

## **COMMUNIQUE ON COMPOSITION AND OPERATION PRINCIPLES AND PROCEDURES OF CUSTOMER COMPLAINTS ARBITRATION PANEL**

### **Purpose and Scope:**

**ARTICLE 1** – The purpose of this Communiqué is to set down the principles and procedures relating to composition, powers, duties and responsibilities of Customer Complaints Arbitration Panel, and principles and procedures relating to application to the Panel, with a view to evaluation and resolution of disputes that may arise between the Association’s members on one side and their individual customers on the other side.

### **Grounds:**

**ARTICLE 2** – This Communiqué has been prepared in reliance upon provisions of paragraph (j) of Article 80 of the Banking Law no. 5411.

### **Definitions:**

**ARTICLE 3** – For the purposes and in the context of this Communiqué:

- (a) **“Bank”** refers to any one of member banks of the Association; and
- (b) **“Chairman”** refers to Chairman of Customer Complaints Arbitration Panel; and
- (c) **“Association”** refers to the Banks Association of Turkey and the Participation Banks Association of Turkey; and
- (d) **“Panel”** refers to Customer Complaints Arbitration Panel; and
- (e) **“Law”** refers to the Banking Law no. 5411 dated 19/10/2005; and
- (f) **“Board”** refers to the Banking Regulation and Supervision Board; and
- (g) **“Authority”** refers to the Banking Regulation and Supervision Authority; and
- (h) **“Member”** refers to the Authority and to the Banks designating and naming a representative to the Panel; and
- (i) **“Representative”** refers to natural persons assigned and designated by members for participation in the Panel; and
- (j) **“Authorized Person”** refers to natural persons assigned and designated by the Association and by Interbank Card Center Co., Inc. for participation in the Panel.

### **Composition of Panel:**

**ARTICLE 4** – The Panel is established as a part of the Association. Secretariat services of the Panel are performed by the Association. If and to the extent deemed necessary by the Association, more than one Panel may be established hereunder.

The Panel is composed of five members, two of whom will be appointed by the Authority, and three by the banks named and designated by the Association as Panel members. Members, representing banks in the Panel, are required to be at least university graduates in any one of law, economics, finance, fiscal, banking, business administration, public administration, operating engineering and industrial engineering, and to have a past experience of minimum 7 years in banking, and to be eligible for appointment as an authorized signatory in banks, and not to be subject to provisions of second paragraph of article 26 of the Law.

Within a period of time to be determined by the Association for formation of the Panel, both names of “lawyer” and/or “banker” representatives and names of banks designated and nominated as candidates of members are given and reported to the Association. Thereupon, the Association elects three full and three alternate members from among the banks nominated as candidates as above. Then, each of the banks elected by the Association as Panel members is required to designate a representative. At least one of the member representatives in each Panel is required to be a university graduate in the discipline of law. The Panel elects a Chairman from its own members. One alternate member representative bearing the qualifications of full member representatives is nominated for each full member representative in order to deputize full member representatives who are unable to attend the meetings.

Should at any time representatives of full or alternate member banks fail to attend a meeting, in that meeting, maximum one officer of the Association will solely and exclusively deputize the Bank representative unable to attend the meeting. In this case, the Association officer to be assigned in place of the Bank representative is required to be at least a university graduate in any one of law, economics, finance, fiscal, banking, business administration, public administration, operating engineering and industrial engineering, and not to be subject to provisions of second paragraph of article 26 of the Law.

A bank taking its part as a full and/or alternate member in the Panel in the organization of the Participation Banks Association of Turkey may have more than one representative in the Panel.

Representatives of the Authority may take part as full and alternate members in more than one Panel. If more than one Panel are established and formed with regard to a particular banking product or service, the Bank representatives may

also be appointed to more than one Panel relating to the same banking product or service. The past experience period of 7 years as specified in the second paragraph is not sought for representatives of the Authority and for duly authorized officers of the Association.

#### **Term and Termination of Membership and Representation in Panel:**

**ARTICLE 5** – Term of office of member Banks is two years. A member whose term of office is over may be re-elected thereto.

In the case of disability due to a grave sickness or illness, death, tutelage, or resignation, or only as for the member Bank representatives, loss of qualifications listed in Article 4 hereof, or unexcused absence in a total of two meetings in a calendar year, term of office of the bank representatives in the Panel terminates. Whether the bank representatives will continue to hold office in the Panel will be assessed and decided by the Association, depending on their excuses. In place of a bank representative or an Authority representative whose term of office terminates as above or whose job position is changed and who cannot therefore continue to hold office in the Panel, that bank or the Authority, as the case may be, is requested to name and designate a new representative. Thereupon, if the relevant bank fails to designate a new representative by the end of the period demanded by the Association, then the banks which stood for a membership in the Panel in the relevant period are requested to designate and name a representative. The new representative appointed as above takes office until the end of term of office of his predecessor.

#### **Fees and Charges:**

**ARTICLE 6** – The Panel members representing banks and the Authority therein, and the duly authorized officers of Interbank Card Center Co., Inc. participating in the Panel meetings upon invitation, are paid a fee in consideration of their services in the Panel within the frame of the principles and procedures to be determined by the Association's Board of Directors. Expenses that may be needed for operations of the Panel are paid out of the yearly budget of the Association.

#### **Scope of Complaints to be Presented to the Panel:**

**ARTICLE 7** – The Panel examines all complaints about banks, other than the complaints listed below. Accordingly, the following complaints are refused by the Association without being escalated to the Panel:

- (a)** Complaints which are not received by the Association for escalation to the Panel, together with the complaint (application) form, within sixty days of receipt of a response from the bank head offices or the relevant bank branch; and
- (b)** Complaints which are not received by the Association for escalation to the Panel, within a period of two years following the date of occurrence of the transaction or action underlying the complaint; and
- (c)** Complaints which are already referred to courts, or the Insurance Arbitration Commission, or the Consumer Arbitration Panels; and
- (d)** Applications arising out of banking transactions which are related to commercial, agricultural, etc. issues and are not retail or individual by nature and which are filed by legal entities; and
- (e)** Applications related to a general matter about personnel of banks or about products and services offered by banks; and
- (f)** Applications related to decisions taken by a bank adjudged bankrupt or decided to be liquidated; and
- (g)** Applications related to acts classified as a crime in the applicable laws; and
- (h)** Applications related to transactions which are not yet executed; and
- (i)** Applications related to a matter which has already been reviewed and resolved by the Arbitration Panel; and
- (j)** Without prejudice to rights of objection of the applicant (complainant), complaints related to a matter which has already been resolved by and between the bank and the applicant (complainant); and
- (k)** Applications related to crediting policies and credit evaluation, monitoring and risk management practices of banks; and
- (l)** Applications related to a transaction which has been executed by foreign branches of banks.

Within a period of 30 days following the date an application is recorded, the applicant is informed in writing about the complaints not included in the agenda of the Panel.

Complaints which, after escalation to the Panel, are referred to courts, or the Insurance Arbitration Commission, or the Consumer Arbitration Panels cease to be handled by the Panel. Complaints referred to courts, or the Insurance Arbitration Commission, or the Consumer Arbitration Panels are reported to the Panel by the complainant himself or by the relevant bank.

### **Application to the Authority or to Head Offices or Relevant Branch of Bank:**

**ARTICLE 8** – Before application to the Panel, the complainant presents his complaint first to head offices or relevant branch of the bank in writing or via its internet page or by e-mail.

Head offices or relevant branch of the bank will provide the applicant (complainant) with a certificate dated and signed by a duly authorized officer of the bank, verifying that his written application is received. In the case of submission of application by e-mail, the complainant is formed by the same way that his application is received. In the case of submission of application via internet page, either an e-mail message proving that the application is duly filed and also containing the date of application is transmitted to the applicant, or at the end of application, same information is displayed on the screen with a warning as to taking notes thereof.

If and when a written application filed directly to the Authority under and as per this Communiqué is transmitted by the Authority to the Association, then and in this case, applications without any bank response in attachment thereto are directed by the Association towards head offices of the relevant bank for presentation of the response to the applicant (complainant) thereof. As for the actions to be taken about these applications following receipt of them by the Association, the provisions of article 7 and article 10 of this Communiqué are, however, reserved.

If and when applications which are directly filed to the Authority, but are accompanied by a bank response in attachment thereto are directed by the Authority to the Association for directly including in the agenda of the Panel, then and in this case, as for the actions to be taken about these applications, the provisions of article 7 of this Communiqué, save for the provisions of subparagraph (a) of 1st paragraph thereof, are reserved.

In the event that an application which is directly filed to the Authority and is then directed by the Authority to the Association has previously been submitted also to the Association and has already been processed and handled by the Association as well, then, the provisions of third and fourth paragraphs of this article are not applicable.

### **Actions to be Taken by Bank:**

**ARTICLE 9** – Bank head offices or relevant branch is under obligation to give a positive or negative reply to complaint of the complainant within thirty days following the date the complainant's application is received or is directed by the Association as specified in the preceding paragraphs hereof. Should the bank head

offices decide to escalate the matter to internal audit unit of the bank, said period is extended by ten days at the latest for the required inspections, and this extension is notified to the complainant by the same day with his application. As for complaints relating to debit and credit cards, the pertinent provisions of the Debit Cards and Credit Cards Law no. 5464 are hereby reserved.

In the case of a negative reply, the complainant should be informed that he is entitled to refer and report his complaint to the Arbitration Panel of the Association, where the relevant bank is enrolled, within sixty days following the date of answer of the bank. Text to be used in such disclosures to be made by banks will be determined by the relevant Association.

With a view to informing their customers about duties and powers and operational procedures and principles of the Panel, banks are required to reproduce and copy the memorandum of information and the complaint form to be prepared by the Association, and to make them available at places visible by customers in their head offices and branches, and to give information about the Association's Customer Complaints Arbitration Panel in their internet websites.

The Associations will, once a year, request information from banks in writing and report the collected information to the Authority on whether banks have reproduced and copied the memorandum of information and the complaint form prepared by the Association, and have made them available at places visible by customers in their head offices and branches, or not, and whether they have given information about the Association's Customer Complaints Arbitration Panel in their internet websites, or not.

### **Application Time:**

**ARTICLE 10** – Within sixty days following the date of answer received from the bank head offices or relevant branch, if the answer is found inadequate, or following the end of the answering period, if no answer is given by the bank in a timely manner, the complainant may file an application to the Panel by filling in and submitting the complaint form in the format created by the Association. It is a must to clearly and concretely state the underlying transaction and the resulting claims in the complaint form.

### **Evaluation of Application:**

**ARTICLE 11** – With respect to complaints properly filed and reported hereunder, the Association requests the relevant bank to advise its comments and deliver the required information and documents in connection with the subject matter within a period of fifteen days following the date the application is registered. As for the

complaints which are directed by the Authority to the Association for direct inclusion in the agenda of the Panel, this period is thirty days following the date the application is registered. The relevant bank is under obligation to furnish the requested information and documents to the Association within twenty days after the application is directed by the Association to the bank. However, upon a demand of the bank to the Association, this period may be extended by ten days for only once.

If and when the relevant bank gives a reply to the Association stating that the complaint is resolved, then and in this case, within twenty days following receipt of this reply from the relevant bank, the Association informs the applicant (complainant) that his complaint is removed from the agenda of the Panel. If the applicant wishes to raise an objection against removal of his complaint from the agenda of the Panel, then he is required to advise the Association about his objection in writing within a period of thirty days following receipt of the letter of notification of the Association.

This objection as to complaint is assessed and handled by the Association, without prejudice to provisions of article 7 of this Communiqué. Thereupon, if the complaint is re-included in the agenda of the Panel, the period of 90 (ninety) days set forth in 1st paragraph of article 12 of this Communiqué starts as of the date of receipt of the objection of the applicant (complainant).

The Panel is informed about the information and documents transmitted by the bank after lapse of the periods of time set forth in first paragraph of this article. Whether such information and documents submitted in an untimely manner will be taken into account and consideration or not will be determined and decided by the Panel.

During the process of evaluation of applications, the Panel may give an interlocutory decision and request additional evidences, information and documents from both parties by granting an extra time therefor. Such interlocutory decisions of the Panel promptly suspend and stop the period of 90 (ninety) days set forth in 1st paragraph of article 12 of this Communiqué.

### **Finalization of Application, and Reporting of Awards to Related Parties, and Effects of Awards:**

**ARTICLE 12** – The complaint covered by the application is handled and finalized by a reasoned award of the Panel through examination of the dispute between the bank and the complainant within no later than 90 (ninety) days following the date the application is registered hereunder, and the resulting reasoned award of the Panel is notified by the Association both to the complainant and to the relevant bank's head offices within 20 (twenty) days thereafter.

The Panel may in its sole discretion handle and resolve as a single and separate application each of the complaints filed by the same person with respect to more than one transaction, providing that they are related to the same type of panels. Awards of the Panel with respect to disputes of an amount up to TL 2,528.20 per transaction will be enforced by the banks, providing that all judicial remedies are reserved in connection therewith. Within 15 (fifteen) days following receipt of an award, the bank will properly enforce the award, and inform the complainant thereabout, and give information to the Association in writing about each of such actions and transactions. Following completion of the period of 15 (fifteen) days following the date of receipt of the letter sent by the Association to the complainant with regard to the Panel's award, the complainant may file a written application to the Association stating that the Panel's award is not enforced.

The upper limit mentioned in second paragraph of this article is increased by the rate of variation in yearly consumer price index published by the Turkish Statistics Institute in January every year. In calculation of these increases, the penny digit is not taken into consideration.

#### **Panel Meetings and Decision Quorum:**

**ARTICLE 13** – Meeting agenda is determined by the Association according to the dates of applications filed thereto, and is reported in writing to the Panel members, representing banks therein, no later than seven days prior to the meeting.

To the meetings with an agenda covering also complaints relating to debit cards and credit cards, the Association may invite a duly authorized officer of Interbank Card Center Co., Inc. as well. Thereupon, one principal and one reserve authorized officer assigned for participation in that specific meeting in the name of said Company will be named and advised in writing by Interbank Card Center Co., Inc. to the Association as of the effective date of this Communiqué. The duly authorized officer of Interbank Card Center Co., Inc. participating in this meeting may, upon demand of representatives therein, express his opinions and ideas on the subject matter of discussion, but cannot participate in voting on decisions thereon, as he does not have the right to vote.

The Panel meets with presence of at least three representatives or of the duly authorized officer of the Association and two representatives, by considering the work load relating to applications and complaints filed thereto. In any case, the Panel should include an Authority representative and a bank representative being a lawyer. Awards of the Panel are taken by affirmative vote of simple (absolute) majority. The representatives and the duly authorized officer of the Association are not allowed to abstain from voting. The representatives and the duly authorized officer of the Association cannot take part in discussion of and in decisions on

complaints related to themselves or their spouse or their blood relatives or relatives by marriage up to (including) the third degree thereof or relating to the bank they are working in. The duly authorized officers of Interbank Card Center Co., Inc. participating in a meeting are not allowed to express their opinions and ideas on complaints related to themselves or their spouse or their blood relatives or relatives by marriage up to (including) the third degree thereof. In such cases, the meeting is attended by any one of alternate members of the same status, and in place of duly authorized officers of the Association and Interbank Card Center Co., Inc., another duly authorized officer meeting the qualifications sought for therein is designated and named by the relevant institution.

Representatives are required to personally attend the meetings. In case of an excuse of any one of the bank representatives in the Panel, such excuse is reported to the Association in writing, whereupon one of the alternate members of the same status is invited by the Association to the relevant meeting.

### **Negotiations and Voting:**

**ARTICLE 14** – Complaints are discussed and handled according to chronological order of applications. The Chairman assures the order of meeting by allowing those who ask for the floor to speak in a specific order. Upon completion of negotiations, the relevant agenda item is put to vote. Voting is effected by open balloting. A complaint already negotiated in and decided by the Panel cannot be put to vote again. The Panel may take a decision of non-jurisdiction about applications for indemnification of pecuniary or non-pecuniary damages or complaints requiring the discretion of competent juridical authorities.

### **Awards of Panel:**

**ARTICLE 15** – Awards of the Panel are signed by the representatives present in the meeting. Representatives are required to sign even the awards opposed by them only by stating the justification of their dissenting vote in connection therewith.

### **Required Contents of Awards:**

**ARTICLE 16** – The following items are required to be contained in an award:

- (a) Date and number of award; and
- (b) Names and surnames and signatures of the representatives giving the award in the Panel meeting; and

- (c) Names or titles of the parties to the dispute, and T.R. identity number of the complainant; and
- (d) Summary of complaint and defense; and
- (e) Summary of technical and legal issues examined and discussed in the meeting; and
- (f) Assessment of all evidences and statements filed by the parties; and
- (g) Justification and reasons of award; and
- (h) Reasons of dissenting votes of representatives, if any; and
- (i) Conclusion, and in the case of complaints relating to pecuniary disputes measurable by money, the amount of award.

**Safekeeping of Panel Awards and Complaint-Related Documents:**

**ARTICLE 17** – Both all Panel awards and all complaint-related documents are required to be kept for a period of five years.

**Yearly Activity Report:**

**ARTICLE 18** – Banks will furnish to the Association in quarterly periods to be calculated starting from the beginning of each calendar year and until the end of the month following the relevant quarterly period a report issued in a format to be determined by the Association and approved by the Authority and containing the number and subject matters of individual complaints and applications filed to them, together with information about results thereof. The Association in turn sends these reports to the Authority by the end of the month immediately thereafter. The Association presents to the Authority and publishes in its own internet website by the end of March of every year at the latest the Panel's yearly activity report containing both aforesaid information and statistical data relating to complaints and applications referred to and finally resolved by the Panel.

**Bank and Customer Secrets:**

**ARTICLE 19** – The Arbitration Panel representatives, and the duly authorized officers of the Association and Interbank Card Center Co., Inc. cannot disclose to third parties any secrets of banks and their customers which come to their knowledge in the course of performance of their job duties. Those who disclose the bank and customer secrets shall be subject to and governed by the pertinent provisions of the Law.

**Sanction:**

**ARTICLE 20** – If and when a bank alleged to have breached the provisions of this Communiqué is duly reported in writing to its own Association, then and in this case, the relevant complaint will be resolved according to procedures to be determined by the Board of Directors of the relevant Association.

Complaints filed against the banks alleged to have breached the provisions of paragraph no. 2 of article 8, or article 9, or paragraph no. 2 of article 12 of this Communiqué shall be resolved by the Board of Directors of the relevant Association, and as a result of this award, banks proven to have breached said provisions of this Communiqué shall be subject to and governed by the provisions of paragraph no. 3 of article 81 of the Law.

**Repealed Provisions:**

**ARTICLE 21** – Provisions of the Communiqué on Composition and Operation Principles and Procedures of Customer Complaints Arbitration Panel, dated May 14th, 2013, are hereby repealed and superseded.

**PROVISIONAL ARTICLE 1** – Panel or Panels required to be formed according to the provisions of this Communiqué will be appointed until 30 September 2017 at the latest. Until new Panels are established, the existing Panel or Panels appointed according to the provisions of the repealed Communiqué will continue to work in accordance with the principles and procedures of this Communiqué.

**Effective Date:**

**ARTICLE 22** – This Communiqué becomes effective 3 months 21 days after the date of relevant decision of the Board of Directors of the relevant Association. Complaints and applications already registered and pending as of the effective date of this Communiqué will continue to be subject to the provisions of the repealed Communiqué.

**Enforcement:**

**ARTICLE 23** – The provisions of this Communiqué will be enforced and executed by the Banks Association of Turkey and the Participation Banks Association of Turkey.