestic processing capability, however, offers the necessary sovereign protection and ensures that the interests of South Africa citizens and the economy are served at all times.

4. Terms and definitions

- 4.1 In this Directive, unless the context indicates otherwise, the terms 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.
- 4.1.1 'Participants' means the participants that enable their clients (consumers) to initiate a payment and/or enable their clients (merchants) to accept payment instruments or mechanisms from consumers to purchase goods and services. Participants are required to sign agreements with PCH SOs that process payment instructions/transactions on their behalf.
- 4.1.2 'PCH SOs' means a person, other than a designated settlement system

operator, that clears on behalf of any two or more Reserve Bank settlement system participants.

- 4.1.3 'Processing of retail payment' means the authorisation and clearing of transactions. **Authorisation** means the approval or consent given by a participant (or third-party acting on behalf of that participant) in order to conduct a transaction, for example, funds transfer. **Clearing** means the exchange of payment instructions as defined by the NPS Act.
- 4.1.4 'Directive' means Directive ... of 20... for conduct within the national payment system in respect of the processing of retail payments in South Africa.
- 4.1.5 'Effective date' means the date of publication of this Directive in the Government Gazette

5. Directive

- 5.1 Participants involved in the processing of retail payment in South Africa are directed to:
 - 5.1.1 process domestic retail transactions through a PCH SO infrastructure established and maintained in South Africa, within two years of the effective date; and
 - 5.1.2 inform the SARB, in writing, of any plans/intentions to migrate the processing of domestic retail transactions offshore, prior to the two years of the implementation phase.
- 5.2 PCH SOs involved in the processing of domestic retail transactions are directed to utilise the infrastructure or infrastructures located in South Africa for processing and storing any data related to domestic retail transactions, within two years of the effective date.
- 5.3 PASA is directed to amend the PCH SO authorisation criteria and relevant clearing rules to incorporate the requirements specified in paragraphs 5.1.1 and 5.2 above, and submit to the SARB, for approval, within one month of the effective date of the Directive.

5.4 PASA is directed to provide the SARB with the roadmap for the implementation of paragraphs 5.1.1 within six months of the effective date of the Directive, for approval by the SARB.

5.5 Authorised PCH SOs must individually provide the SARB with roadmaps for the implementation of paragraph 5.2 within six months of the effective date of the Directive, for approval by the SARB.

6. Conclusion

6.1 This Directive 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 and PCH SOs in the NPS 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). Participants, PASA and PCH SOs involved in the processing of domestic retail transactions must ensure the implementation of the directives stated in clause 5 above.

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 NPSD to clarify the matter.

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

Email: npsdirectives@resbank.co.za