



## Frequently Asked Questions - Cheques

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### Use of cheques

#### 1. Is it mandatory to accept payments by cheque?

No. No one is obliged to accept cheques as a means of payment. In Portugal, only euro banknotes and coins are legal tender, and must be accepted as a means of payment.

#### 2. Is my bank obliged to provide me with cheques?

No. The supply of cheque books by payment service providers to their customers is only possible after a contract has been concluded, the so-called 'cheque convention', which is voluntary for both parties. Banks are prohibited from signing cheque conventions with the persons whose name is on the List of Cheque Defaulters (LCD) published by Banco de Portugal; that have been cheque-writing banned by the court; whose account opening form does not show that all details were verified against ID documentation.

#### 3. What items must be incorporated in a document for it to be considered a cheque?

A document can only be legally considered a cheque if it includes the following items: the word "cheque", the name of the bank paying it, and the place of payment (pre-printed information on national cheques); the exact amount, the date, the place of issue and the signature of the person(s) writing the cheque (filled in the space reserved for that purpose).

#### 4. What are the precautions that I should take when writing a cheque?

Customers should follow good practice to encourage the safe use of cheques, thus reducing the likelihood of cheques being presented for payment after being stolen or mislaid, by using a false endorsement. These good practice guidelines are available for consultation (in Portuguese only) in the following document: Good practice for bank customers regarding the presentation for payment of stolen or lost cheques, by using a false endorsement

## **5. When I write a cheque, may the payee ask for my identification?**

Payees are not obliged to accept cheques for payment, and may therefore stipulate the conditions under which they will accept a cheque from a given person. The circulation of cheques is based on confidence; it is advisable that the payer and the payee are specified and duly identified.

## **6. Is a cheque for an amount of €150 or less always paid by banks?**

No. Although banks are obliged to pay cheques for amounts of €150 or less, even if the funds in the payer's account are insufficient for payment, a bank may refuse to pay a cheque for an amount of €150 or less namely for the following reasons: serious signs of forgery, cheques submitted after time limit, irregular endorsement, loss.

## **7. May I have access to copies/images of cheques I have written in the past?**

You should ask your bank to provide information on this service, which entails a cost.

## **8. May I receive for payment cheques drawn on foreign banks?**

Yes, although domestic banks are not obliged to pay these cheques. Moreover, this type of cheque cannot be cleared. However, domestic banks may accept them for deposit. Funds are only available after its effective collection. Fees charged by domestic banks for this service shall be clearly displayed at all branches.

## **9. Does writing an unfunded cheque constitute a crime?**

Yes. Writing a cheque for an amount above €150 which is not fully paid due to lack of funds may constitute the crime of writing unfunded cheques, punishable with imprisonment for a term of up to three or five years, according to the cheque amount.

## **10. What type of guarantee is given by a certified cheque?**

A certified cheque guarantees that the account has sufficient funds available for payment at the time this cheque is certified. In addition, the amount for which a cheque was issued must be set aside in the payer's account for a period not less than the legal time limit for payment (as a rule, eight days).

## **11. If the amounts in words and figures differ, which shall prevail?**

Where the amounts in words and figures do not match, the amount in words shall prevail.

## **12. May banks charge fees or costs for returning cheques?**

As a rule, fees and costs associated with returned cheques can only be charged to the cheque issuer, as set in the price list of each payment service provider.

## **13. May I re-present a returned cheque for payment?**

Yes. If you are the payee of a cheque returned, you may re-present it for payment to your bank.

## **14. What should I do if my cheques are stolen?**

You should inform your bank of the theft of cheque books you have not yet filled in, and request their revocation. You are thus ordering your bank not to pay these cheques if presented for payment.

## **15. May a cheque be revoked?**

Cheque issuers may revoke a cheque (i.e. order the bank not to pay it) before the legal time limit (as a rule, eight days) for good reason (e.g. larceny, theft or loss). Banks are not responsible for checking the truthfulness of the reason for revocation. However, if it is proven that the reason indicated by the issuer for cheque revocation is false, the payee may start legal proceedings against the issuer. This may mean that the payer is committing a criminal offence of issuing an unfunded cheque or fraud.

## **16. For what reasons may a bank return a cheque?**

Once presented for payment, cheques may be returned for a number of reasons, such as: lack of/insufficient funds for the payment; one major requirement is missing (amount, signature, the date/place of issue); irregular endorsement; revocation by the issuer; cheque submitted after expiry date (as a rule, eight days).

## **17. When will the funds of a cheque deposited at an ATM be available?**

The deposit will only be effective after the cheque has been checked and certified by the credit institution, which shall occur within the shortest time possible, not exceeding 24 hours, counting from the date of deposit, except for exceptional situations or force majeure. The funds must be available by 3:00 p.m. on the second business day following the date of deposit.

## **18. May I write/receive a post-dated cheque? What happens if a cheque is unfunded?**

This is not advisable. A post-dated cheque is a cheque whose given issue date post-dates the actual date of presentation to the payee. However, a cheque is a spot payment order and the payee may present it for payment before the date of issue given. In that case, if there are sufficient funds available, banks will pay the cheque. If not, the cheque is returned.

### **19. Is it possible to guarantee that the cheque is only paid to the payee stated in it?**

To guarantee that a cheque is paid only to the payee stated in it, you should issue the cheque crossed 'não à ordem' (not to order), thus prohibiting an endorsement. If 'à ordem' (to order) is pre-printed on the cheque books, the issuer may cross it out and write 'não à ordem' after the name of the payee or in the space above the crossed-out words. It is particularly recommended to issue cheques 'não à ordem' in the case of cheques sent by mail.

### **20. Is it mandatory to include a validity date on cheques?**

No. The inclusion of a validity date on cheques is optional for banks according to their risk analysis.

### **21. May I write or receive cheques after expiry of their respective validity date?**

This is not advisable, although the use of cheques with a pre-printed validity date after their expiry is not prohibited. In fact, the payee should not accept a cheque after its pre-printed validity date has expired, given that the payer's bank may refuse payment due to 'cheque apresentado fora de prazo' (cheque submitted after expiry date). For the same reason, the payer should not write cheques after expiry of the respective validity date.

### **22. Is there any time limit on presenting a cheque for payment?**

Cheques must be presented for payment within the time limit established in the Uniform Law on Cheques. As a rule, this is eight days from the issue date. Cheques presented for payment after the legal limit has expired may be returned by credit institutions for the following reasons: 'cheque revogado – apresentação fora do prazo' (revoked cheque – cheque submitted after expiry date) - upon indication of the payer – or 'cheque apresentado fora do prazo' (cheque submitted after expiry date) – upon decision of the credit institution.

### **23. When will the funds of a cheque deposited over the counter be available?**

If a cheque is certified or drawn against an account of the same institution where the deposit is being made, the funds are made available on the same day as the deposit. If a cheque is from a different bank, the funds are made available on the second business day after the date of the deposit.