



**Federal Decree Law No. (14) of 2020 Amending Certain Provisions of the Federal Law No. (18) of 1993 Concerning Commercial Transaction Law**

**Legal Update: 14 February 2021**

**Brief**

On 26 October 2020, UAE's Cabinet approved amendments to the Federal Law No. 18 of 1993 Concerning Commercial Transaction Law ("**Commercial Transaction Law**"). The Federal Decree Law No. 14 of 2020 ("**Federal Decree**") amending the Commercial Transaction Law, devises a more progressive, efficient and sophisticated mechanism for collecting outstanding payments accruing from bounced cheques and the issuance of cheques without value.

The Federal Decree also redefines crimes involving cheques, which once implemented, shall prove to be greatly valuable to cheque bearers, as the most prevalent crime in the UAE is that of cheque bounce.

The key amendments introduced by the Federal Decree are highlighted in the succeeding section.

**Key amendments – what we know**

1. The Federal Decree allows for opening of joint bank accounts on equal basis. In the event that one joint account holders dies or loses the competence to maintain such an account, the other joint account holder is under the obligation to notify the bank of the same within 10 days from the date of death or loss of competence, as applicable.  
Additionally, in case of death or loss of competency of a joint account holder, the bank shall suspend withdrawal of the joint account holder's share, until a successor is appointed.
2. A cheque is due for payment on the date mentioned on such a cheque. In the event of insufficient funds to clear the cheque amount, the bank may partially pay the cheque amount up to the value of the funds available.
3. A bank is under an obligation to report the following to the Central Bank:
  - i. where no sufficient or usable funds are existing at the date of maturity of a cheque;
  - ii. when the issuer of the cheque withdraws all of the funds for payment after issuing a cheque; and
  - iii. when a bank partially pays the cheque amount.
4. The following acts are subjected to penalty of a minimum of 10% of the cheque value (minimum of AED 5,000) and a maximum of twice the cheque value:
  - i. the writer of the cheque intentionally provides mis-information regarding the availability of funds.
  - ii. rejection of payment of cheque in bad faith.
  - iii. refusal to write a statement as stipulated in Article 632 of the Commercial Transaction Law.
  - iv. rejection of partial payment of cheque value.





Moreover, for anyone convicted on the above-listed crimes, the Court can order withdrawal of the existing chequebook and prohibit the issuance of a new chequebook for a period of up to 5 years. In case the convict fails to surrender the chequebook pursuant to the Court's order, he/she shall be liable to pay a penalty ranging between AED 50,000 and AED 100,000. Alternatively, in the event a bank violates the Court's order, the bank shall be liable to pay a penalty between AED 100,000 and AED 200,000.

5. In case of any penal actions against the writer of the cheques, the cheque itself shall be enforceable and the beneficiary of the cheque shall reserve its legal remedy of compensation against the writer.
6. The following acts are exposed to a minimum of six months and maximum of 2 years imprisonment in addition to minimum penalty of 10% of the cheque value, subject to a minimum of AED 5,000 and maximum penalty of twice the cheque value; or either of the foregoing penalties:
  - i. ordering or requesting the bank not to pay the cheque amount.
  - ii. closing account or withdrawing all funds before issuing the cheque or presenting the cheque, or if the account is frozen.
  - iii. intentionally writing or signing a cheque in such a manner as to render it unpayable.
7. Furthermore, the following list of acts are subjected to a minimum of 1 year imprisonment and a penalty that ranges between AED 20,000 and AED 100,000:
  - i. forgery or imitation of a cheque or attributing a cheque to a third party.
  - ii. deliberately using a forged or fake cheque.
  - iii. intentionally using funds that are paid through a forged cheque.
  - iv. fraudulently using a cheque that is issued in the name of another, for own benefit.
  - v. intentionally being involved in the crime of forgery including (without limitation) by providing any tools or information used in such a crime.

If any of the above-listed offences are committed with the objective of terrorism, the same shall be penalized with life imprisonment along with a monetary penalty between AED 500,000 to AED 1,000,000.

#### Next steps

Pursuant to Article 4 of the Federal Decree, the Federal Decree shall be published in the Official Gazette and shall come into force on 2 June 2022.

The effectiveness of the amendments introduced via the Federal Decree shall be tangibly seen once the Federal Decree has been implemented and enforced. However, it is presumed that with the stricter penalties, the amendments shall be a relief for cheque bearers in the UAE.

In case of any queries or issues relating to the subject of this Legal Update, please feel free to us on [info@binherzadvocates.ae](mailto:info@binherzadvocates.ae).

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