III. THE CHEQUE CLEARING SYSTEM

(1) Introduction
The cheque clearing system is a system for the presentment of cheques by collecting banks to paying banks in order that they may be paid or dishonoured. It is true that cheques do not have to be presented through the clearing system, and do not have to be presented through banks at all if they are not crossed. Even if crossed, the cheque may be specially presented at the request of the payee directly to the branch of the paying bank on which it is drawn and avoid the clearing system. In practice, almost all cheques pass through the clearing system.

The rights and obligations of the collecting bank and paying bank between themselves, the payer and the payee depend in large part on a proper understanding of the clearing system. Questions relating to the precise time of payment where the clearing system is used as between the paying bank and the collecting bank, and as between others, are dealt with in section VI below.

In 2007, the banks using the clearing system agreed users of the clearing system would credit proceeds of cheques for interest by the beginning of two days after the day of deposit; allow payees of cheques to withdraw proceeds by the beginning of four days from deposit, and not allow cheques to be returned unpaid after the end of six days from deposit (the 2-4-6 timetable). This change is a major improvement in the clarity and consistency of relations between the payee and the collecting bank (see para-7-066 below). The clearing system is run by the Cheque And Credit Clearing Company Limited, subject to the oversight of the Payments Council. In this section we deal with:

(2) Payments Council
(3) Decision to set target date to close cheque clearing system in 2018
(4) Cheque and Credit Clearing Company Limited
(5) The Cheque Clearing system
(6) Dates for value, withdrawal and fate: the 2-4-6 timetable
(7) Inter-branch and intra-branch cheques
(8) Collection through processing branch
(9) Collection of cheques by one bank as agent for another
(10) Truncation
(11) Currency Clearings
(12) Cheques drawn in Euros

(2) Payments Council
The Payments Council is a company limited by guarantee established by banks in 2007 as a central body responsible for setting the strategy for payment systems in the United Kingdom, including the clearing system. Its objectives are to lead future developments, ensure payment systems are open, accountable and transparent, and ensure the operational effectiveness and efficiency of payment services in the Kingdom. The council is a voluntary membership organisation, with members drawn from UK and foreign banks, and a Board consisting of 11 directors from member banks, along with an independent chairman, four independent directors and the Bank of England as an observer. Although the Council mainly has industry representation, the four independent directors together have the power to block decisions by the other directors.

135 See http://www.paymentscouncil.org.uk [Accessed August 31, 2010]. The work of the Council was reviewed by the OFT in March 2009: Review of the operations of the Payments Council, OFT1071.
The Payment Council has entered into contracts with each of the schemes which are directly responsible for the operation of payment schemes in the United Kingdom:

— Cheque and credit clearing
— BACS
— CHAPS
— Faster Payments
— LINK ATM scheme.
— Cheque guarantee scheme
— Belfast Bankers Clearing Company Limited.

The contracts are described as generic, and set out the duties and responsibilities of each party. Each scheme is required to report to the Payment Council Board which has the authority to make decisions which are binding on the schemes after consultation.

UK Payments Administration Limited (UK Payments) is a company established in June 2009 and provides an industry forum for discussion and work in relation to non-competitive matters (e.g. policy, statistics, standards and information to the public). UK Payments is a service company, not a membership body. UK Payments took over from APACS Administration Limited which provided the same services previously.

(3) Decision to set target date to close cheque clearing system in 2018
In May 2008 the Payments Council published its first National Plan for future developments in payment systems in the United Kingdom which concluded that the long term decline in use of cheques should be actively managed. On December 16, 2008 the Payments Council announced, following consultation, that it had set a target date of October 31, 2018 for the closure of the cheque clearing system. The Council recognised that although cheque use had been in decline since 1990, there were still many situations in which cheques were used extensively, including payments between individuals, and payments to small businesses. The Council announced that over the next nine years it would seek to promote alternatives to the use of cheques including new methods of payment. Depending on progress the final decision as to the date for closure of the clearing system would be taken in 2016. The Council expects that before deciding to close the clearing system it would be necessary that: alternatives to cheques exist; that those alternatives have shown themselves to be acceptable to users, with widespread awareness and adoption of the alternatives; and that the Council has decided what measures should be in place to ensure those least equipped to change to alternatives are not disadvantaged. At the time of writing, it is not clear what alternative options may emerge, or if they will prove to be widely acceptable.

In June 2009 the Payments Council also concluded that the cheque guarantee scheme should be closed within two years, and in September 2009 the Cheque Guarantee Card Scheme announced that it would close on June 30, 2011.

(4) Cheque and Credit Clearing Company Limited
The Cheque and Credit Clearing Company Limited (C&CCCL) is responsible for the bulk clearing of cheques and paper credits throughout Great Britain. The C&CCCL is owned by its members. In mid-2010 there were 12 members, i.e. 11 clearing banks (also known as the settlement members) and the Bank of England, but this is expected to change as the industry

136 Review of the operations of the Payments Council, OFT1071, (March 2009), para.3.25.
137 Review of the operations of the Payments Council, para.3.27; Rules of Payment Council Limited, para.27.3.
Access to the clearing system is also available to some 400 banks and building societies which are not settlement members through agency agreements with settlement members, thus allowing them to obtain clearance of payments on their customers' behalf. There is no standard form for such agreements which are individually negotiated. Not all members participate in all C&CCCL clearings.

In essence, the C&CCCL has three main functions: it provides premises at Exchanges at Milton Keynes and Edinburgh for the physical exchange of cheques and other items; it provides the system for the transfer of electronic data between members (known as IBDE), and it calculates the net settlement sum to be paid each day between members of the clearing system.

The clearing system processes sterling cheques payable in the United Kingdom, bankers' drafts, building society cheques, postal orders, warrants, government payable orders, and travellers' cheques. Cheques drawn on accounts in Scotland were handled by separate clearings but from December 1996 have come under the responsibility of C&CCCL. Cheques drawn on accounts in Northern Ireland are processed in Northern Ireland. Cheques drawn in Euros on UK banks and collected by UK banks are also cleared by the C&CCCL under a system called Euro Cheque Clearing. Cheques drawn in US dollars on UK banks are cleared through a separate C&CCCL clearing system, known as the Currency Clearing. Historically, the Currency Clearing cleared cheques in multiple currencies but due to reduction in volumes exacerbated by the creation of the Euro, it is now restricted to cheques in US dollars.

(5) The Cheque Clearing system
The physical process by which sterling cheques drawn on one bank and payable by another in England, Wales and Scotland is described below. The processes have developed as technology has developed. Recently, there have been changes as a result of the adoption of the 2-4-6 timetable (e.g. the use of couriers to return unpaid items, in order to allow collecting banks to allow withdrawal by T + 4 — see para.7-058 below). The process can be summarised in a diagram as follows:

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140 The settlement members in 2010 were Alliance and Leicester, Bank of Scotland, Barclays, Clydesdale Bank, Co-operative Bank, HSBC, Lloyds TSB, National Westminster Bank, Nationwide Building Society, RBS, and Santander UK.
141 This description is based on these documents the clearing system rules, Rules for the Automated Debit Clearing of C&CCCL (July 2009, version 1.0); Cheques and Clearing, an historical perspective (2009), and Cheque Clearing since 1985, (2010), both published by C&CCCL at http://www.chequeandcredit.co.uk [Accessed August 31, 2010]; and the Payment Systems Task Force Cheques Working Group Report of November 2006 (see para.7-067) at Annexe C. For the history of cheque clearing see Barclays Bank Plc v Bank of England [1985] 1 All E.R. 385, 387, per Bingham J. and Cheques and Clearing, an historical perspective.
142 See the survey at Cheques and Clearing, an historical perspective.
Law of Bank Payments

(a) Depositing the cheque and branch processing: $T$

On, for example, the day of a transaction ($T$), the payee\textsuperscript{143} deposits the cheque at the branch of the collecting bank. Cheques may also be sent by post or, for a large business, be delivered directly to the processing centre of their bank.

At or near the end of each business day, all the cheques from the paying in branch for clearing are collected and transported by the collecting bank by secure courier to the clearing centre of the collecting bank, also called the out-clearing centre. Some branches impose cut-off times before close of business for purely geographical reasons in order to get the work to that bank's clearing centre for that night's processing run. Different arrangements avoiding the central clearing system may apply for inter-branch cheques (see para.7-071).

(b) Out clearing: $T - T + 1$

When a cheque arrives at the collecting bank's out-clearing centre it will generally (if this has not already been done) be imaged on a machine (called a high speed reader sorter machine) which enables the amount in the figures box to be read. In many cases, the out-clearing is carried out by an independent company (outsourcing) engaged by the collecting bank for the purpose.

An electronic data file (called the Inter Bank Data Exchange data, or IBDE data) is created from these amounts, together with the magnetic ink figures pre-printed on the foot of each cheque, which record the account number, sort code and cheque serial number.

The high speed reader sorter machines also physically sort the cheques by settlement member for exchange at the Exchange Centre.

The windows for exchange of data and the paper cheques at the Exchange Centre are between midnight and 11:00 for data, and between 05:00 (or 07.30 in Scotland) and 11:00 for paper cheques. Meeting the exchange windows is the primary consideration for members when introducing any operational cut-off times, and these would apply to branch collections, large companies and any lockbox arrangement (out-sourcing receipt and processing of bill payments by post).

(c) Exchange centre and IBDE transfer: $T + 1$

There are two Exchange Centres, one at Milton Keynes for cheques drawn on banks in England and Wales, and one at Edinburgh for Scotland. Once all the cheques from out-clearing have been physically sorted they are taken to one of the exchange centres and transferred to the appropriate settlement member. Cheques drawn on banks in Northern Ireland are sent to Northern Ireland for processing by the Belfast Bankers Clearing Company.

The collecting bank also sends the IBDE data file directly to the paying bank via the IBDE network in encrypted form, and signed with a digital signature so that the paying bank can verify that the data has not been tampered with as it passes over a secure network. This exchange of data and corresponding paper cheques takes place in the designated windows in the morning of $T + 1$.

(d) In-clearing $T + 1$

The paying bank will then reconcile the paper cheques and IBDE data it has received, in order to identify any missing or additional items.

The cheques received are again read by high speed reader sorter machines in a first sorting (the prime sort). Generally, paying banks only recapture the details in the magnetically recorded figures at the foot of the cheque (account number, sort code and cheque number).

\textsuperscript{143}We refer here to the usual case where the beneficiary of the cheque is the payee, although if the cheque has been negotiated, or another person has given value for it, the beneficiary would be the holder of the cheque.
This helps ensure debits are directed to the correct account. Some banks may in addition capture the image at the in-clearing, but the paying bank does not usually re-capture the amount of the cheque. Images tend to be used for fraud checks, customer queries and adjustment (see below) so the bank can quickly check whether the value of the credit matches that for the debit. Some banks use software for automated signature verification and retain the image for long term storage.

Following the prime sort, the fine sort takes place. The cheques are sorted by sort code and account number ready for long term storage (and subsequent retrieval when necessary). Exceptional items are sorted out for fraud and other checks based upon value and account details. The time taken for the fine sort depends on the number of passes through the reader sorter machines required to achieve the desired order of the cheques to be placed in storage.

(e) Settlement: T+2
Settlement takes place on the morning of T + 2. Settlement is based upon the amounts in the IBDE data file sent by the collecting bank to the paying bank, with any adjustment made subsequently.

The collecting bank inputs the sums to be settled into a secure browser-based application on the internet, provided by C&CCCL. The paying bank inputs its record for items received and not immediately rejected. The software calculates the net figures to be paid or received by each member. This is calculated on a multilateral basis, that is, as between all members.

The settlement figures are then transmitted to the settlement service provider. The Bank of England is the settlement service provider in the case of sterling cheques. The figures are transmitted by SWIFT directly into the real time gross settlement system (para.3-035 above). A Eurozone central bank is currently the settlement service provider for the Euro clearing where the settlement system is less automated, and the settlement information is sent by fax from C&CCCL. However, it is expected that settlement of the Euro cheque clearing, which is vastly smaller than the sterling clearing and does not pose any systemic risk issues, will migrate to settlement in commercial bank money with a commercial bank acting as settlement agent in late 2010. The Currency Clearing (US dollar) already settles in commercial bank money.

There is therefore a significant delay between the exchange of cheques on T + 1 and settlement on the morning of T + 2. If one member was unable to settle, there is an obvious risk of unexpected credit or liquidity problems for all settlement members. In consequence, the C&CCCL has required settlement members to make provision for liquidity funding and collateral with the purpose of enabling settlement to be completed if a bank fails.\(^\text{144}\)

(f) Customer debit and credit: T + 2
In accordance with the 2-4-6 timetable, the collecting bank will credit the account of holder with the amount of the cheque for the purposes of calculating credit or overdraft interest by the beginning of T + 2. The paying bank will debit the account of the payer at the beginning of T + 2. If the cheque is later returned unpaid, the amount of the cheque may not be debited to the account of the payee after the end of T+ 6.

(g) Pay/No pay decision: T + 2
The paying bank must decide whether to honour the cheque or to return it unpaid. The paying bank will assess the availability of funds overnight (T + 1 /T + 2).

Unpaid cheques are always adjusted after settlement as between the collecting and paying bank. This means that the paying bank will have to claim the funds back from the collecting

\(^{144}\) Cheque Clearing since 1985, p.3
bank through a debit to the collecting bank issued by the paying bank via the BACS clearing. Approximately 0.5 per cent of cheques are returned as unpaid.

If the paying bank decides not to honour the cheque, then the collecting bank must be notified as soon as possible, since the collecting bank will already (by the morning of T + 2) have updated and credited the account of the payee. The paying bank is required to have notified the collecting bank by specified times on T + 3 whether or not to pay a cheque received in the clearing. The payee would not necessarily, however, have access to these funds and a bank allowing withdrawal against these funds at this stage adopts the credit risk that the cheque is ultimately returned unpaid.

Unpaid cheques must now be collected and returned to members using a dedicated courier service, provided by C&CCCL through a third party. Unpaid cheques leaving the paying bank on T + 2 reach their destination on T+ 3. The courier service includes unpaid items drawn on Northern Ireland banks. The courier service was implemented in 2007, to enable collecting banks to comply with the requirement that a cheque be available for withdrawal at the end of T + 4, without themselves taking a credit risk because of delays in the post of notice of unpaid items.

The cheque will also be returned unpaid if at this stage the cheque appears to be fraudulent or there is some technical failure with reading the cheque (for example, it is damaged or illegible so as to be unreadable, or the payer's signature is absent, or does not correspond sufficiently well to the bank's recorded signature). A cheque may be returned unpaid where it is ordered to be stopped by the payer.

**(h) Returns-in: T+3**
The collecting bank receives unpaid cheques and identifies the depositing customer's account that has been credited (a process often called 'returns-in'). The collecting bank is required to debit the payee's account on the day it receives the unpaid advice (if received before the end of T + 6). Some collecting banks have the ability to apply account reversals during the day, but some banks still rely on an overnight account update process.

Paying banks have the ability to make direct submissions to the BACS clearing system, with the debit directed at a nominated suspense account at the collecting bank. The debit will reconcile with the returned paper cheque. The paying bank will meanwhile usually have used a BACS transfer to reclaim the value of the cheque from the collecting bank.

The collecting bank will usually send a letter enclosing the unpaid cheque to the depositing customer. Some company payees may choose to be advised by phone, fax or electronic means when an item is to be returned.

**(i) Withdrawal of proceeds: T + 4**
By the beginning of T + 4, the holder is permitted to withdraw the amount of the cheque in accordance with the 2-4-6 timetable.

**(j) Certainty of fate: end of T6**
After the end of T + 6 the paying bank will no longer be permitted to recover the amount of a paid cheque from the payee through the clearing system without the express permission of the

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145 Rules for the Automated Debit Clearing, (C&CCCL, July 2009, version 1.0), Unpaids, para.1.
146 Unless the volume of unpaid for a member is very low, or where the unpaid out department of one bank is in the same location as the unpaid in department of another bank, in which case unpaid cheques can be directly exchanged: Rules for the Automated Debit Clearing, Unpaids 3.1.
147 Rules for the Automated Debit Clearing, Unpaids, 2.
beneficiary of the cheque, or in cases where the beneficiary is a knowing party to a fraud in relation to the transactions (which is not to say that it cannot be recovered on the other grounds; see para.3-148).

(k) Copies of cheque
Paying banks are required to keep a copy of the cheque for six to seven years should a problem be identified with the cheque by the payer. Paying banks may choose to keep the image and the paper but these are expensive to store. The out-clearing bank will often take microfiche copies of the cheque.

(l) Fraud checks
Paying banks may check the paper cheque under ultraviolet lights. Cheques are printed according to APACS Standard 3 (see para.7-013), and security arrangements rely heavily upon the use of security inks and base paper with specific characteristics. Paying banks may check, either manually or automatically with software, the signature on the image of the cheque against an image held of the payer's signature. Paying banks may also use account profiling techniques. Fraud checks for 'on us' payments (those cheques deposited with the same bank that they are drawn on) will often be part of the out-clearing process.

(m) Errors in clearing
If any errors are detected by either collecting bank or paying bank (or their customers) post-settlement, there will be a process of adjustment of the settlement (often called research and adjustment, or R&A). Each case for adjustment relates to a specific settlement day and might eventually result in a transfer of funds between the banks concerned in either direction. Queries are exchanged between the banks on one of a number of standard memorandums. The following message codes reflect the type of queries that are dealt with: neither charged nor paid; missing unpaid; copy request; late wrong delivery; tracer-debit clearing; wrongly encoded amount; data record received, no corresponding paper; item(s) received, no data; wrongly claimed amount; uncrossed unpaid cheque; advice of potential unpaid; general. Depending upon the nature of the enquiry, resolution might take up to 15 days. All the settled cases are totalled by the bank and settled each morning in the same way as the main debit and credit settlements, but approximately one hour later.

(n) Special presentation and advice of fate
A cheque may be presented for payment outside the clearing system. The collecting bank may send the cheque directly to the relevant branch of the paying bank, accompanied by a presentation form including the details of the relevant branch of the collecting bank. Such a special presentation is normally dealt with on the next business day, and settlement is by CHAPS, BACS or the credit clearing for amounts under £500,000, and by CHAPS for higher sums.

The collecting bank may telephone the relevant branch of the paying bank to find out whether or not the cheque will be paid (also called advice of fate). Usually the paying bank will reply to the enquiry at the time when made. The paying bank is required only to state that the cheque is paid, or unpaid, together with the reason, or that a reply will be given at the close of that day's business; the collecting bank may not ask the paying bank to telephone if the cheque is not paid.
If the beneficiary of the cheque should himself present the cheque for payment at the paying

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149 Rules for the Automated Debit Clearing, Unpaids 7
150 Rules for the Automated Debit Clearing, Appendix E.
bank branch, the paying bank may choose to accept the presentation, and to pay the cheque, but is not bound to do so.

A detailed summary of the clearing system appears from this table:\footnote{This is a modified version of "Appendix A(i) Clearing and Unpaids Table at Rules for the Automated Debit Clearing, Unpaids.}:

<table>
<thead>
<tr>
<th>T</th>
<th>Collecting Bank</th>
<th>Paying Bank</th>
</tr>
</thead>
<tbody>
<tr>
<td>T + 1</td>
<td>Exchange</td>
<td>Paying Bank</td>
</tr>
<tr>
<td></td>
<td>• Exchange between Collecting Bank and Paying Bank</td>
<td>• In-clearing at Paying Bank</td>
</tr>
<tr>
<td>T + 2</td>
<td>Paying Bank</td>
<td></td>
</tr>
<tr>
<td>Value given to payee</td>
<td>• Pay/No pay decision made</td>
<td>• Paying Bank notified of unpaid item</td>
</tr>
<tr>
<td></td>
<td>• Any unpaid prepared for despatch</td>
<td>• Manual Claim for unpaid vouchers prepared for out-clearing</td>
</tr>
<tr>
<td></td>
<td>• BACS data prepared and sent to BACS by the BACS cut off time</td>
<td>• Settlement takes place</td>
</tr>
<tr>
<td></td>
<td>• Manual Claim for Unpaid vouchers prepared for out-clearing</td>
<td></td>
</tr>
<tr>
<td>T + 3</td>
<td>Collecting Bank</td>
<td>Collecting Bank</td>
</tr>
<tr>
<td></td>
<td>• BACS data received and Unpaid Cheque Suspense account debited by Paying Bank</td>
<td>• Reconciliation process between credits and debits in unpaid cheques suspense account</td>
</tr>
<tr>
<td></td>
<td>• Paper advices and associated unpaid cheques (where available) are received and processed</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Credits passed to Unpaid Cheque Suspense account by the Collecting Bank and debit Beneficiary’s account</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Paying bank notified of unpaid item</td>
<td>• Manual Claim for unpaid items received</td>
</tr>
<tr>
<td>T + 4</td>
<td>Collecting Bank</td>
<td>Collecting Bank</td>
</tr>
<tr>
<td>Withdrawal by payee allowed</td>
<td>• Reconciliation process between credits and debits in unpaid cheques suspense account</td>
<td>• Paying Bank notified of any queries associated with unmatched debits in their unpaid cheque suspense account and any queries raised with the Paying Bank (by 12:00 noon)</td>
</tr>
<tr>
<td></td>
<td>• Paying Bank notified of any queries associated with unmatched debits in their unpaid cheque suspense account and any queries raised with the Paying Bank (by 12:00 noon)</td>
<td>• Resolution of unmatched debit queries by Paying Bank providing information to the Collecting Bank (by 17:00)</td>
</tr>
<tr>
<td></td>
<td>• Resolution of unmatched credit entries</td>
<td>• Resolution of unmatched credit entries</td>
</tr>
<tr>
<td>T + 6</td>
<td>Cheque cannot be returned unpaid after T + 6</td>
<td>Collecting Bank</td>
</tr>
<tr>
<td></td>
<td>• - Last opportunity to debit the beneficiary without their permission</td>
<td></td>
</tr>
</tbody>
</table>

\footnote{This is a modified version of "Appendix A(i) Clearing and Unpaids Table at Rules for the Automated Debit Clearing, Unpaids.}
(6) Dates for value, withdrawal and fate: the 2-4-6 timetable

In November 2007 the 2-4-6 timetable was introduced. This was described as a:

"major advance by the banking industry, providing certainty and clarity for consumers and businesses when accepting cheques, when none currently exists".  

From that date, where cheques are cleared through the sterling clearing system operated by C&CCCL, all settlement members and agency banks have applied specified maximum periods within which certain consequences of the clearing process will have occurred. The maximum periods are these:

By the beginning of T + 2, the payee will receive the value of the cheque. If the payee's account bears interest, the payee will receive interest from the beginning of T+ 2. If the payee's account is overdrawn, the value of the cheque will reduce the amount on which interest is calculated from the beginning of T + 2. Giving value does not mean that the proceeds of the cheque may be withdrawn at this stage, or that the cheque may not be returned unpaid.

By the beginning of T + 4, the payee will be allowed to withdraw the proceeds of the cheque.

After T + 6 the payment of the cheque to the payee will be complete. The collecting bank will no longer be able to treat the cheque as unpaid, and to recover payment from the payee, without the consent of the payee, or the payee has been a knowing party to fraud.

The background to the new 2-4-6 timetable was that in March 2003 the Cruickshank report, *Competition on UK Banking* (March 2000) criticised a lack of competition in payment services, which eventually led the Treasury to announce in December 2003 that the OFT would take on an enhanced role in relation to payment systems for a period of four years in advance of any legislation (HM Treasury, Pre-Budget Report - para. 3.16). In March 2004 the OFT announced the formation of a joint government-industry body, the Payment Systems Task Force. A working group of the Payments Systems Task Force recommended in November 2006 that the 2-4-6 timetable be adopted. This led to the banks which used the clearing system agreeing on a voluntary basis to implement the 2-4-6 timetable pending alterations to the Banking Code in 2008. The Banking Code was duly altered, but has since ceased to exist because the FSA has taken over regulation of day-to-day banking. From November 2009, the BCOBS section of the FSA handbook applied to banks in relation to deposit taking. In relation to retail banking, the rules now require that the bank provide the customer with appropriate information about the services to be provided; and the FSA guidance indicates that this includes information about when funds transferred to the credit of the customer's account will be made available for the customer, and the timescales for each stage of the clearing process.

At present, the terms of the 2-4-6 timetable are publicised by C&CCCL, in particular in the "The Cheque Clearing Cycle". The C&CCCL clearing rules do not as such require compliance with the 2-4-6 timetable, since those rules are concerned with procedures between banks, although reference is made to parts of the 2-4-6 timetable. Some banks publicise their own descriptions of the 2-4-6 timetable.

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155 BCOBS 4.1.1, 4.1.4.
157 e.g. Rules for the Automated Debit Clearing, Unpaids 7 states that a bank must not debit an unpaid cheque to the payee after T + 6.
In the absence of any express term in the contract between payee and collecting bank, it appears that the operation of the 2-4-6 timetable set out by C&CCCL is a practice of banking industry in relation to clearing, and enforceable as such by and against payees.158 Although it is clear that the periods in the 2-4-6 timetable are intended to be binding on collecting banks, it appears there may be exceptions. The C&CCCL states that:

"All subscribers to The Banking Code have committed to implementing these changes and maximum timescales for their customers. In exceptional situations, should they be unable to deliver on the timescales, they will explain the reason why."159

If a collecting bank provides in its contract with a payee for a longer period than allowed by 2-4-6 timetable, it appears that the payee would have no redress for breach of contract if the periods in 2-4-6 timetable were exceeded. However, the C&CCCL may take action against the collecting bank or relevant settlement member to require compliance with the 2-4-6 timetable.

Under the 2-4-6 timetable the time periods are maximum periods; there is nothing to prevent a bank from e.g. giving value earlier. If the payee is allowed to withdraw the amount of the cheque before it may be returned unpaid, there is clearly a risk that the cheque will be returned unpaid, but the payee will not repay the amount of the cheque. However, this is not a major risk because the fate of most cheques is known by T + 3. Days are treated differently within the 2-4-6 timetable: value will be given at the beginning of T + 2 and withdrawal allowed at the beginning of T + 4, but the fate of the cheque will only be known after T + 6. The 2-4-6 timetable does not apply to intra-bank cheques (see para.7-071) where the cheque will usually be credited for value, withdrawal and fate on the same day as presented for collection.

A modified system applies in relation to savings accounts; instead of being able to withdraw the amount of the cheque on T + 4, the payee will have to wait until T + 6 (presumably the end of T + 6). The timetable is therefore called 2-6-6 for deposits to savings accounts. The reason for the difference is that there is more risk of fraud with savings accounts which are not subject to the same degree of credit assessment as current accounts.160

The 2-4-6 timetable applies to sterling cheques drawn on UK bank for payment to a bank in the United Kingdom. This includes: Northern Ireland banks.161 The 2-4-6 timetable does not apply to other cheques for payment by a bank abroad, or cheques in foreign currencies.

The commencement of the time periods under the 2-4-6 timetable appears to be the date of the physical deposit of a cheque at the branch of the collecting bank. Most collecting banks make provision in their terms for a time after which a deposit will be treated as having been made on the next business day (a cut-off time), and for the treatment of cheques deposited in a drop box or ATM, or by post or with the Post Office. In the absence of such provision, it would be a question of fact when the cheque was received by the branch of the collecting bank.

Before the introduction of 2-4-6 timetable, there was no set time when collecting banks were required to give value, or to allow withdrawals of the proceeds of a cheque. It was a commercial decision. However, a cheque could no longer be treated as unpaid, as between the collecting banks and the payee, when the paying bank could no longer return the cheque.

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158 *Hare v Henty* (1861) 10 CB(NS) 65 see para.3-091 above. The Industry Guidance for FSA Banking Conduct of Business Sourcebook, BBA, Building Societies Association and Payments Council (May 2010) provides that firms "should follow" the 2-4-6 timetable (para.5.6).
159 FAQs (2010) in relation to the 2-4-6 timetable on [http://www.chequeandcredit.co.uk](http://www.chequeandcredit.co.uk) [Accessed August 31, 2010].
161 *Cheque Clearing since 1985*, p.3.
unpaid to the collecting bank, which under the clearing system rules was 12 noon on T + 3. 162

The effect of the 2-4-6 timetable is to set a uniform maximum period within which all banks participating in the sterling clearing system must give value, allow withdrawals and return a cheque unpaid. The price of increased certainty and consistency has been to lengthen the period before payment of a cheque is complete, since in most cases before the 2-4-6 timetable, payment would have been complete before the end of T + 3 (particularly in the case of cheques collected by and drawn on settlement members) rather than T + 6.

The 2-4-6 timetable has also eliminated any residual "float" in the clearing system before interest is allowed to the payee of the cheque. 163 Before the 2-4-6 timetable, it was possible for a collecting bank which was not a settlement member to receive value before having to give credit for interest. In _Emerald v Allied Irish Bank_ 164 AIB had an arrangement with Barclays whereby Barclays collected cheques for AIB, and gave value, in some cases on T + 2. However, under its standard terms, if AIB collected a cheque to an overdraft account, it would only give credit on T + 3, and thereby in some cases enjoyed a "float" overnight. The Court of Appeal held that AIB's terms in effect permitted it to retain the benefit of the float for itself. The effect of the 2-4-6 timetable will be that there can be no such float; settlement takes place on T + 2, and the collecting bank will now give value by the beginning of that day. Indeed any non settlement member bank will need to ensure that its arrangements with settlement members give it value by T + 2 in order not to lose out.

(7) Inter-branch and intra-branch cheques

The procedures referred to above relate to the case of a cheque collected by one bank from another. Where the cheque is drawn by a customer of one branch of a bank, and collected by another branch of the same bank or possibly banking group (i.e. it is an inter-branch cheque) the procedures adopted may differ. Procedures depend on the bank/banking group concerned but could include a range of options from dealing with such clearing entirely internally (including, possibly, the debit to the drawer's account being originated by the payee's branch) to use of the external clearing system. Inter-branch cheques accounted for around a sixth of the total number of cleared cheques in London and Scotland in 2009. 165

Where the drawer and holder of a cheque are customers of the same branch (i.e. it is an intra-branch cheque) the whole procedure is curtailed. The branch will determine whether or not the cheque may be paid and enter details of the cheque onto the branch's computer terminal to adjust the accounts of the drawer and holder.

(8) Collection through processing branch

Since 1961 it has, by virtue of agreement between the major banks, been possible for a holder to deliver a cheque to a branch other than his own for collection. The branch may be another branch of his own bank in which case the collection will be an intra-bank collection, or a branch of a different bank in which case it will be an inter-bank collection. 166 In the latter case, the branch of the bank at which the cheque is received ("the processing branch") will send the paying in slip completed by the payee, and the cheque, to its bank's own clearing department which will submit the paying in slip through the exchange to the collecting bank

162 Considered in more detail in para.7-058 of the third edition of this book.
163 BCOBS 5.1.13(2) excludes clearing of cheques from the general requirement that a bank give value to a customer the day the bank receives it, so in this respect the 2-4-6 timetable exceeds requirements. The float is considered in UK Payment Systems, OFT (May 2003), Ch.7.
166 The defence of no negligence to a claim of conversion under Cheques Act 1957 s.4 is available if the collection was intra-bank but not if it was inter-bank: see para.7-156.
for transmission to the collecting branch (the branch to which the proceeds of the cheque are to be paid). The cheque is submitted through the exchange to the paying bank for transmission to the paying branch (on which the cheque drawn). If the paying branch decides not to pay the cheque, it will send the cheque directly to the processing branch which will notify the collecting branch. This is because the paying branch will not know sufficient details of the payee to be able to communicate directly with the collecting bank branch. In practice, certain additional anti-fraud procedures may be applied.

(9) Collection of cheques by one bank as agent for another
The collecting bank may not have direct access to the UK clearing system, either because it is a UK bank but not a member of the Cheque and Credit Clearing Company or because it is a foreign bank (para.7-049, above). In each case there will usually be a written agency agreement under which the cheques are collected and in some cases a manual or brochure for the use of the foreign bank. We will refer to the principal bank and the agent bank whether the principal is a domestic or foreign non-clearing bank. In some cases the arrangement may be that the agent bank will only credit the principal bank once payment by the paying bank is unconditional; in other cases the agent bank may collect the cheque for the principal subject to possible dishonour of the cheque.\(^\text{167}\)

(10) Truncation of cheques: a non-starter
The cheque clearing system described above involves the physical delivery of cheques to the branch of the paying bank at which the account of the payer drawer is located. It is the duty of the holder under s.45 of the Bills of Exchange Act 1882 duly to present the cheque for payment, and if it not so presented the drawer (and indorsers) are discharged. Until 1996 due presentation included presentation of the cheque at the branch of the paying bank at which the account of the drawer was held and which was invariably given on the cheque. It was confirmed in *Barclays Bank Plc v Bank of England*\(^\text{168}\) that where the cheque was collected through the clearing the obligation of the collecting bank under s.45 of the Bills of Exchange Act 1882 was to present the cheque for payment at the branch of the paying bank on which it was drawn. Although the cheque was delivered to the paying bank at the exchange, and sorted at the clearing department of the paying bank, the paying bank was treated as acting as a sub-agent of the holder of the cheque until the cheque was presented to the branch of the paying bank on which it was drawn.\(^\text{169}\)

It was apparent that the clearing system, although efficient, was relatively slow and required the movement of many pieces of paper all over the country. The Banking Services, Law and Practice Report by the Review Committee (Chairman R.B. Jack CBE) Cm. 622 (1989), recommended that the system be amended to allow the presentation of details of a cheque electronically (at para.7.38). In 1996 the Bills of Exchange Act 1882 was accordingly amended\(^\text{170}\) to permit truncation of cheques. In practice, it appears that truncation as

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\(^{167}\) For the process of collection of a cheque by an English clearing bank for a Turkish bank see *The Honourable Society of Middle Temple v Lloyds Bank and Secerbank* [1999] Lloyd's Rep. Bank 50, 54; *Linklaters v HSBC* [2003] 2 Lloyd's Rep 545, Gross J.; see para.7-176, below for the duties of the UK agent bank and the foreign principal bank which is collecting a cheque; and para.7-328, below in relation to the ICC Uniform Rules for Collections.


\(^{169}\) Compare the approach in the USA where presentation to the data processing centres of the paying bank would in some cases be treated as presentation to the agent of the paying branch: B. Geva, "Off-Premises Presentment and Cheque Truncation under the Bills of Exchange Act" (1987) 1 B.F.L.R. 295 at p.326.

\(^{170}\) The Deregulation (Bills of Exchange) Order 1996 (SI 1996/2993), introduced Bills of Exchange Act 1882 ss.74A-74C, and amended Cheques Act 1957 s.3(2), and applies to all cheques drawn after November 28, 1996.
envisaged by the amendments to the Bills of Exchange Act 1882 referred to above, has not been implemented by banks in the United Kingdom for the clearing of inter-bank cheques, and it is unlikely that it will now be implemented in light of the decision to close the central clearing system by 2018 (see para. 7-048 above).  

(11) Currency Clearings
Cheques drawn in US dollars and payable in the United Kingdom are handled by a separate clearing system called Currency Clearings, run by C&CCCL. In 2010 there were five settlement members and some 60 agency banks participating in the currency clearing.  

(12) Cheques drawn in Euros
In January 1999 a clearing system for cheques drawn in euros was established, governed by the Euro Debit Bulk Paper Clearing Rules. The system is generally the same as for the clearing of sterling cheques, except that settlement does not take place via accounts at the Bank of England.

Similar provisions have been introduced in certain common law countries: Australia (Cheques and Payment Orders Act 1986); Republic of Ireland (s.132 of the Central Bank Act 1989 introducing a new Bills of Exchange Act s.45A); New Zealand (Bills of Exchange Amendment Act 1995, [1995] 11 J.B.L. 493); South Africa (Bills of Exchange Act 1964 s.43A), and Singapore (Bills of Exchange Amendment Act No. 22 of 2002). During 2003 Singapore implemented a cheque truncation system based on the transmission of an image of the front and the back of cheques http://www.abs.org.sg, cheque clearing [Accessed 2 October 2010].

171 For further consideration of the issues raised by truncation see para. 7-062/1 of the third edition of this book.

172 The currency clearing members in 2010 were Bank of Scotland, Barclays, HSBC, Lloyds TSB, and RBS.