

APPROVED  
by the Board of the Bank of Lithuania  
on 5 February 2019  
(Meeting Protocol No 01-4)

## **POSITION OF THE BANK OF LITHUANIA ON PAYMENT AND SETTLEMENT IN EURO CASH**

Taking into account the changing consumer payment habits and developments in the payments market, seeking greater clarity in terms of payment and settlement in euro banknotes and coins (hereinafter – euro cash) and having regard to the legislation of the European Union (EU) and national legislation of the Republic of Lithuania regulating the status and use of the euro as legal tender, the Bank of Lithuania has prepared its position on payment and settlement in euro cash (hereinafter – the Position).

It should be noted that the Position cannot be regarded as official interpretation of legislation or a decision of the Bank of Lithuania.

**The euro is legal tender in the Republic of Lithuania. Payments and settlements in euro must be accepted in the Republic of Lithuania.**

**The Bank of Lithuania regards both euro cash (euro banknotes and coins) and euro non-cash (payment cards, electronic money, etc.) as equally eligible for payment for goods and services, does not favour either of them, and aims to strengthen competition in the payment and settlement market for the benefit of business and consumers.**

**In the opinion of the Bank of Lithuania, refusal to accept euro cash as payment, choosing other lawful means of payment as an alternative, is without prejudice to EU legislation or national legislation of the Republic of Lithuania.**

**It is to be noted that refusal to accept euro cash is considered acceptable if parties have agreed on other means of payment or the potential customer has been informed on means available for payment in advance and in a clear manner.**

The Treaty on the Functioning of the European Union (hereinafter – the Treaty) establishes the status of legal tender of euro banknotes within the EU. Article 128(1) of the Treaty stipulates that “the European Central Bank shall have the exclusive right to authorise the issue of euro banknotes within the Union. <...> *The banknotes issued by the European Central Bank and the national central banks shall be the only such notes to have the status of legal tender within the Union.*” Article 128(2) of the Treaty states that “*Member States may issue euro coins subject to approval by the European Central Bank of the volume of the issue.*”

Pursuant to Article 10 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro (hereinafter – Regulation (EC) No 974/98), “the ECB<sup>1</sup> and the central banks of the participating Member States<sup>2</sup> shall put into circulation banknotes denominated in euro. <...> *these banknotes denominated in euro shall be the only banknotes which have the status of legal tender in all these Member States.*” Pursuant to Article 11 of Regulation (EC) No 974/98, “the participating Member States shall issue coins denominated in euro or in cent and complying with the denominations and technical specifications; <...> *these coins shall be the only coins which have the status of legal tender in all these Member States.*” Therefore, Regulation (EC) No 974/98 stipulates that euro banknotes and coins issued according to the prescribed specifications are the only banknotes and coins to have the status of legal tender in EU Member

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<sup>1</sup> ECB – European Central Bank.

<sup>2</sup> Participating Member States – EU Member States whose currency is the euro.

States, but does not regulate the use of euro cash and non-cash for payment and settlement purposes.

The understanding of legal tender is not uniform within the law of EU Member States. According to some Member States, EU legislation defines what is to be regarded legal tender (i.e. euro banknotes and coins), while other issues pertaining to the use of the euro are to be regulated by the Member States' national legislation.

Certain aspects related to the use of euro banknotes and coins were covered in Commission Recommendation 2010/191/EU of 22 March 2010 on the scope and effects of legal tender of euro banknotes and coins (hereinafter – Recommendation 2010/191/EU). Recommendation 2010/191/EU, *inter alia*, stipulates that in exercising their payment obligations the parties may agree on means of payment other than euro cash and in certain cases a retailer may refuse to accept euro banknotes and coins in retail transactions. In the latter case, a refusal thereof should be grounded on reasons related to the 'good faith principle' (for example, the retailer has no change available). It should be noted that Recommendation 2010/191/EU is a non-binding legal act, non-compliance with which does not entail any legal implications.

It should be also noted that EU Member States have not reached an agreement on the harmonisation of the concept of legal tender at EU level. In terms of payment and settlement, the principle of mandatory acceptance of euro cash clashes with the principle of freedom of contract. National legal provisions and practice of EU Member States in relation to issues pertaining to the mandatory acceptance of euro cash for payment and settlement have varied. Under effective EU legislation, EU Member States retain a margin of discretion over the regulation of issues pertaining to the use of the euro and over establishing a balance between the mandatory nature of legal tender, the principle of freedom of economic activity and the principle of freedom of contract. For instance, the Federal Republic of Germany, Republic of Finland, Kingdom of the Netherlands, and Ireland recognise that the principle of freedom of contract may limit the application of provisions related to the mandatory acceptance of euro cash.

Legal acts of the Republic of Lithuania regulating the use of euro cash and other methods of payment and settlement (Article 6.929(1) of the Civil Code of the Republic of Lithuania) do not impose any obligation on parties to accept cash payments. No coercive measures have been foreseen in respect of persons who at their own discretion refuse to accept cash payments and choose to only accept alternative, more convenient means of payment, having clearly informed their customer thereof. In that regard, it must be stressed that the use of cash entails costs related to the cash supply and handling thereof (for example, withdrawal of cash from a payment account, collection), which may increase the price of goods or services.

Pursuant to Article 6.228<sup>6</sup>(1) and Article 6.228<sup>7</sup>(1) of the Civil Code of the Republic of Lithuania, prior to the conclusion of a consumer contract, a retailer shall, in a clear and comprehensible manner, provide the customer with necessary, correct, complete and non-misleading information. With clear and understandable information made available with regard to the procedure for payment or settlement for goods and services, the customer shall decide whether to enter into the contract, i.e. the customer shall make their own decision whether to acquire the good or service under the proposed conditions.

The Position has been prepared in view of the current trends and proportions of payment and settlement in euro cash and other lawful means of payment in the Republic of Lithuania.

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