

1. BACKGROUND, PURPOSE AND POSITION OF THE SOUTH AFRICAN RESERVE BANK

1.1 Background

- 1.1.1 In terms of section 10 (1) (c) of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989 – the SARB Act), the South African Reserve Bank (the Bank) 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 to provide for connected matters.
- 1.1.2 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, mechanisms, institutions, agreements, procedures, rules or laws applied or utilised to effect payment. The NPS enables the circulation of money, that is, it enables transacting parties to exchange value.
- 1.1.3 In terms of the NPS Act, the Bank may from time to time, after consultation with a relevant payment system management body, issue directives to any person regarding a payment system or the application of the provisions of the NPS Act (section 12).

1.2 Purpose

The Bank is issuing this directive to provide for the conduct of persons within the NPS involved in payments to third persons, as contemplated in the NPS Act.

1.3 Position of the Bank

- 1.3.1 Payments can be made using different sources, for example money and funds such

as deposits, prepaid amounts, credits accumulated from discounts received and credit available to the payer.

- 1.3.2 Traditionally, only banks were involved in payments to third persons. However, in recent years, persons other than banks have also ventured into this domain.
- 1.3.3 The Bank acknowledges that payments to third persons by persons other than persons referred to in section 7 (a) and (b) of the NPS Act, in certain circumstances add value to the users of the NPS in a broader market, provided that risk in the NPS is controlled.
- 1.3.4 This directive governs payments due to third persons, undertaken in the following ways:
 - (a) Money or the proceeds of payment instructions are accepted by a person (a beneficiary service provider), as a regular feature of that person's business, from multiple payers on behalf of a beneficiary. (A typical example being the acceptance of money or proceeds of payment instructions by a retailer or other outlets for payment of utility bills.); or
 - (b) Money or the proceeds of payment instructions are accepted by a person (a payer service provider), as a regular feature of that person's business, from a payer to make payment on behalf of that payer to multiple beneficiaries. (A typical example being the payment of salaries on behalf of employers to employees.)

2. 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 cognate expressions shall have corresponding meanings.

- 2.1 "Beneficiary service provider" means a person who accepts money or the proceeds of payment instructions, as a regular feature of that person's business, from multiple payers on behalf of a beneficiary;

- 2.2 "Payer service provider" means a person who accepts money or the proceeds of payment instructions, as a regular feature of that person's business, from a payer to make payment on behalf of that payer to multiple beneficiaries; and
- 2.3 "Payments to third persons" means, for purposes of this directive, the activities of a beneficiary service provider and a payer service provider as defined.

3. DIRECTIVE

- 3.1 Any person other than a person referred to in section 7 (a) and (b) of the NPS Act who, as a regular feature of that person's business, acts as either a beneficiary service provider or a payer service provider shall:
- 3.1.1 ensure that it is appointed as an agent of each beneficiary when acting as beneficiary service provider or as an agent of each payer when acting as payer service provider;
 - 3.1.2 as a beneficiary service provider, keep records of payments to third persons which must include, *inter alia*, the date, amount and beneficiary of the transaction. Such records must be retained for a period of five years;
 - 3.1.3 as a payer service provider, keep records of payments to third persons which must include, *inter alia*, the date, amount and payer of the transaction. Such records must be retained for a period of five years;
 - 3.1.4 keep separate and distinct the business divisions of that person who provides payments to third persons from the other business divisions of that person who provides system operator services (see Directive 2 of 2007);
 - 3.1.5 ensure that the services it provides, including the systems that it uses, are safe and efficient so as not to introduce risk, including reputational risk, into the NPS. In this regard, persons who provide payments to third persons and who process payment instructions, including the delivery to and/or receipt of payment instructions from a bank and/or a PCH system operator on their own behalf, rather than using the services of an independent system operator, are required to meet the same level of compliance with operational and technical requirements as required in terms of

sections 3.4.1 to 3.4.4 of the Criteria for System Operators (See "Criteria to act as a System Operator"); and

- 3.1.6 inform its banker of its involvement in payments to third persons who, in turn, must inform the payment system management body in a format acceptable to that body.
- 3.2 The payment system management body that is informed in terms of clause 3.1.6 must keep a record of such persons and, upon request from the Bank, provide such records to the Bank.

4. CONCLUSION

- 4.1 This directive is not exhaustive and may be supplemented and/or amended from time to time.
- 4.2 Persons who undertake the business of payments to third persons are obliged to act in accordance with the NPS Act and, in particular, this directive. Contravention of this directive is an offence in terms of section 12 of the NPS Act.
- 4.3 This directive becomes effective three (3) months after the date of publication hereof.
- 4.4 Persons who are uncertain as to whether their current or future business practices are aligned with this directive should initiate discussions with the National Payment System Department of the Bank to clarify the matter.

Any enquiry 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: npsdirectives@resbank.co.za

