



The Central Bank, the Ministry of Economy and the Ministry of Justice implement amendments to the Commercial Transactions Law regarding decriminalisation of cheques without funds and Partial payment of the cheque

Abu Dhabi: (1 November 2021): The Central Bank of the UAE (CBUAE) announced today that new amendments to the Commercial Transactions Law regarding decriminalisation of cheques, and amendments relating to partial payment of the cheque, and toughen administrative penalties for issuing cheques without funds, in accordance with Decree Federal Law No (14) of 2020, which will come into force on 2/01/2022, are in line with the government's key plans and strategic initiatives to build and support a sustainable national economy based on best international practice, thus contributing to raising the country's ranking in the Global Competitiveness Index.

H.E Khaled Mohamed Balama, Governor of the Central Bank of the UAE, confirmed that these amendments are also in line with the Central Bank's strategic initiatives and plans to upgrade banking laws and regulations continuously to track developments in the financial sector, to fill any legal gaps and shortcomings, and to deliver the CBUAE's vision to follow best practice internationally in this respect. These amendments would assist in facilitating commercial and banking transactions, streamlining procedures for collecting the cheque's value, and making the use of cheques more flexible.

H.E the Governor explained that the new amendments would reduce the negative aspects revealed by practical experience of dealing with cheques, compared to the best and most successful international practices. The new amendments would also consolidate the principles of justice by striking a balance between the interests of the cheque beneficiary or bearer in fulfilling their rights as soon as possible, and the drawer's interest in removing any criminal case filed for non-payment of the cheque.

Under these amendments, the scope for criminalisation of returned cheques due to insufficient funds has been narrowed, and confined to cases of bad faith and other cheque crimes. This would deliver the desired goals of replacing decriminalisation with preventive measures, coupled with deterrent alternative penalties to reduce the misuse of cheques.



These amendments are also aimed at securing the rights of cheque bearers and beneficiaries, and would also expedite collection of the cheque value in a more effective manner (determined by the Central Bank), whilst also encouraging the public to use modern technological and digital means, instead of traditional paper cheques. According to these amendments, partial payment of the cheque. has also become mandatory. If the amount available for payment is less than the cheque value, the drawee bank must pay the amount partially, unless the bearer rejects partial payment.

On this occasion, H.E the Governor of CBUAE expressed his thanks and gratitude to H.H. the President of the UAE for issuing this decree –law, and to the UAE Cabinet, which approved the referenced amendments, and all other concerned entities that reviewed these amendments, which will contribute to advancements of our commercial and banking laws, and place the UAE in the ranks of advanced countries in this field.

H.E. Abdullah Bin Touq Al Marri, Minister of Economy, stated that decriminalization of issuance of cheques without funds, in accordance with Federal Decree- Law No (14) of 2020, Amending Certain Provisions of the Commercial Transactions Law, is an essential step in developing and enhancing the flexibility of legislation regulating economic, business, trade and investment activities in the UAE. It would also reinforce the principles of justice, fairness and equal opportunities in commercial transactions and the business environment in the country, and contribute to enabling sound commercial practices at both individual and institutional levels.

H.E the Minister of Economy explained further that amendments that lift penal protection of the cheque, scheduled to come into force at the beginning of 2022, are part of a series of efforts undertaken by the UAE over the past months to accelerate economic recovery, particularly in the private sector activities, and to bring about qualitative transformation of the current economic model, based on the principles of pro-activity and sustainability. These efforts also include enhancing the flexibility of economic policies and raising the State's ranking in the Global Competitiveness Index, associated with the ease of establishing and doing business, and increasing the country's attractiveness to foreign direct investment and international companies. This move keeps pace with latest global trends on digital transformation, modern digital payment systems and advanced financial technology, supports the continuity and growth of economic activity, increases confidence in the business environment, and provides rapid, advanced, civil alternatives to commercial and financial transactions.



H.E the Minister of Economy added; “The decriminalisation of cheques issued without funds and confining criminalisation to cases of fraud, forgery and bad faith, while creating more efficient and effective legal mechanisms for collecting the cheque value, contributes to maintaining economic dynamism and diversity, the effectiveness of the judicial system and the efficiency of the commercial environment in the nation, by revitalizing commercial dealings and protecting existing companies, especially start-ups and SMEs. It also avoids the negative consequences of criminalisation for returned cheques without funds, and the back-log of related cases before the courts to resolve debts that affect the financial, banking and commercial sectors in the country negatively.

H.E. Abdullah Sultan Bin Awad Al Nuaimi, Minister of Justice, stated that “Within the framework of the State’s keenness to improve the business environment and the legislative and judicial structure to boost competitiveness at both regional and international levels, reinforce its attractiveness to foreign investment and to enhance national economic resilience to achieve the State’s strategic vision in this field, amendments introduced to the Federal Commercial Transactions Law on the procedures regulating use of cheques, collection of their value and penalties, have been unified in one law. Criminalisation has been confined to cheque forging and their illegal use, deliberately writing or signing cheques in a way that render them unpayable, the criminalisation referred to in the Penal Code on issuing cheques without funds, or the phenomenon known commonly as returned or “bounced” cheques, was cancelled, similar to adopted practice in a large number of jurisdictions, such as France and the United States of America.

H.E. the Minister of Justice also stated that the cheque is one of the most important commercial papers, most commonly used in business, which represents a well-known payment or negotiation tool instead of money. Such an instrument can only play its role as a payment tool if dealers are assured of it, and trust that obtaining it in exchange for their rights is as good as a cash payment. The only way to enhance confidence in cheques is to reinforce the bearer’s rights and to strengthen their associated guarantees. For this reason, recent legislative amendments to the Commercial Transactions Law provide new alternatives and mechanisms to ensure collection of the cheque value in the fastest and simplest way possible. These include requiring the drawee bank to pay the cheque’s value at least partially, debiting the entire amount available with the drawer, and making the returned cheque a writ of execution to be executed directly by the



execution judge, placing an executive formula on the returned cheque and collecting its value without resorting to civil or criminal lawsuits. This would lead to increased confidence in cheques as commercial paper that ensures prompt payment of its values.

H.E the Minister of Justice noted that the amendments introduce a number of accessory penalties, including withdrawal of chequebook from the transgressor, denying them the right to receive new chequebooks for a maximum of five years, and suspending their professional or commercial activity.

H.E the Minister of Justice confirmed that the new amendments would facilitate litigation procedures, avoid the accumulation of cheque cases at prosecution offices before civil and criminal courts, thus saving money and effort, consistent with the State's policies and directives in this regard.

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