



Frequently Asked Questions - Prohibition of the use of cheques

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How it works

1. What is the prohibition of the use of cheques?

The misuse of cheques by natural or legal persons may result in a temporary cheque-writing ban (prohibition), during which all banks are prohibited from providing cheque books to this specific issuer for a period of up to two years (or up to six years, as established by the court).

2. What constitutes unlawful use of cheques?

There is misuse when, within the legal period, the following are not settled: A returned cheque; A cheque paid by the bank in case of insufficient funds if its amount does not exceed €150.

3. What is the legal period for a cheque to be settled?

Cheques must be settled within thirty (30) consecutive days after receiving the registered letter sent by the bank to the customer's last known address requiring him/her to settle a cheque.

4. How can I settle a returned cheque?

An unpaid cheque is deemed to be settled if the bearer receives a payment to the same amount as that indicated in the cheque plus interest and the issuer provides clear proof of its payment to his/her bank, in one of the following ways: The bearer re-presents the cheque to his/her bank and collects the indicated amount; The cheque issuer deposits on demand of the bearer the amount indicated plus interest (that amount may be set aside for up to six months); The cheque issuer provides documentary proof to his/her bank that the bearer has been paid.

5. How can I settle a cheque mandatorily paid by the bank?

To settle a cheque that the bank has paid as its value was €150 or less (even though the funds were insufficient for payment), the cheque issuer must deposit the indicated amount in that account (no interest applies). When depositing this amount, the issuer must notify the bank that this payment is earmarked for that purpose.

6. What is the List of Cheque Defaulters (LCD)?

This is a list of names of persons that, following a notification by their banks to Banco de Portugal, are banned from writing cheques for a period of two years. Banco

de Portugal updates and disseminates this list among all banks.

7. What is a judicial ban?

The crime of 'writing unfunded cheques' is punishable by imprisonment or a fine. The courts may also decide on a cheque-writing ban, of between six months and six years. It is incumbent on Banco de Portugal to disseminate across the banking system the decisions on cheque-writing bans communicated by the courts, with banks being prohibited from providing cheque books to the persons in question during the period established by the court.

8. For how long will the information in the LCD be kept?

Credit institutions should erase all the information provided by Banco de Portugal, as well as any references or indicators having an equivalent effect, as soon as the legal period for inclusion on the List of Cheque Defaulters (LCD) ends, immediately after the removal or annulment of the inclusion on that list, or upon expiration of the court ruling. Under the prohibition of the use of cheques, the Portuguese Data Protection Authority (Comissão Nacional de Proteção de Dados) has authorised Banco de Portugal to keep the records in its databases for a five-year period. During this time, data subjects or their legal representatives may consult the historical data registered in their name.

9. Does Banco de Portugal decide who is included on the LCD?

No. Following the misuse of cheques by their customers, banks notify Banco de Portugal that cheques (returned or mandatorily paid by the bank) were not settled within the legal period and, for that reason, they terminated the cheque convention with their customer.

10. Is it possible to know if my name is on the LCD?

Yes. Any bank is capable of informing a person (or his/her representative) if his/her name is on the list and, if so, when it was added to it. Only the bank of the drawer is in a position to inform that person (or his/her representative) about the number and amount of the cheques in question. Information recorded on the LCD reported by banks and courts on behalf of a person can be accessed by the persons in question themselves or by those with powers to represent them. It may be accessed over the Internet, requested in writing or obtained in any public information desk of Banco de Portugal. This information includes: the name of the person (natural or legal), banks or courts that have sent information on their behalf, date and type of event notified, date of entering/exiting the list.

11. May I credit/debit my bank account while my name is on the LCD?

Yes. Bank accounts may be credited/debited, depending on the means of payment provided to you by your bank, for instance, via: Cash withdrawals; Bank transfers; Direct debits; Loose cheques; Debit or credit cards, etc. While your name is on this list, you cannot write cheques on any account. You must return all unused cheque books still in your possession. If you already have written any post-dated cheques (cheques issued with a later date than its delivery to the payee), you must inform your bank of the number, date and amount of your post-dated cheques, so that your bank does not report their use to Banco de Portugal. Keep in mind that banks are obliged to pay cheques written by a person whose name is on the List of Cheque Defaulters provided that there are sufficient funds available.

12. What are the consequences I face for having my name on the LCD?

For a period of up to two years, any person in these circumstances cannot use cheques as a means of payment. However, they may open deposit accounts, apply for a loan, request a card, etc., depending on the conditions negotiated with the bank.

13. Is it possible to remove my name from the LCD before the end of the two-year period?

Yes, provided that: The persons in question have proven to the banks that all cheques have been settled; All unused cheque books have been returned; The reasons why their name should be removed from the list are enumerated – for instance, professional, commercial or personal reasons. Starting from the date when Banco de Portugal decides on the removal of a name from the list, any credit institution may provide cheques to that person, but is not obliged to do so.

14. How can I request for my name to be removed from the LCD?

After cheques have been settled and all cheque books have been returned, you must ask your bank to present a 'Pedido de remoção' (removal request) to Banco de Portugal, giving the reasons why you need to use cheques. Banco de Portugal bases its decision on the reasons provided. Its decision is then electronically disseminated across all banks. This service will be charged according to the price list of each credit institution and as advertised to the public. If your situation has been settled and you are unable to use your bank, you may send a request directly to Banco de Portugal (head office, Porto branch, agencies or regional delegations, depending on where you live).

15. What should I do if I am not responsible for the situation that caused my name to be included in the LCD?

In accounts with more than one holder, if a cheque is not settled within the legal period, the bank must notify Banco de Portugal on behalf of all holders. If you consider that your name should not be included in the list, as you were not responsible for the cheques written by a co-holder, you may prove to your bank that this situation was not caused by you. The bank must then request Banco de Portugal to delete all communications sent and to cancel the entire process.

16. How can I prove that the situation underlying the decision to include my name in the LCD was not caused by me?

You must go to your bank branch and present the facts or documents proving that you were not the cause. For instance, you need: A statement signed by the issuing co-holders declaring themselves solely responsible for issuing the unsettled cheque; Proof of the co-holder's divorce or legal separation; Evidence that the issued cheque is made for an unusual amount compared with the previous debit/credit entries, etc.

17. Must the bank make its notifications naming all the account representatives?

No. The bank must notify the account holder and the representative that issued the cheque in question so that it may be settled. If the cheque is not settled, Banco de Portugal must be informed naming the holder and the representative that issued the cheque (and not naming the other account representatives).

18. What can I do if a credit institution erroneously adds my name to the LCD?

You must warn your bank, and present your reasons and proof. In this case, your bank must ask Banco de Portugal to delete all communications received. Banco de Portugal prioritises the treatment of requests for deletion and notifies all banks of the fact. Banks must then disregard previously received information and purge all commercial notes on behalf of their customers from their records.

19. I've received the following message "An unexpected error has occurred. Please try again later."?

A technical error is preventing the results from appearing. You must try again later. If the situation continues, contact Banco de Portugal (click on 'Contacts' at the bottom of the page), and tell us about the problem.