

GUIDELINES ON CONSUMER PROTECTION ON ELECTRONIC FUND TRANSFERS

PART I

PRELIMINARY

Scope and Interpretation

1. The purpose of these Guidelines is to provide a basic framework to establish the rights, liabilities and responsibilities of customers and financial institutions relating to electronic fund transfers.
2. These Guidelines are issued pursuant to S4 and S36 of the Maldives Monetary Authority Act (1981).

Definitions

3. For purposes of these Guidelines -

“Access code” includes pin, password or code which provides a means of access to a customer’s account for the purposes of initiating an electronic fund transfer;

“Account” means any account maintained with a financial institution;

“Beneficiary” means the person named in payment order who is to be paid by the beneficiary bank;

“Beneficiary bank” means the bank identified in a payment order which is to make payment to a beneficiary-

(a) by crediting the account of beneficiary; or

(b) in any other manner, where the payment order does not provide for crediting an account;

“Card” means any card, including an ATM card, EFTPOS card, debit card, credit card or stored value card, used by a customer to effect an electronic fund transfer;

“Customer” means a natural person using an electronic fund transfers facility provided by a financial institution;

“Financial institution” means a financial institution licensed under the Maldives Monetary Authority Act Section 29 (1);

“Payment order” means a payment instruction by a customer to a financial institution, transmitted orally, electronically, or in writing, to pay, or to cause another financial institution to pay, a fixed or determinable amount of money to a beneficiary.

PART II

SCOPE OF ELECTRONIC FUND TRANSFER

Coverage of electronic fund transfer

4. For purposes of these Guidelines, electronic fund transfer means fund transfers carried out through or by means of:
 - (a) telegraphic transfer;
 - (b) point-of-sale terminal;
 - (c) stored value card terminal;
 - (d) cash dispensing machine;
 - (e) cash deposit machine;
 - (f) telephonic instruments; or
 - (g) debit card.

Exceptions to electronic fund transfer

5. The term “electronic fund transfer” in paragraph 4, does not include-

- (a) any transaction or authorisation service which does not directly result in a debit or credit to a customer's account; or
- (b) any automatic transfer from a savings account to a current account and vice versa pursuant to an agreement between a customer and a financial institution.

PART III

**TERMS AND CONDITIONS
FOR ELECTRONIC FUND TRANSFER**

Terms and Conditions

- 6. (1) A Financial institution providing any type of electronic fund transfer shall have standard terms and conditions in relation to the carrying out of electronic fund transfers.
- (2) The standard terms and conditions shall be in writing in Dhivehi and English, in clear, readily understandable and user friendly manner.
- (3) The standard terms and conditions shall be disclosed by a financial institution to a customer before or at the time the electronic fund transfer is carried out.
- (4) The standard terms and conditions to carry out Electronic Fund Transfer shall include-
 - (a) the customer's liability for any unauthorised electronic fund transfer and duty to report to the financial institution promptly any loss, misuse, theft or unauthorised use of, access code or a card;
 - (b) the telephone number and address of the department in charge of electronic fund transfers of the financial institution to be notified in the event the customer believes that an unauthorised electronic fund transfer has been or may be affected;

- (c) the customer's right to stop payment of a preauthorised electronic fund transfer and the conditions and procedures to initiate such stop payment order;
 - (d) information relating to lodgment of complaints, investigation and resolution procedures; and
 - (e) the customer's right to receive relevant documents in relation to electronic fund transfers.
- (5) The instruction of a customer to stop payment of a preauthorised electronic funds transfer as mentioned under subparagraph (4) (c) shall operate immediately unless agreed otherwise by the customer and financial institution whereby a date or time is predetermined.
- (6) For the purposes of this paragraph, "preauthorised electronic fund transfer" means any prior arrangement or agreement between a customer and a financial institution to authorise the financial institution to -
- (a) make payments to a third party out of the funds standing in the account of the customer; or
 - (b) transfer funds from one account of the customer to another account of the customer maintained with the financial institution or another financial institution.

Availability of the terms and conditions

7. A Financial institution shall make available copies of the standard terms and conditions in Dhivehi and English at its branches that provide electronic fund transfer services.

Changes in the terms and conditions

8. A financial institution may vary or modify the standard terms and conditions of an electronic fund transfer in relation to -
- (a) imposing or increasing charges;
 - (b) increasing the customer's liability for losses; or
 - (c) adjusting the transaction limits on the use of a card,

provided such changes are approved by the Maldives Monetary Authority or any other body, authorised by the Maldives Monetary Authority and it gives prior written notice to the customer.

Notification of other changes

9. (1) A financial institution may notify the customer of any other changes in the standard terms and conditions through-
- (a) notice in the periodic statement of account;
 - (b) notice at ATM, EFTPOS or other electronic terminals;
 - (c) notice at its branches; or
 - (d) any other mode it deems suitable.
- (2) Where notification is given under subparagraph 9 (1) (b), (c) or (d) and the customer is not notified directly, subsequent written advice shall be provided to the customer by the financial institution.

Exception to notification

10. Notwithstanding paragraph 9, advance notice need not be given when changes are necessitated by an immediate need to restore or maintain the security of an electronic fund transfer, an electronic fund transfer system or an individual account.

Consolidation of changes

11. Where important or a sufficient number of changes so warrant, a financial institution may issue a single document providing a consolidation of variations made to the standard terms and conditions.

Charges

12. A financial institution may impose charges on a customer who uses an electronic fund transfer, in accordance with its rules on charges.

PART IV

TELEGRAPHIC TRANSFER

Duties of financial institution

13. (1) A financial institution shall transmit a telegraphic transfer, within the same working day the customer makes the request or application for the telegraphic transfer.
- (2) A financial institution shall not be liable for the failure to carry out its obligations under subparagraph (1) if the customer has insufficient funds in his account to effect the transfer.
- (3) A financial institution has a duty to execute a payment order on the same working day the payment order is received from another financial institution.
- (4) The beneficiary bank shall notify the beneficiary as soon as possible provided the customer has given sufficient information.
- (5) A beneficiary bank shall not impose any charges for expenses incurred in notifying the beneficiary of a payment order.

PART V

ERRONEOUS AND UNAUTHORISED ELECTRONIC FUND TRANSFER

Duty to notify errors

14. (1) A customer shall notify his financial institution of any error in his statement of account or possible unauthorised transaction in relation to his card or access code.

- (2) The notification shall be made in writing within 15 days from the date of the statement of account.
- (3) Where there is a complaint of an unauthorised electronic fund transfer by a customer, the burden of proof is on the financial institution to show that the electronic fund transfer was authorised.
- (4) The burden of proof in subparagraph (3) shall be satisfied if the financial institution proves that-
 - (a) the access code, card and the security of the fund transfer system was fully functional on that day; and
 - (b) the officers of or agents appointed by, the financial institution were not fraudulent or negligent in carrying out the electronic fund transfer.
- (5) For the purposes of this paragraph, error in statement of account includes-
 - (a) an incorrect electronic fund transfer to or from the customer's account; or
 - (b) an addition or omission in the periodic statement of an electronic fund transfer affecting the customer's account.

Duties of customer

15. (1) A customer shall not-
 - (a) directly or indirectly disclose to any person the access code of his card or any electronic device used to effect an electronic fund transfer; or
 - (b) fail to take reasonable care to keep the access code secret.
- (2) A financial institution is discharged from any liability if it is proven that the customer has breached the duty imposed by subparagraph (1).
- (3) A customer shall not be liable for losses resulting from an unauthorised transaction occurring after he has notified the financial institution that his card has been lost, misused, stolen or that the access code security has been breached.

Delay in notification

16. Where the customer has contributed to a loss resulting from an unauthorised transaction by, delaying notification of, lost, misused or theft of the card, or someone else knowing the access code of the card, the customer is liable for the actual loss which occurred, except for -
- (a) that portion of the loss incurred on any one day which exceeds the daily transaction limit applicable to the card or account; or
 - (b) that portion of the total loss incurred which exceeds the amount of funds standing in the customer's account.

Circumstances where customer is not liable

17. (1) A customer shall not be liable for loss-
- (a) not attributable to or not contributed by the customer;
 - (b) caused by the fraudulent or negligent conduct of officers of or agents appointed by, the-
 - (i) financial institution:
 - (ii) companies and other financial institutions involved in networking arrangements within this country ; or
 - (iii) merchants who are linked to the card system;
 - (c) relating to a card that is forged, faulty, expired or
 - (d) occurring before the customer has received his card or access code.
- (2) Where any dispute arises in relation to a customer's card, it is to be presumed that the customer did not receive the card, unless the financial institution can prove otherwise.

PART VI

DUTIES OF FINANCIAL INSTITUTIONS

Notification of loss, theft or unauthorised use of card

18. A Financial institution shall provide an effective and convenient means by which a customer can notify any loss, misuse, theft or unauthorised use of a card or breach of access of security.

Procedures for acknowledging notification

19. (1) A financial institution shall provide procedures for acknowledging receipt of notifications, including telephone notification, by a customer for any loss, misuse, theft or unauthorised use of a card or breach of access code security.
- (2) The acknowledgment need not be in writing provided the financial institution has a means by which a customer can verify that he had made a notification and when such notification was made.

Liability in cases of system or equipment malfunction

20. (1) A financial institution shall be liable to its customer-
- (a) for a loss caused by the failure or an electronic fund transfer system or equipment to complete a transaction accepted by a terminal, in accordance with the customer's instruction; or
 - (b) for computing or book keeping error made by the financial institution.
- (2) A financial institution shall inform a customer immediately through -
- (a) notice at ATM, EFTPOS or other electronic terminals;
 - (b) notice at its branches; or
 - (c) any other mode it deems suitable,

if it is aware that the system or equipment to carry out electronic fund transfer is not available for use or where there is a malfunction.

- (3) Where the customer should have been aware that the system or equipment was not available for use or malfunctioning, the financial institution's responsibilities are limited to the correction of any error in the customer's account, and the refund of any charges or fees imposed on the customer for that transaction.

Liability in a case of force majeure

21. Notwithstanding paragraph 20, a financial institution shall not be liable to its customer if the failure to carry out an electronic fund transfer was caused by or resulted from an act of God or other circumstances beyond its control, provided the financial institution had exercised reasonable care and diligence.

Security of deposits at electronic terminal

22. The security of a deposit received at an electronic terminal shall be the responsibility of the financial institution receiving the deposit, from the time the transaction is completed, subject to verification of amount deposited.

Discrepancy between money deposited and recorded

23. Where there is a discrepancy between the amount recorded as having been deposited at an electronic terminal and the amount recorded as having been received, the financial institution shall notify the customer of the difference on the next working day and shall advise the actual amount which has been credited to the customer's account.

Shared arrangements

24. A financial institution shall not avoid any obligation to its customer by reason only of the fact that it is a party to a shared electronic fund transfer system, and that another party to the system had failed to fulfill its obligations under these Guidelines.

PART VII

INVESTIGATION AND RESOLUTION PROCEDURE

Complaints and Investigation

25. (1) A financial institution shall -
- (a) establish formalised procedures for the lodgment of complaints by customers of matters covered by these Guidelines;
 - (b) establish appropriate procedures for the investigation and resolution of any complaint by a customer; and
 - (c) set out in standard terms and conditions the means and procedures to lodge a complaint.
- (2) A customer is required to disclose to the financial institution all relevant information relating to the complaint except his access code.
- (3) The financial institution shall, as far as possible, settle all complaints immediately.
- (4) The financial institution's decision in relation to a complaint is to be made on the basis of all relevant established facts and not on the basis of inferences unsupported by evidence.

Extension of time to settle complaint

26. (1) Where a financial institution is unable to settle a complaint immediately as required under paragraph 25(3), it shall inform the customer immediately for the need of 15 days to resolve the complaint.
- (2) Where a financial institution is unable to resolve the complaint within 15 days, it shall notify the customer in writing of the need for an extension of time which shall not in any case exceed 30 days from the date the complaint is lodged.

- (3) A financial institution shall promptly advise the customer of the outcome of the investigation, together with reasons for the outcome upon completion of its investigation.

Incorrectly credited or debited account

27. Where as a result of the investigation of a complaint, a financial institution discovers that the customer's account has been incorrectly credited or debited, the financial institution where appropriate, shall -

- (a) make adjustment to the customer's account including interest or charges; and
- (b) notify the customer in writing of the adjustments made to his account.

Financial institution to provide information

28. Where a financial institution is of the view that the customer is liable for loss arising from any loss, misuse, theft or unauthorised use of a card or breach of access code security -

- (a) the financial institution is to make available to the customer, copies of any documents or other evidence relevant to the outcome of its investigation, including information from the log of transactions; and
- (b) the financial institution is also to refer to the systems log to establish whether there was any system or equipment malfunction at the time of the transactions,

and advise the customer in writing of the outcome of its inquiry.

Provided always that the financial institution will not be required to furnish any information that has a direct relation to or impacts the security of the financial institution or its system.

Information and advice on appeal

29. (1) The complaint procedure of a financial institution shall contain information relating to -

- (a) the right of a customer to appeal against the outcome of his complaint to the senior management of a financial institution; and
 - (b) the right of a customer to refer the complaint to the Maldives Monetary Authority, or any other body authorised by the Maldives Monetary Authority, if he is not satisfied with the outcome of his complaint.
- (2) The financial institution shall make known or make available the information in subparagraph (1) to a customer.

Breach of duties

30. Where the financial institution, its officers or agents appointed fail to observe the -

- (a) allocation of liability under paragraphs 16 and 17; or
- (b) procedures on complaint, investigation and resolution under paragraphs 25 and 26,

and where such failure prejudiced the outcome of the complaint or resulted in delay in its resolution, the financial institution may be liable for the full amount of the transaction which is the subject of the complaint.

Records of complaint

31. A financial institution shall keep a record of complaints and their resolutions, so that aggregate data on the type, frequency and resolution of such complaints can be made available to Maldives Monetary Authority or any other body authorised by the Maldives Monetary Authority as and when required.

Audit trails

32. A financial institution shall ensure that their electronic fund transfer generates sufficient records to enable a transaction to be traced, checked and where any error has occurred, to be identified and corrected.

PART VIII

MISCELLANEOUS

Privacy

33. (1) A financial institution shall ensure that all information relating to an electronic fund transfer, affairs or an account of its customer shall not be disclosed unless permitted by the Maldives Monetary Authority regulations.
- (2) No person other than, an officer of or agent appointed by, the financial institution that maintains the account, or the customer, may have access through an electronic terminal to information relating to electronic fund transfer, the affairs or an account of the customer.
- (3) No electronic terminal shall be capable of providing any information relating to an electronic fund transfer, the affairs or an account of a customer unless -
- (a) the electronic fund transfer is operated by, an authorised officer of, or agent appointed by, the financial institution; or
 - (b) the request for information is preceded by the entry of the correct customer's access code or card.
- (4) A financial institution shall not provide any information relating to an electronic fund transfer, the affairs or an account of a customer unless the information is provided -
- (a) pursuant to a legal duty or responsibility; or
 - (b) with the consent of a customer.
- (5) The rules governing the operation of individual accounts will be applicable to Electronic Fund Transfer in relation to disclosure of information to third parties.

Complaint Resolution

34. A customer who is not satisfied with the outcome of a complaint made pursuant to these Guidelines may refer the

complaint to the Maldives Monetary Authority or to any other body authorised by the Maldives Monetary Authority.

Waiver of rights and greater protection

35. (1) No agreement in writing between a customer and a financial institution may contain any provision that constitutes a waiver of any right conferred or cause of action created by these Guidelines.

(2) Nothing in these Guidelines shall prohibit any agreement, which grants a customer more extensive rights, or remedies or greater protection than those contained in these Guidelines.

ENQUIRIES

Any enquiries on any aspects of the guidelines should be directed to:-

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