



Malta Bankers' Association



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PRESS RELEASE

Banks adopt Code of Conduct dealing with Dishonoured Cheques

The local commercial banks have recently adopted a voluntary Code of Conduct which sets out minimum standards and principles of good banking practice when they deal with cheques which are dishonoured due to non-availability of funds. The objective of this Code of Conduct is to encourage a greater understanding of the roles, rights and responsibilities of the banks, their customers and third parties for their mutual benefit.

The banks are firmly committed to reducing the number of dishonoured cheques in circulation, as unpaid cheques clearly undermine public confidence in the cheques system in general. The banks have therefore had consultations between themselves, as well as with the Authorities, the Regulators and the Malta Association of Credit Management, in order to discuss ways and means of addressing this issue. The drawing up of a Code of Conduct to deal with dishonoured cheques ensued from this process.

The Code reaffirms the banks' commitment to continue to exercise great care and attention when opening current accounts, at which point banks will, ordinarily, issue the minimal number of cheque forms to the customer.

When a customer has had three or more cheques dishonoured in a single calendar month, his bank will, in the first instance, immediately initiate discussions with the account holder and insist that he/she refrains from engaging in such practice forthwith.

If these customers continue to issue cheques which are dishonoured, or the number of dishonoured cheques of any one customer exceeds six in a single calendar month, the banks will have to consider other action. Where circumstances permit, the banks will consider restructuring the customer's finances, or possibly granting a credit facility to meet these payments. Failing this, action could include withdrawal of the cheque book from customer, and closure of the account / withdrawal of credit facilities. Alternatively, the cheque book could be withdrawn and customer informed that all payments to third parties will have to be made by bank drafts, which will only be issued against available funds.

Mr James Bonello, Secretary General of the Malta Bankers' Association, is confident that the measures contemplated in the Code will yield positive results. He pointed, however, to the practice which some suppliers had of accepting post-dated cheques in payment, often over extended periods. "This is contrary to good banking practice and obviously complicates matters in cases where a bank opts to withdraw a customer's cheque book" he said. Mr Bonello also emphasised that all those allowing credit and accepting cheques in settlement are expected to have in place adequate due diligence processes and credit risk management procedures to control and to limit the risks involved.

The Administrator of the Malta Association of Credit Management, Mr Josef Busuttill, expressed satisfaction at the launching of this Code of Conduct, which he views as a timely step in the right direction. Mr Busuttill said : "My Association has been voicing its concern at the incidence of dishonoured cheques for quite some time now, and we note with satisfaction that our concerns have been met with this response by the banks. We shall continue working closely with the banks to monitor the effectiveness of the Code of Conduct, so that together, we can discuss and agree on any improvements which may be appropriate to better achieve the aims of the Code".

The full text of the Code is available, on request, at any of the commercial banks, and can also be viewed on their respective websites.

James Bonello
Secretary General

Josef Busuttill
Administrator



Malta Bankers' Association

Code of Conduct Dishonoured Cheques

Introduction

Good business relationships between the local commercial banks and the public in general is one of the key issues for the development of the local economy. There has to be mutual trust and confidence.

This Code of Conduct has been voluntarily drawn up by the local commercial banks to outline minimum standards and principles of good banking practice when they deal with dishonoured cheques due to non-availability of funds.

The general objective of this Code of Conduct is to encourage a greater understanding of the roles, rights and responsibilities of the local commercial banks, their customers and third parties for their mutual benefit.

This Code of Conduct is supported by the local commercial banks listed in Appendix A and being voluntary, it does not preclude or prevent any of these banks from setting higher standards. The local banking sector continues to be committed to provide an efficient and effective service to the various strata of society.

Customers, third parties and the public in general have access to this document.

Voluntary Commitment

We, the local commercial banks, have adopted this Code of Conduct in regard to dishonoured cheques. Being professional institutions, we felt the need to commit ourselves to act fairly and reasonably when dealing with dishonoured cheques. Furthermore, we are firmly committed to reducing the number of dishonoured cheques in Malta.

Banks' duty to customers

We are authorized by our customers to honour cheques without inquiry and to pay all cheques drawn by our customers as long as:

- § there are sufficient funds in their account to cover the cheques;
- § there is a sanctioned facility in place to cover such payments;
- § the cheques are properly drawn out and are technically correct;
- § the customer has not countermanded payment;
- § there is no legal impediment (e.g. garnishee order).

We have the sole discretion to pay or dishonour cheques if our customers do not have sufficient funds in their accounts to cover such cheques. In the event that cheques are dishonoured, we will return these cheques to the payees for any action that they deem fit. We will handle information about our customers in line with local legislation.

Banks' duty to third parties

We have no legal or contractual relationship with payees/ beneficiaries of cheques when performing our obligations as drawee banks. However, we exercise great care and attention when opening current accounts as we acknowledge that an excessive number of dishonoured cheques reflects badly on us and on the cheques system in general. On opening of a current account we will, ordinarily, issue the minimal number of cheque forms.

We will deal firmly with customers who frequently issue cheques that are dishonoured. However, it is also the responsibility of third party beneficiaries, particularly those who allow trade credit to their customers, to carry out due diligence on the drawer when accepting cheques.

Handling of dishonoured cheques by the banks

We will, in the first instance, immediately initiate discussions with customers who have three or more cheques dishonoured in a single calendar month and insist that they refrain from engaging in such a practice forthwith.

If these customers continue to issue cheques that are dishonoured or the number of dishonoured cheques of any one customer reaches six in a single calendar month, we will take one or more of the following remedial measures:

- § consider granting a credit facility to meet these payments;
- § consider restructuring the customer's finances;
- § withdraw the cheque book from the customer and close the account/ withdraw credit facilities;
- § withdraw the cheque book from the customer and inform the customer that all payments to third parties will have to be made by bank draft.

There will be a very few number of accounts where we will not be able to comply with these procedures. These will only be exceptions, and we will each establish a procedure for these cases to be agreed at a very senior level.

Complaints by customers

Customers who feel aggrieved are to direct their complaint to their branch managers. All efforts will be made by the branch managers to settle all complaints to the customers' satisfaction. If customers are not satisfied with the response received from their branch managers, they may escalate their complaint to our respective Head Office.

Complaints by third parties

Third Parties (e.g. payees of dishonoured cheques) are to direct their queries to the drawers of the cheques. We are restricted by the confidentiality laws in Malta from supplying information about our customers.

Administration and Monitoring

This Code of Conduct is administered by the Malta Bankers' Association and amendments to this Code will have to be unanimously approved by all the local commercial banks supporting this Code.

The Association shall monitor the operation and effectiveness of the Code of Conduct on a regular basis, and shall recommend any improvements which it may deem appropriate from time to time.

Appendix 'A'

List of Commercial Banks supporting this Code of Conduct

- § APS Bank Ltd
- § Bank of Valletta p.l.c.
- § HSBC Bank Malta p.l.c.
- § Lombard Bank Malta p.l.c.
- § Volksbank Malta Ltd