



## Malta Bankers' Association

### *Dishonoured Cheques Code of Conduct*

*(Amending and Restating the Code of Conduct signed on 29 November 2004)*

#### **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 reflect 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 exceeds five in a single calendar month, we will take one or more of the following remedial measures:

- grant a credit facility to meet these payments;
- restructure 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.

To this end, each of the banks supporting this Code shall submit to the Association, on a quarterly basis, relevant statistics relating to cheques which it has dishonoured due to non-availability of funds. The statistical information to be submitted will be detailed by the Association from time to time, but shall never include any names or other identifying details of those customers whose cheques have been dishonoured.

The statistics gathered shall be reviewed by the Executive Committee of the Association's Commercial Banks' Section during the month immediately following each quarter reported upon.

Furthermore, the Executive Committee member representing each of the commercial banks shall ensure that any customers of the bank who had more than five cheques dishonoured in a single calendar month, and who were likewise reported during the immediately preceding quarter, shall be reported directly to the Head of Credit of the bank concerned for appropriate action to be taken.

Signed on the: 11 April 2008

## **Appendix 'A'**

### **List of Commercial Banks supporting this Code of Conduct**

- APS Bank Ltd.
- Banif Bank (Malta) p.l.c.
- Bank of Valletta p.l.c.
- HSBC Bank Malta p.l.c.
- Lombard Bank Malta p.l.c.
- Volksbank Malta Ltd.