



South African Reserve Bank

For consultation

**Draft directive for conduct within the national payment system
in respect of domestic card transactions**

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. Emanating from this mandate is the enabling legislation, the National Payment System Act 78 of 1998 (NPS Act), which provides for the management, administration, operation, regulation and supervision of payment, clearing and settlement systems in the Republic of South Africa, and to provide for connected matters.
- 1.2 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 national payment system (NPS), national financial stability, and any other matters that the SARB considers appropriate.

- 1.3 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.
- 1.4 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 amongst participants. Therefore, payment instruments such as cards are included within the definition of a payment system.
- 1.5 Instances exist where card transactions are concluded between South African buyers and South African sellers, but the issuing of the card and/or the acquiring of these card transactions are provided by an entity 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, as a result of the foreign issuing and/or acquiring entities.
- 1.6 The conduct described in 1.5 above then 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 is assigned to them in the NPS Act, and similar expressions shall have corresponding meanings.

2.2 'acquiring'

The process whereby a participant, such as a bank, acquires or accepts a payment instrument issued by a paying or an issuing bank.

2.3 'card acquirer'

An authorised participant and a member of a PSMB that enters into a contractual relationship with a card payment acceptor and the card issuer via the card payment scheme, for the purpose of accepting and processing card transactions. In some cases, the card acquirer may act as a card payment acceptor.

2.4 'cardholder'

The person or entity that enters into an agreement with a card issuer in order to obtain a payment card. Through this agreement, the cardholder is authorised to use the card for its intended purposes, such as the purchase of goods and services.

2.5 'card issuer'

An authorised participant and a member of a PSMB that is also a member of a card scheme and enters into a contractual relationship with a cardholder, resulting in the provision and use of a card of that card payment scheme by that cardholder.

2.6 'card payment acceptor'

A retailer or any other entity, a firm or a corporation, that enters into an agreement with a card acquirer to accept payment cards, when properly presented, as payment for goods and services (including cash withdrawals), which will result in a transfer of funds in its favour. The card payment acceptor must:

- i. hold a business licence in South Africa, or be otherwise authorised to conduct business in South Africa; and
- ii. pay taxes in South Africa; or
- iii. maintain an office or physical presence in South Africa.

2.7 'domestic card'

A card payment instrument that is issued to a cardholder by a card issuer to perform card transactions, either in the physical or in the digital environment, for example card present like point of sale (POS) and automated teller machine (ATM) transactions, and card not present like e-commerce transactions.

2.8 'domestic card transaction'

A transaction for the purchase of goods and/or services using a domestic card and acquired by a card acquirer.

2.9 'issuing'

The process whereby an institution or a participant, such as a bank, provides a payment instrument to its customers to effect payment for goods and/or services.

2.10 'participant'

A clearing system participant (such as 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.

3. Purpose

3.1 This directive provides for the conduct of card issuers, card acquirers and card payment acceptors in respect of card transactions within South Africa, also referred to as 'domestic card transactions' (as defined above).

3.2 The directive aims to create a level playing field for all card issuers, card acquirers and card payment acceptors, providing processing services relating to domestic card transactions.

3.3 The directive aims to ensure that card issuers, card acquirers and card payment acceptors do not introduce new risk into the NPS. It also aims to ensure that the processing of all domestic card transactions adheres to all applicable domestic issuing, acquiring, clearing and settlement rules and procedures.

4. Position of the South African Reserve Bank

4.1 The SARB is supportive of innovations 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 offers card issuing and acquiring processing services to effect 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 and a member of the PSMB.

4.3 All the processing services relating to domestic card transactions must adhere to domestic legislation, including this directive, rules and standards which supersede any international legislation, rules and standards.

5. Directive

5.1 The processing of a domestic card transaction must adhere to South African legislation, rules, regulatory framework and procedures relating to issuing, acquiring, clearing and settlement.

5.2 The issuer of a domestic card must be a participant and a member of a PSMB, adhering to domestic rules and regulations. No foreign issuer may thus issue a domestic card used for domestic card transactions without being a participant and a member of the PSMB.

- 5.3 Domestic card transactions must be acquired by a card acquirer who is a participant and a member of the PSMB, adhering to domestic rules and regulations. No foreign acquirer may thus acquire domestic card transactions or provide domestic card payment acceptors' acquiring services.
- 5.4 All domestic card transactions are subject to South African legislation, regulatory framework, rules and procedures in terms of clearing, settlement and processing.
- 5.5 The PSMB must identify, evaluate and monitor adherence to this directive, and report any 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 who issue and acquire domestic cards are obliged to act in accordance with this directive. Contravention of this directive is an offence in terms of section 12 of the NPS Act.
- 6.3 This directive becomes effective within three months of publication, to provide for operational implications.
- 6.4 Participants who 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 the matter.

7. Comments and contact details

- 7.1 Stakeholders are invited to submit their comments on this draft directive by **03 December 2018**. Comments should be addressed to npsdirectives@resbank.co.za.