

Reserve Bank of Fiji
Payment System Policy Statement No: 1

**NOTICE TO BANKS LICENSED UNDER
THE RESERVE BANK OF FIJI ACT (REVISED) 1985**

RULES FOR THE BANKS' CLEARINGHOUSE

PART A GENERAL

A1.0 General

A1.1 Introduction

This policy notice is established under Section 9(c) and Section 38 of the Reserve Bank of Fiji Act rev 1985 to formally establish the terms and conditions applicable to the use of the Clearinghouse and provide a legal foundation for the Clearinghouse in conformity with international standards. The notice supersedes all previous rules, including Sections 1-5 of the Record of Banking Arrangements Between Banks, 2nd Edition, 1997, parts of which have been represented in this policy notice. The notice takes effect from 1 July 2002.

A1.2 Background and Outline of Approach

The Reserve Bank of Fiji ("the RBF") provides settlement services, in support of the clearinghouse for Fiji's payment system operated by the Association of Banks in Fiji (ABIF). The current venue for the daily exchange of cheques is located at the main branch of the Australia and New Zealand Banking Group Limited (ANZ) in Suva. These rules are aimed towards modernising Fiji's payments system to achieve compliance with the *Core Principles for Systemically Important Payment Systems* set out by the Basle Committee on Payment and Settlement Systems. The rules focus only on the operational aspects of the clearinghouse. Risk management measures, including a requirement for providing collateral for overnight liquidity are addressed in as a separate notice. Definitions applicable under this Notice are contained in Appendix 1.

A2.0 Membership

The members of the clearinghouse are:

- (a) Australia and New Zealand Banking Group Limited
- (b) Bank of Baroda
- (c) Habib Bank Limited
- (d) Colonial National Bank
- (e) NBF Asset Management Bank
- (f) Westpac Banking Corporation, and
- (g) Reserve Bank of Fiji (RBF).

Additional financial institutions may use the clearinghouse after applying for and approved for membership under paragraph A4.0 below.

A3.0 Designation as a Bank

The RBF shall determine whether any institution may be licensed as a “bank” in accordance with the provisions of the Banking Act 1995.

A4.0 Qualifications for Membership

A company doing “banking business” may apply for membership. Such application is to be accompanied by :

- (a) a copy of their banking licence;
- (b) a formal request signed by an authorised official, which includes a statement that the applicant has reviewed and intends to comply with Rules.

Upon acceptance of the application, the RBF will specify a date when the applicant may use the clearinghouse.

A5.0 Settlement Bank

The RBF is responsible for recording a daily net balance on its books of the total amounts for payments exchanged in the clearinghouse on the individual exchange settlement accounts of the participants.

A6.0 Clearinghouse Facilities

The Central Clearinghouse shall be located in Suva.

A7.0 Times of Exchange

A7.1 Normal operating hours

Exchanges may be conducted daily at all points in Fiji where clearing facilities are available at :

9.00am)

2.00pm) Monday through Thursday; and

9.00am)

3.00pm) Friday (or the last business day of the week)

A7.2 Holiday closing hours

If a holiday falls on a Friday and/or Friday and the following Monday, Thursday closing hour shall be extended from 3.00pm to 4.00pm.

If there are two consecutive holidays falling on week days, the closing hour on the day before the holidays shall be extended from 3.00pm to 4.00pm.

If a holiday falls on a weekday other than Friday, the closing hour will not be affected; banks will close at 3.00pm as normal.

A7.3 Emergency Procedures

In times of emergency due to adverse conditions as may be attributable to weather, loss of power or communication, or other major disruptions in the city or country, the Emergency Procedures attached as Appendix 2 to this policy statement notice are to be applied.

In each city or town, other than Suva, where two or more branches of banks are represented, there may be established a daily exchange of payments at the same time as that in Suva. The members will appoint a branch of a bank to act on their behalf for faxing daily net settlement figures to the clearinghouse. Unless specifically noted in each case, the provisions of this Notice shall apply.

A8.0 Management

A8.1 Clearinghouse Technical Subcommittee

A Clearinghouse Technical Subcommittee consisting of one representative of each member bank, and presided over by a Chairperson¹ appointed by the RBF shall oversee the business of the clearinghouse. The function of the subcommittee will be to enforce rules, recommend changes to rules, develop operational improvements, and perform such other duties as may be assigned to it. Recommendations of the subcommittee are then put through the formal RBF-ABIF Committee. Any changes to the rules are to be approved by the RBF before implementation.

A8.2 Clearinghouse Technical Subcommittee Meetings

The Chairperson may call a meeting of the subcommittee at any time or upon written request of at least two members. The request must specify the business to be discussed. Such a meeting must be convened within fourteen business days after the Chairperson receives a written request. A majority vote² of the members present at a meeting shall decide any issue. A quorum will consist of 50% of the members represented at a meeting, in addition to the Chairperson.

¹ Clearinghouse Technical Subcommittee meetings will be chaired by the Reserve Bank of Fiji initially for a period of one year from the date the notice takes effect.

² In the event of a tie vote, the Chairperson's vote shall decide the issue.

A9.0 Conduct and Supervision

A9.1 Supervisor

The daily exchange of cheques of the clearinghouse shall be conducted under the direction of a Supervisor³ who shall be responsible for the discipline of the representatives. The Supervisor will be appointed by the ABIF.

A9.2 Disputes

In the event of any dispute arising between representatives of member banks when delivering or accepting payments or in connection with settlement amounts due to or from member banks, the decision of the Supervisor shall be accepted temporarily, and in the event of the dispute continuing after settlement, it shall be resolved directly between the member banks concerned.

A10.0 Modification of Rules

The terms and conditions of Rules may be modified from time to time as recommended by the Clearinghouse Technical Subcommittee to the RBF-ABIF Committee with approval by the RBF prior to implementation.

PART B RESPONSIBILITIES OF A COLLECTING BANK

B1.0 Customary Practice

Members are expected to utilise the clearinghouse to send payments to other members. Any exchange of payments other than at established clearinghouse meeting times is permitted only upon mutual and specific agreement between the clearinghouse members involved.

B2.0 Collecting Bank Provisions

B2.1 Identification of Exchanges

B2.1.1 All payments must be stamped with the name of the collecting bank and branch, on the face of each item in such form as specified by the clearinghouse and include the date of receipt, before sending such payments through the clearinghouse. If a cheque bears the stamp of more than one bank, the ownership thereof must be clearly indicated by

³ The Supervisor will be from the ABIF for an initial period of one year from the date the notice takes effect, after which the position may be reviewed if the need arises accordingly.

special endorsement⁴. In the absence of such stamp, any cheque sent by a collecting bank purporting to bear that bank's stamp shall be deemed to bear such stamp.

B2.1.2 The crossing stamp of the collecting bank, affixed in good faith and in the ordinary course of business relieves the paying bank of the need to examine endorsements, and in the absence of the payee's endorsement, confirms that the payee's account has been credited and the collecting bank indemnifies the paying bank against such claims which may arise thereto.

B2.1.3 The guarantee implied by the crossing stamp shall be for a period of seven years from the date of payment of the cheque or other bills of exchange and all claims must be made on the collecting bank within that period. This arrangement does not apply to cheques or bills of exchange bearing special receipt forms serving both as an endorsement and a receipt. Endorsements for all items once regular and legibly written need not be confirmed. All items payable to the bank must be endorsed.

B2.2 Preparation of exchanges

Prior to sending any payments through the clearinghouse, collecting members are to prepare the payments for delivery to paying members as follows:

- (a) arrange individual bundles for each member, with subsidiary batches containing no more than 250 items each;
- (b) prepare a detailed machine listing of the values of each payment included within the bundle and in the order in which they appear in the bundle;
- (c) prepare the approved clearing form showing the total value and number of payments included in that bundle [A sample Exchange Clearing Form is attached as Appendix 3]; and
- (d) every endeavour must be made to ensure that all items maintain established standards in relation to the paper, quality and document size. All vouchers should be presented in a uniform manner with special attention paid to remove all staple pins, other pins, clips and attachments. All items should face the same way and no items are to be folded.

B2.3 Regular attendance

Exchanges of payments are to be delivered to the clearinghouse at or before the prescribed opening hour on each business day. One officer,

⁴ Special endorsement is usually identified by the signature of a duly authorised officer ("signatory") of a bank which crosses the instrument to another bank indicating that it has no further interest on the instrument.

duly authorised in that respect, will represent each member. A member whose representative is consistently late in arriving at the clearinghouse may not be permitted to present its own cheques for clearing (lock out by the supervisor), however it will be required to accept cheques presented by collecting banks. In these cases, the member's cheques can only be presented directly to the paying bank or held over until the next business day of clearing. Lock out is the most severe penalty to be paid for repeated tardiness. The Supervisor will give prior warning in writing to the offending member, to be followed by escalating monetary penalties as may be determined by the Clearinghouse Technical Subcommittee.

B2.4 Representation at point of exchanges

Where two or more branches of the same bank are represented in the same town or city centre and/or in the same suburb of a town/city at which point exchanges are to be conducted, only one representative is to attend at each exchange point.

B2.5 Additional exchanges

Where significant volumes between some banks require an additional exchange, an intermediate exchange may be arranged during the day at a time as agreed between individual members participating.

B2.6 Time extension

Any request for extension of additional time (not to exceed 15 minutes) for delivery of information and payments under conditions specified under paragraph A7.1 of these Rules must be made 15 minutes prior to the established cut-off time.

B3.0 Prompt delivery of relevant information

Each collecting bank must report the Fiji Dollar amount of payments it is sending through the clearinghouse on the prescribed form⁵, which should be balanced, at or before the appointed time as noted in the above paragraph, on any business day. At the end of each settlement, each representative shall provide the Supervisor with a signed Final Settlement Statement reflecting the individual and overall net difference between the total amount of cheques sent and received.

⁵ See Appendix 3.

B4.0 Debit to account in event of default

If a paying member fails to pay for any cheques delivered to it through the clearinghouse by reason of default, it must return unpaid⁶ payments in its possession to the clearinghouse on the day of the announcement of default. Sending members must accept the return of such unpaid items and authorise the RBF to debit their respective exchange settlement accounts accordingly.

B5.0 Improperly prepared exchanges

Upon receiving notice of an incorrectly prepared presentation from a paying bank (e.g. misrouted batch) (F\$500,000 minimum), as provided in Part C below, collecting banks must notify the correct paying bank, adjust the totals accordingly for each bank, pick up the specified improperly prepared presentation and make a proper delivery at the time of the next exchange.

B6.0 Special settlements

B6.1 Suva

At the option of the presenting bank, cheques and settlement representing individual items for F\$100,000 and over which have been accepted late for inclusion in the 2.00pm exchanges are to be settled by net entry on the books of the RBF.

Special settlements are restricted to presentation at 3.15pm where the closing time is 3.00pm and 4.15pm where the closing time is 4.00pm.

B6.2 Outside Suva

When the balance of the exchange settlement is F\$100,000 or more or special settlement is requested of individual cheques of F\$100,000 or more which have been accepted late for inclusion in the afternoon exchanges, settlement is to be effected at Suva through the banks' Suva offices with a net entry on the books of the RBF.

Special settlements are restricted to presentation at 3.15pm where the closing time is 3.00pm and 4.15pm where the closing time is 4.00pm.

The following procedure is to apply:

To advise by telephone followed by telex/fax immediately as follows:

⁶ Cheques returned in such cases must comply with the clearing house rule for timely return. Any other cheques must be returned through negotiation direct with each sending bank.

“We have requested (nominated bank) to pay the sum of(amount) being settlement of exchanges(date) or cheque (cheque details).”

This notice is subject to confirmation by the receiving bank.

B7.0 Settlement for dishonoured items

In accordance with paragraph C3.0 of Part C, dishonoured items are to be settled by debit voucher through the next available clearing exchange. Should a dishonour item debit be received by a collecting bank branch before the relative dishonour item, it is to be retained.

In such cases where such branch is unable to identify the transaction from detail appearing on the debit, the debit is to be returned to the dishonouring bank branch with the answer: ***“Relative items not to hand – unable to identify transaction from the information given.”***

In retaining debit in terms of above, a collecting bank branch shall in terms of its internal instructions, act upon the debit for purpose of notifying and debiting the party for whom the missing item was collected.

After allowing for reasonable in-transit time, the collecting bank branch must then advise the drawee bank branch of non-receipt of a dishonoured item with a view to establishing reason for non-receipt. If the dishonoured item is considered to be lost, the dishonouring bank branch should make every effort to obtain and supply the collecting bank branch with a duplicate of the lost item within 7 working days.

B8.0 Records retention

Collecting members must retain all pertinent records necessary to reconstruct any presentation or individual payment for seven years beyond the date of original presentment.

|

PART C RESPONSIBILITIES OF A PAYING BANK

C1.0 Customary Practice

Paying banks must pick up any exchanges of payments made available to them at the clearinghouse each day. Payments made available to a paying bank which are not picked up by such bank on that day are settled on that day regardless, and the time for return will start on that day.

C2.0 Paying bank provisions

C2.1 Settlement or return of cheques

Payments remain the property of collecting banks until they have been settled for or returned; paying banks hold payments in trust until they have received credit from the drawer of the payment by charging that account on its books.

C2.2 Error reporting and lost cheques

A paying bank may accept the total of a collecting bank's exchanges as correct without verification. Verification of the lists is to be made by the receiving banks in their own premises. The paying bank must notify the presenting bank not later than the time of the subsequent exchange of any missing items by a Bankers' Warrant to the collecting bank. The streamer total of the exchange need not be adjusted by the paying bank at the time a missing item is located.

If the collecting bank is unable to locate the missing item, it will request the paying bank to assist in locating the missing item, in case it is held as a surplus item at the paying bank or to write to its customer seeking a replacement. The collecting bank will also write to its customer advising about the misplacement of the deposited cheque as the reason for it not being able to be processed. As a result, the item will remain uncleared until a replacement is received and processed.

C2.3 Significant errors

As provided in paragraph B5.0 of Part B, a paying bank that discovers serious errors in exchanges such as missing or unlisted batches, improperly charged batches, missing detailed listings, etc, must inform the appropriate collecting bank not later than the time of the subsequent exchange on the day of receipt and hold the specified batches for pickup by the collecting bank. The paying bank will attach the following statement to the payment(s):

Payment(s) received in error from	:	_____
Date Received	:	_____
Time Received	:	_____
Authorised Signatory	:	_____
Bank Stamp	:	_____

C2.4 Other errors

Other errors discovered by the paying bank within batches must be reported not later than the time of the subsequent exchange to the collecting bank via an advice of adjustment signed by an authorised person. Settlement for the errors will occur through the next clearing. The advice will include the following information for tracing purposes :

- (a) total of the batch in which cheque is included;
- (b) date of original clearing;
- (c) if more than one cheque of the same amount appears in a series on the batch listing, the amounts of cheques listed immediately before and after the missing cheque should be provided; and
- (d) name of sending branch, if shown on the batch listing.

In addition, the following minor errors should be handled as described below:

- (a) cheques not listed but received (free) should be returned to the collecting bank without entry; and
- (b) cheques which have been improperly sorted to the paying bank must be returned to the collecting bank with the answer "incorrectly cleared" through the clearinghouse not later than the close of business on the business day following the day of clearing.

C3.0 Dishonoured payments

General provision:

Unpaid or dishonoured payments are to be hand delivered directly to the collecting bank and settled for by debit through the earliest available clearinghouse meeting. Paying members must note conspicuously, in writing on each returned payment, the cause for return and where applicable, details of proof machine that appear on the reverse of the dishonoured item, i.e. machine identification, batch, or voucher number and date. In addition, an adhesive label/rubber stamp bearing a letter "R" printed must be affixed in a clear space at the top of the face of the item.

Any dishonoured cheque returned more than three times through clearinghouse channels must thereafter be presented on a collection basis. Such an item should clearly bear the letter "R" affixed by a rubber stamp three times on the face of the item.

Reasons so stated must accord fully with the Schedule of the Standardised Answers published by the ABIF and are listed below for convenience:

Effects not clear – there is not enough money in the account of the issuer of the cheque, because cheques which have been credited to that account have yet to be paid.

Payment stopped – the issuer (drawers) of the cheque has informed his or her bank not to pay the cheque i.e. a stop payment.

Post-dated – the cheque cannot be paid because its date is some time in the future.

Present again – similar to above, but used when the bank expects enough money to be available to pay the cheque and therefore suggest that it be presented again for payment.

Refer to drawer – the recipient of the cheque (the payee) should ask the person issuing the cheque why it has not been paid. This would usually mean that there are not sufficient funds in the issuer's account.

Stale cheque – the cheque cannot be paid because its date is too old or “stale”, normally more than 6 months.

Signature differs – there is some doubt whether the signature on the cheque is genuine.

Words or figures differ – the amount on the cheque written in words is different from the amount written in numbers. If it is unclear which amount should be paid, the cheque is returned.

C3.1 Timely return

C3.1.1 Local clearing

Any payment presented through the clearinghouse shall be deemed to be returned timely, and the paying member shall not be held accountable for such payment, if it is returned by the second business day after the payment has passed through the clearinghouse.

C3.1.2 Intra branch clearing

Payments presented by an out-of-town branch through a local clearing arrangement must be handled in accordance with the same sequence and the same procedure above.

C3.2 Time limits for return of dishonoured items

The effect of timing on return of dishonours is to be from the day of exchange, that day being determined Business Day 1 (Working Day) and shall be:

- (a) Where the item is drawn on the branch of the bank represented at the point of exchange: no later than 3:00pm on Business Day 3;
- (b) Where item is drawn on a point other than at the point of exchange: no later than Business Day 4; and
- (c) Where the collecting bank is represented at drawee point: no later than Business Day 6 where collecting bank or collecting agent is not represented at drawee point.

All dishonours are to be hand delivered. Use of mail services for delivery is not permitted. Where return of dishonour cannot be achieved at drawee point or Collecting point for lack of representation, then the point of return is through the bank's Suva office. All dishonours are to be acknowledged upon delivery.

The drawee bank branch is to deliver dishonoured item to the collecting bank branch represented at drawee point.

Where delay is expected due to volume of transactions processed, computer delays or missorts, the collecting bank is to be advised by telephone, with details if requested, and delivery made as soon as practicable.

C3.3 Wrongly directed dishonoured items

Any dishonour wrongly directed is to be redirected without delay by the receiving bank branch to the collecting bank branch in accordance with each bank's internal instructions. Where trace details on the dishonoured item are not sufficient to identify the collecting bank branch, the item is to be returned (under telephone advice) to the drawee bank branch.

C3.4 Indecipherable or no bank stamp

Where a dishonoured item bears an indecipherable bank stamp or no bank stamp, it is to be returned through the same source as it was received with relative notice being directed to that source.

C4.0 Notification

Advance notification of dishonour is required for all dishonoured payments in excess of F\$30,000 by telephone, or fax notice from the paying bank to the collecting bank. The notice shall contain a) F\$ amount, b) drawer's name and account number, c) date of return, d) reason for dishonour, and e) payee's name.

C5.0 Cheques inadvertently paid

Paying banks cannot automatically return a cheque after the time limit for dishonour and return. Bank branches should contact their head offices for guidance in all cases where cheques have been inadvertently paid. The only circumstance in which a paying bank is permitted to do this transaction is where in the joint determination of the paying and collecting banks there is a fraudulent transaction between the accounts of both banks and, the collecting bank still holds funds sufficient to absorb the late dishonoured payment.

C6.0 Lost dishonoured cheques

In the case where a paying bank detects that a dishonoured cheque has been lost in transit before being finally mailed by post to a client, the paying bank must originate a debit to the collecting bank upon advise of the collecting bank which includes the following information:

- (a) date of clearing;
- (b) amount (if the lost cheque is for a round or common amount, or if more than one cheque for the same amount appears on the batch, the amounts of the cheques listed immediately before and after the lost cheque should be provided to facilitate tracing);
- (c) total of batch in which the lost cheque was included; and
- (d) name of branch.

The collecting bank shall accept the debit provided that:

- (a) the debit is presented not later than 7 working days from the date of original clearing;
- (b) sufficient details are given; and
- (c) the depositors account remains open.

Collecting banks should in all cases assist the paying bank in resolving lost cheque cases, by obtaining information from their records or a duplicate cheque from the payee.

C7.0 Situation of default

In the event a member bank has been closed under the Banking Act 1995, such member will be declared a defaulter and shall forthwith be suspended as a member of the clearinghouse. Such bank shall not attend the clearing to either send or receive cheques. In the event that such declaration occurs after the daily settlement, the clearinghouse will request the defaulting member to immediately return all unpaid payments from that day's clearing to the RBF. The RBF will then return such payments to the members, who had originally sent them to the clearinghouse for payment and debit their accounts accordingly.

C8.0 Records Retention

Paying members must retain detailed tapes or paper listing, and any other associated evidence necessary to reconstruct records for any clearinghouse transaction for seven calendar years from the date of receipt. Paying members will assist sending members in resolving inquiries about transactions, which occur after the mandatory records retention period has expired.

PART D RESERVE BANK OF FIJI'S RESPONSIBILITIES

D1.0 Customary Practice

The RBF is a member of the clearinghouse and may participate in the clearing service to the same extent as any other member for payments it may receive or originate in its role as fiscal agent of the government.

D2.0 General provision

The RBF settles accounts on its books for the net positions of the members.

D3.0 Settlement

At the end of each clearinghouse settlement, each member bank representative shall provide the Supervisor with a signed statement reflecting the individual and overall net difference between cheques brought and cheques received, which will be the authority for the RBF to make the necessary entries on the exchange settlement accounts of the participants.

The Supervisor will then prepare the Final Settlement Statement attached as Appendix 4. When it balances, the Supervisor will declare the House to be "in balance". Member bank representatives are not permitted to leave the clearinghouse before this time.

When the clearinghouse is in balance, each representative will complete a required form to indicate that the bank's current account on the books of the RBF will either be debited or credited with the amount stated therein. This form will be signed by the Supervisor. If settlement is taking place at a branch location in another city/town at a designated clearing facility, the settlement amount will then be advised by fax to the RBF for incorporation into the consolidated clearinghouse form for that particular bank.

D4.0 Balances maintained at the RBF

Members authorise the RBF to charge to their accounts any debit amounts that may occur as a result of the day's clearing of payments, and must maintain funds in these accounts adequate to cover such debits on the day of settlement. If any member's account balance proves inadequate for this purpose, the member shall provide necessary immediately available funds no later than 4.00pm Monday to Thursday and 4.30pm on Friday; failure to do so will result in the declaration of default and use of the Unwind of Settlement.

D5.0 Unwind of Settlement

If the RBF discovers, during the settlement process, that a paying bank is unable to settle due to lack of funds in its exchange settlement account or has been declared a defaulter, the RBF shall direct the clearinghouse to unwind the settlement for the exchanges of that relevant day, i.e. reverse the credit given to that paying bank for its payments brought to the clearinghouse and debit against it for payments brought by other banks, and recalculate the positions of all participants accordingly. The member who fails to fund its settlement obligation as herein provided shall not be permitted to attend to the next regular clearinghouse exchange until permitted by the RBF to do so.

Any loss sharing arrangement or use of Reserve Bank borrowing to fund any shortfall in settlement balances will be governed under specific risk management measures issued by the RBF.

D6.0 Limit of liability

The RBF shall not in any way be responsible or liable in the event a member incurs a loss in connection with participation in the clearinghouse, except in the case of the RBF's own negligence or misconduct. It is understood and agreed that all claims on account of misrouting, untimely return, failure to return, default by a member, etc, shall be resolved directly between the members except insofar as they agree to use RBF books to post the transactions. The RBF shall, however, be accountable pursuant to the terms and conditions of these Rules for its own cheques entered for clearing and settlement in the same manner as any other member.

PART E MISCELLANEOUS PROVISIONS

E1.0 Address for Notices

Any written notice to the clearinghouse as required by these Rules shall be addressed as follows:

The Chairperson
Clearinghouse Technical Subcommittee
C/- The Executive Secretary / Treasurer
Association of Banks in Fiji
PO Box 2585
Government Buildings
SUVA

Cc: The Supervisor, Banks' Clearinghouse, SUVA.

Any written notice between and among members required under these Rules should be addressed to designated locations specified and published from time to time by the members. Properly addressed notices shall be effective when received or at the expiration of a fixed schedule in such cases where advance knowledge is necessary.

E2.0 Governing law

The transactions covered by these Rules shall be subject in all respects to the Reserve Bank of Fiji Act rev 1985, the (Fiji) Banking Act 1995, the (Fiji) Bills of Exchange Act ed 1978, the Proceeds of Crime Act 1997 and other applicable laws and regulations in Fiji. In the event that there arises any inconsistency between Rules for the Banks' Clearinghouse and the various Acts mentioned in this clause, the provisions of the relevant Act shall prevail.

E3.0 Measure of damages for failure to comply

The measure of damages for violations of Part C, to which members are subject are as follows:

E3.1 Delay in reporting

The measure of damage payable by a member that fails to report an error in its favour is an amount equal to the amount by which such member was unjustly enriched as a result of such error. However, no damages shall be payable in respect of errors less than F\$1,000,000 except where the clearinghouse determines that such occurrences are repeated or intentional. The amount of damage for unjust enrichment shall be computed by applying to the face amount of the transaction an interest rate equal to the RBF's minimum lending rate in effect on the day the error is discovered and for such period that the enrichment was available to the member.

E3.2 Improper return

The measure of damage applicable to cases of failure to return dishonoured payments on a timely basis, shall be that the paying member becomes accountable for the cheques.

E4.0 Disputes

While the guiding principle of clearinghouse operations is that bank customers are not to be relieved of their normal legal liabilities in any transaction merely because the paying bank has failed to carry out all or any of these Rules relating to the handling of unpaid or lost cheques, a collecting bank may refuse to accept return of any cheque in respect of such cases where the provisions of Part D have not been followed.

In the interest of systemic stability, the RBF may choose to perform the duties of a mediator with an aim to solve any matters of dispute amicably amongst the members concerned. All disputes in respect of these Rules are to be dealt with by the banks at managerial level. Matters, which cannot be settled amicably, should be referred promptly to their respective head offices.

E5.0 Violations of law

In all other cases, the measure of damage shall be as determined under the applicable laws of Fiji.

PART F IMPLEMENTATION ARRANGEMENTS

F1.0 These rules apply to all members of the Clearinghouse listed under paragraph A2.0, Part A, with effect from 1 July 2002.

Financial Institutions Department
Reserve Bank of Fiji
May, 2002

Attachments:

- Appendix 1: Definitions**
- Appendix 2: Emergency Procedures**
- Appendix 3: Exchange Clearing Form**
- Appendix 4: Final Settlement Statement**

DEFINITIONS

The terms used in these Rules have the following meanings

‘ABIF’ shall mean the Association of Banks in Fiji representing its member banks as scheduled under PART A, Clause A2.0 – Membership.

‘Books’ means the accounting records maintained by a member for its clients and exchange settlement accounts maintained by the RBF for members.

‘Business Day’ means a day from Monday to Friday (excluding gazetted public holidays).

‘Clearinghouse’ means the facilities maintained by the ABIF in Suva and other locations where exchange of cheques are carried out by bank branches on behalf of the ABIF.

‘Collecting bank’ means, with respect to any payment, the member that sends that payment through the clearinghouse to a paying bank. The terms “collecting bank” and “sending bank” may be used interchangeably in these Rules.

‘Crossing Stamp’ the first stamp that is placed on the face of a cheque by a bank as it is presented for payment for the first time. This indicates that the bank which has stamped the cheque has paid out on the cheque and is eligible for payment as the current holder.

‘Eligible cheque’ means a payment that is determined to be acceptable for clearing by the clearinghouse. This includes cheques, bankers payments, demand drafts, debits for clearing adjustments, returned cheques and incorrectly cleared cheques irrespective of domicile. Other cheques, which are not eligible for presentment through the clearinghouse, must be cleared in terms of each bank’s internal instruction.

‘Exchange’ means a group of payments prepared and delivered to the clearinghouse in accordance with prescribed procedures.

‘Member’ means a bank, which has been approved to participate in the clearinghouse under the terms and conditions of these Rules. The terms “financial institution”, “bank” and “branch” may be used interchangeably in the text.

‘Net Settlement’ means the posting by the RBF, of a net debit or credit to the exchange settlement account of a member for the daily clearings. Such postings shall be provisional, subject to the provisions of paragraph C2.0 of Part C.

‘Paying bank’ means, with respect to any payment, the member that receives that payment through the clearinghouse and posts the payment to a current account. The terms “paying bank”, “drawee bank”, and “receiving bank” may be used interchangeably in these Rules.

‘Payment’ means a cheque drawn on a current account in a financial institution as defined by the Bills of Exchange Act of Fiji. The words "payment", "item", and "cheque" may be used interchangeably in these Rules.

‘Payable on demand’ means the delivery of a payment by a collecting bank to the clearinghouse representative of the receiving bank upon which the payment has been drawn.

‘Returned cheque’ means any payment, which has been dishonoured by the receiving financial institution for any reason and sent back through the clearinghouse. Payments are not considered to be finally paid until the close of the prescribed period of time for return.

‘Special Settlement’ means individual items for F\$100,000 and over.