"Bad" Cheques

YOUR ACCOUNTS AND SERVICES

"Bad" Cheques

A consumer education programme by:

BANK NEGARA MALAYSIA
CENTRAL BANK OF MALAYSIA

PERCIATAN BANK BANK DALAM MALAYSIA
THE ASSOCIATION OF BANKS IN MALAYSIA
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Date: 21 January 2003
Introduction

Cheques are widely accepted, as a convenient mode of making payments in the business community. However, sometimes they may be returned by the drawee bank due to insufficient funds in the account, cheques deposited but funds are not yet available for use by accountholder or the accountholder’s current account has been closed. Such cheques are commonly referred to as “bad” cheques. The issuance of “bad” cheques can have serious consequences on your ability to operate a current account.

This booklet provides information on the resultant consequences if you issue “bad” cheques.
The increasing incidence of cheques dishonoured due to insufficient funds prompted the Association of Banks in Malaysia, in consultation with Bank Negara Malaysia (BNM), to look into effective measures to deal with the problem. BNM established Biro Maklumat Cek (BMC) in 1988 as a central bureau to monitor “bad” cheque issuers and to promote the use of cheques as an acceptable mode of payment. In order to ensure a standard practice among the banks, the “Biro Maklumat Cek Operational Framework and Reporting Guidelines” were issued by BNM to address the issuance of “bad” cheques.

In March 2002, consistent with the amendments to the Central Bank of Malaysia Act 1958, BNM consolidated the operations of the BMC with the Credit Bureau, which is a bureau set up to collect and disseminate credit information (including information on “bad” cheques).

**BMC also promotes the use of cheques as an acceptable mode of payment**

**“BAD” CHEQUES ARE BAD NEWS**

Issuing “bad” cheques can create problems. The accountholder on issuing three “bad” cheques over a 12-month period will not be allowed to operate a current account in Malaysia for a specified period of 6 months to 24 months depending on the level of offence committed.

A “bad” cheque may affect the relationship between the issuer and recipient of the cheque, as it may lead to a loss of a business deal because of a loss of trust between the issuer and the payee. More importantly, the issuance of a “bad” cheque will affect the credibility of cheques as a mode of payment in Malaysia.

Although, banks have imposed penalties for “bad” cheques, this has not deterred some accountholders from issuing “bad” cheques.

**BANK NEGARA MALAYSIA AND CHEQUES**

The increasing incidence of cheques dishonoured due to insufficient funds prompted the Association of Banks in Malaysia, in consultation with Bank Negara Malaysia (BNM), to look into effective measures to deal with the problem. BNM established Biro Maklumat Cek (BMC) in 1988 as a central bureau to monitor “bad” cheque issuers and to promote the use of cheques as an acceptable mode of payment. In order to ensure a standard practice among the banks, the “Biro Maklumat Cek Operational Framework and Reporting Guidelines” were issued by BNM to address the issuance of “bad” cheques.

In March 2002, consistent with the amendments to the Central Bank of Malaysia Act 1958, BNM consolidated the operations of the BMC with the Credit Bureau, which is a bureau set up to collect and disseminate credit information (including information on “bad” cheques).
to banking institutions and other financial institutions. With effect from March 2002, the operations of BMC have been transferred to the Credit Bureau.

WHAT IS A “BAD” CHEQUE?

A “bad” cheque refers to a cheque issued by an accountholder, dishonoured and returned by the drawee bank when it is issued:

i. From an account with insufficient funds; or

ii. From an account, which has been closed for reasons other than being blacklisted under the Credit Bureau through the existing BMC System or closed for legal reasons such as bankruptcy; or

iii. On cheque(s) deposited for which the funds were not available yet for use by the accountholder (this is known as “Effects not Cleared”)

With regard to item (ii), the closed account e.g. account closed voluntarily will be monitored by the drawee bank for a 12-month period from the date the account is closed. Should three “bad” cheques be issued during the period, the account will be reported to the Credit Bureau through the existing BMC System.

WHAT HAPPENS WHEN YOU ISSUE “BAD” CHEQUES?

Each “bad” cheque issued is treated as one “bad” cheque incident. A warning letter from the drawee bank will be issued for each “bad” cheque incident.

If three “bad” cheque incidents are committed on the same account over a 12-month period, you will be deemed as a “bad” cheque offender and as a result:

• The current account you are holding will be closed and your name will be reported to the Credit Bureau by the drawee bank
• Your name will be included in the list of “bad” cheque offenders and will be circulated to all banks in the country

• When the banks receive the list from the Credit Bureau, all your other current accounts maintained with the banks will be closed within one month (referred to as Nationwide Closure) as follows:

<table>
<thead>
<tr>
<th>Bad Cheque Drawer</th>
<th>Accounts Affected by Nationwide Closure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual</td>
<td>All your individual current accounts</td>
</tr>
<tr>
<td></td>
<td>All your sole-proprietorship(s) current accounts</td>
</tr>
<tr>
<td>Sole-proprietorship (owned by individual)</td>
<td>All your individual current accounts</td>
</tr>
<tr>
<td></td>
<td>All your sole-proprietorship(s) current accounts</td>
</tr>
<tr>
<td>Sole-proprietorship (owned by company-for Sabah &amp; Sarawak only)</td>
<td>All the company's current accounts</td>
</tr>
<tr>
<td></td>
<td>All the company's other sole proprietorship(s) current accounts</td>
</tr>
<tr>
<td>Joint-Account (A &amp; B)</td>
<td>All A's individual current accounts</td>
</tr>
<tr>
<td></td>
<td>All B's individual current accounts</td>
</tr>
<tr>
<td></td>
<td>All of A’s sole-proprietorship(s) current accounts</td>
</tr>
<tr>
<td></td>
<td>All of B’s sole-proprietorship(s) current accounts</td>
</tr>
<tr>
<td></td>
<td>All other joint current accounts of A &amp; B</td>
</tr>
<tr>
<td>Partnership</td>
<td>All current accounts with the same partnership name and registration number</td>
</tr>
<tr>
<td>Company</td>
<td>All current accounts with the same company name and registration number</td>
</tr>
</tbody>
</table>
• You will be required to return all unused cheques to your bank(s)

• You will be subject to a prohibition period, whereby you will not be allowed to open or operate any current account with any bank in Malaysia

• In addition, you will also be subjected to a probation period on expiry of the prohibition period
**PROHIBITION PERIOD**

The prohibition period refers to the period during which you will not be allowed to operate or open a new current account with any bank. The prohibition period will commence from the date of the third “bad” cheque incident. The length of the prohibition period depends on the level of the offence committed. For example, for a first “bad” cheque offence, the prohibition period is six months from the date of the third “bad” cheque incident. For further information on the prohibition period, please refer to the Table below.

**PROBATION PERIOD**

The probation period commences immediately after the expiry of the prohibition period. During the probation period, you can operate a current account. However, a further issuance of three “bad” cheques during this period will result in you being classified as a second level “bad” cheque offender, which would result in an extended prohibition period. Please refer to Table below for further details.

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**PROHIBITION AND PROBATION PERIODS FOR VARIOUS OFFENCE LEVELS**

<table>
<thead>
<tr>
<th>Offence Level</th>
<th>Prohibition Period</th>
<th>Nationwide Closure</th>
<th>Special Account</th>
<th>Probation Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Level</td>
<td>6 months</td>
<td>Yes</td>
<td>Yes</td>
<td>2 years</td>
</tr>
<tr>
<td>Second Level</td>
<td>12 months</td>
<td>Yes</td>
<td>Yes</td>
<td>2 years</td>
</tr>
<tr>
<td>Third Level</td>
<td>12 months</td>
<td>Yes</td>
<td>No</td>
<td>3 years</td>
</tr>
<tr>
<td>Fourth &amp; Subsequent Levels</td>
<td>24 months</td>
<td>Yes</td>
<td>No</td>
<td>3 years</td>
</tr>
</tbody>
</table>
A “special account” is an account which would enable you to make and receive payments during the prohibition period.

“SPECIAL ACCOUNTS”

A “special account” is a current account without checking facilities. This would enable you to make and receive payments during the prohibition period. The opening of special accounts, however, is at the discretion of each bank and subject to the following conditions:

• Applicable only for companies, partnerships, sole-proprietors and individuals with overdraft facilities. The latter can also open a savings account

• Only first and second level offenders are eligible

• All unused cheques must be surrendered to the bank. Thus, payments from “special accounts” can only be made through cash withdrawals, bankers’ cheques, bank drafts or cashier’s orders
HOW TO AVOID ISSUING “BAD” CHEQUES

To avoid a “bad” cheque incident, the following precautionary measures should be observed:

• Always check that there are sufficient funds in your current account before issuing any cheques

• If you need to transfer money from an account into your current account to make a payment, always check with your bank to ensure that the money has been credited before issuing a cheque

• Inform your bank by making a stop payment order on a cheque that is stolen or missing to avoid the cheque from being paid or presented and dishonoured

• If you wish to issue a cheque using funds from a cheque deposited earlier, check with your bank to ensure that the cheque that was deposited had been cleared for payment. Be aware that clearing periods for local and outstation cheques differ

• Keep your cheque book in a safe place to avoid the risk of theft

• Notify the bank on the change of your address. This ensures that you will be informed by the bank on important matters without unnecessary delay and prevent wrongful delivery of correspondences
YOUR RIGHTS AS A CUSTOMER

• To inquire from the bank the balance in your current account before issuing any cheques. This is to ensure that all cheques issued will be honoured i.e. paid

• To be notified in writing on the first, second and third bad cheques incidents and the reason(s) for the respective returned cheques

• To be notified in writing before your account is closed

• To check your current account’s blacklisting status with your bank

Check that there are sufficient funds in your current account.
FREQUENTLY ASKED QUESTIONS

What is a “bad” cheque incident?

A “bad” cheque incident is where the drawee bank returns a cheque for the following reasons:

- There are insufficient funds in the account that the cheque is drawn on; or
- A cheque is issued based on cheque(s) deposited for which the funds were not available as yet for use by the accountholder (this is known as “Effects not Cleared”); or
- A cheque is issued on an account, which had been closed for reasons other than being blacklisted under the Credit Bureau or closed for legal reasons.

Will the bank return a cheque if the amount overdrawn is not substantial?

Yes. The bank will return the cheque irrespective of the amount overdrawn.
<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Will the bank call me in the event that a cheque is presented against insufficient funds?</td>
<td>No. It is not the duty of the bank to call you in the event a cheque is presented against insufficient funds in your account.</td>
</tr>
<tr>
<td>Will the bank hold a cheque which is drawn on a cheque deposited for which the funds are not available yet for use by the accountholder?</td>
<td>No. The bank will not hold such cheque and will return the cheque as a cheque drawn against insufficient funds or “Effects not Cleared”.</td>
</tr>
<tr>
<td>When will a current account holder be blacklisted?</td>
<td>A current account holder will be blacklisted and all his current accounts closed after committing three “bad” cheque incidents on the same account over a 12-month period. The customer is then listed as a “bad” cheque offender and his name will be reported by the drawee bank to the Credit Bureau.</td>
</tr>
<tr>
<td>Question</td>
<td>Answer</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Can a “bad” cheque offender operate a current account to cash incoming cheques during the prohibition period?</td>
<td>No. However, the customer can arrange for his blacklisted account to be designated as a &quot;special account” to receive and make payments during the prohibition period. However, the opening of such “special accounts” is at the discretion of the respective banks.</td>
</tr>
<tr>
<td>How soon after the prohibition period can a “bad” cheque offender open a new current account?</td>
<td>A new account can be opened on the first day after the prohibition period ends, subject to the bank’s discretion.</td>
</tr>
<tr>
<td>When can a “bad” cheque offender get a clean record?</td>
<td>A current accountholder, who had been listed as a bad cheque offender, will be given a clean record if he does not issue three or more bad cheques over a 12-month period during the probation period.</td>
</tr>
</tbody>
</table>
What is the difference between a local and an outstation cheque?

Local cheques are drawn and deposited in banks within the local clearing zone, while outstation cheques refer to cheques that are deposited with banks within the local clearing zone, but drawn on banks outside the local clearing zone.

How long will it take for a local and an outstation cheque to be cleared?

It takes two to three working days for a local cheque to be cleared and three to eight working days for an outstation cheque. Please refer your query to your bank on the actual number of clearing days for your deposited cheques to be cleared to prevent your cheques from being dishonoured due to "Effects not Cleared".
What are the implications if one is blacklisted as a “bad” cheque offender?

In addition to the relevant current account being affected by “nationwide closure”, your applications for loans, credit cards and other banking facilities may be affected as the occurrence of “bad” cheques may be adversely interpreted by banks. However, your name will be removed from the bad cheque listing once the prohibition period is over. Nevertheless, you should take care to ensure proper conduct of your account to maintain a clean financial record.

Where can I make further inquiries about BMC?

Members of the public can contact their bank for information on the BMC. They may also refer questions on returned cheques to the bank, where they maintain their account.

In addition, members of the public may also forward queries in writing regarding the BMC to:

Ketua Jabatan
Jabatan Sistem Pembayaran
Tingkat 7, Blok C
Bank Negara Malaysia
Jalan Dato’ Onn
50480 Kuala Lumpur

e-mail: info@bnm.gov.my
GLOSSARY

Cheque
A written order from one party (the drawer) to another (the drawee, normally a bank) requiring the drawee to pay a specified sum on demand to the drawer or to a third party specified by the drawer.

Clearing
The process of exchanging cheques to establish final positions for settlement among the drawee banks.

Dishonour
The act of refusing to pay a cheque when presented.

Drawee Bank
A bank that is instructed by the drawer to pay the amount of a cheque drawn on it.

Drawer
Accountholder who directs a bank to pay a sum of money stated on a cheque drawn on it.

Effects Not Cleared
Cheques and other items paid in by a customer for the credit of his/her account, of which the cheque is still pending clearance by the drawer’s bank. Although these amounts will be shown in the customer’s balance, it is still not cleared in the books of the bank. The bank is under no obligation to pay any cheques drawn against items not yet cleared.
**Insufficient Funds**
The notation of dishonour (of a cheque) indicating that the drawer’s account does not contain enough money to cover payment of the cheque.

**Special Account**
An account accorded to a current accountholder who had been listed as a bad cheque offender to enable the accountholder to receive and make payments during the prohibition period.
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