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MEMORANDUM

Circular No : 2016/12

Subject : Amendments on the Check Code in 10 Q/A's.

Within the frame of Economic Development Plan, “*Law for Amendments on Some Laws with the Aim of Improving Investment Environment*” no.6728 approved on June 05, 2016 has been announced in the Official Gazette on August 09, 2016. Amendments have been made on Check Code No: 5941 (“**Law**”) dated 14.12.2009 by the related articles of this Code. Mentioned amendments has been prepared in hereby memorandum as Q/A:

1- WHICH DOCUMENTS ARE REQUIRED TO OPEN A CHECK ACCOUNT?

It will be required for Banks to ask for (i) photo ID, (ii) copies of passport or driving license, (iii) residency documents, (iv) tax id numbers, (v) Trade Registry extracts for merchants, (vi) Trade Registry extracts for merchants and craftsman **as well as** (vii) criminal records and to withhold aforementioned documents for a period stated in Code in case of closing the check account.

2- WHAT ARE THE NEW INFORMATION REQUIRED TO BE ON CHECKS?

Turkish ID number for check account owned by real person, Central Registration System (“**MERSİS**”) number for check account owned by legal person; in case account owner and the drawer are different, and drawer’s Turkish ID number will be written on every page of checkbook.

3- WHAT IS THE PENALTY FOR WRITING A BOUNCED CHECK?

Fine up to 5000 days is imposed to the person who caused check to be regarded as “bounced” within the period of check’s submission (up to 10 days in case place of issue and place of payment are the same and up to one month in case place of issue and place of payment are different in intra-state of Turkey) according to amendments of Check Code.

4- HOW JUDICIAL FINE IS CALCULATED? WHAT IF IT IS NOT PAID? IS IMPRISONMENT SENTENCED?



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Daily judicial fine is imposed 20 TL at least and 100 TL at most. Drawer of the check will be sentenced to pay 30.000 TL at least and 150.000 TL at most in case court imposes fine on top rate that is 1500 days. Court may split into installments within the scope of limits stated on Law. Either way, fine will not be less than the uncovered amount.

Judicial fine is paid to government, not to check holder. **Drawer of the bounced check is sentenced to imprisonment at the rate of fine if ruled judicial fine is not paid.** Provision regarding prepay, mediation and deferment of the verdict shall not be applied.

5- WHAT KIND OF CAUTIONS SHALL BE IMPOSED EXCEPT JUDICIAL FINE?

“Ban on drawing check and opening check account” is implemented to drawer of the bounced check as it used to be. In addition to this, Court may rule ban on drawing check and opening check account as protection measure ex-officio during the trial.

Uncertainty, which is emerged in case drawer is legal person, has been cleared by the amendment. Aforementioned interdictions will be also imposed to legal entity that draws a bounced check, and managing body and company officials who are registered to the Trade Registry if the check is drawn under the name of a stock corporation. Moreover, these individuals shall not be assigned to managing body of a Stock Corporation during disability after their current term of office is come to end.

Besides, another amendment is that even if the *“ban on drawing check and opening check account”* has been imposed to a real person, legal entity that is belong to real person will be also imposed the ban and checkbook will not be given.

6- WHAT IS QUICK RESPONSE CODE CHECK?

Quick response code check is a specialized check bearing a QR code which is included drawer’s bank and branch information, account number and check number. A program that reads the code on check, which can be downloaded in smart phones, shall obtain information regarding drawer. Banks currently cannot determine which check leafs are launched that are given to the owner of the check account or authorized representative if the owner of the check account is legal entity. Data concerning check can only be created after the submission of the check.

7- WHAT DOES QR CODED CHECK PROVIDE FOR?

Check will be registered to system by the beneficiary to cope with of the record transactions with QR code check practice. On the other hand, aim is to ensure third party to access to the number of checks and amount written on the checks owned by account holder, which has not been



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submitted yet. Therefore, upon necessary notice by beneficiary, creditor will be able to be informed about number of checks circulating on the market and amount written on those checks and will be able to decide whether to accept the check or not.

Drawing future-dated checks is a highly common practice in Turkey and this system aims to cope with problems arising from it. Companies may refuse to pay the amount of check when the submission date is expired, claiming that the check is drawn by unauthorized individuals who were actually authorized at the time. Therefore, the drawer's responsibility will remain even if the drawer changes its representative after the QR code check is registered.

8- WHEN WILL QR CODE CHECKS COME INTO FORCE?

Checks without QR Code shall not be released after **31.12.2016**; however, related amendments concerning QR code will be in force on **31.12.2017**.

9- WHAT IF BENEFICIARY DOES NOT REGISTER QR CODE CHECK INTO THE SYSTEM?

Checks will be still valid, however, the amount, which banks are legally required to pay cannot be claimed.

10- WHERE TO COMPLAIN REGARDING BOUNCED CHECK?

Complaint used to be filed before the Public Prosecution Office and the drawer used to be judged before the Penal Court of First Instance in accordance with indictment. This process used to take very long time. Complaint will be filed before the Criminal Enforcement Court by the amendment, therefore trials will be concluded faster than before.

Kind Regards,

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