



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

### **Purpose and Scope:**

**ARTICLE 1-** This Communiqué sets down 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 of and in the context of this Communiqué:

- a. "Bank" refers to member banks of the Association;
- b. "Chairman" refers to Chairman of Customer Complaints Arbitration Panel;
- c. "Association" refers to the Banks Association of Turkey and the Participation Banks Association of Turkey;
- ç. "Panel" refers to Customer Complaints Arbitration Panel;
- d. "Law" refers to the Banking Law no. 5411 dated 19/10/2005;
- e. "Board" refers to the Banking Regulation and Supervision Board;
- f. "Authority" refers to the Banking Regulation and Supervision Authority; and
- g. "Member" refers to members of Customer Complaints Arbitration 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. More than one Panel may be established if and to the extent deemed necessary by the Association.

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

At least two of the members to be appointed by the Association are required to be university graduates in the discipline of law. The Panel elects a Chairman from its own members. One alternate member bearing the qualifications of full members is nominated for each full member in order to deputize full members who are unable to attend the meetings.

(\*): This Communiqué has become effective on May 14<sup>th</sup>, 2013, with prior consent of the Banking Regulation and Supervision Authority.

Representatives of the Authority may take part as full and alternate members in more than one Panel. The past experience period of 7 years as specified in the second paragraph is not sought for representatives of the Authority.

**Term and Termination of Membership:**

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

In the case of disability due to a grave sickness or illness, death, tutelage, resignation, loss of qualifications listed in Article 4 or unexcused absence in a total of two meetings in a calendar year, membership terminates. Thereupon, the Authority or the Association, as the case may be, is requested to nominate and appoint a new member. The new member appointed as above takes office until the end of term of office of his predecessor.

**Fees and Charges:**

**ARTICLE 6-** Members of the Panel are paid a fee in consideration of their service 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 other than the complaints listed below. The following complaints are refused by the secretariat without being escalated to the Panel:

- (a) Those which are not escalated to the Panel within sixty days of receipt of a response from the bank head offices or relevant bank branch;
- (b) Those which are not escalated by the complainant to the Panel within two years following the date of occurrence of the underlying transaction or action;
- (c) Those which are already referred to courts;
- (d) Those which arise out of banking transactions that are by nature not individual or retail;
- (e) General complaints about banks and their range of services;
- (f) Those related to decisions taken by a bank adjudged bankrupt or decided to be liquidated;
- (g) Acts that are classified and defined as a crime in the applicable laws;
- (h) Those related to transactions which are at bidding and evaluation stage, and are related to pricing policies of banks, and are not yet executed;
- (i) Those which have already been reviewed and resolved by the Panel; and
- (j) Complaints which have been resolved between the complainant and the bank, without prejudice to the complainant's rights of objection thereto.



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

**Application to Head Offices or Relevant Branch of Bank:**

**ARTICLE 8-** Before application to the Panel, the complainant presents his complaint in writing or by e-mail to head offices or relevant branch of the bank. Complaints which are directly filed to the Panel without any application to head offices or relevant branch of the bank will be directed by the secretariat to head offices of the relevant bank for presentation of an answer to the complainant.

Head offices or relevant branch will provide the 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 informed by the same way that his application is received.

**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 as specified hereinabove by the secretariat. 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 is notified to the complainant by the same way 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 negative reply, the complainant should be informed that he is entitled to report his complaint to the Arbitration Panel of the Association of the relevant bank within sixty days following the date of answer of the bank. Text of such information by the banks will be determined by the relevant Association.

Complaints demonstrated to have arisen out of a breach of provisions of the *"Communiqué of the Banks Association of Turkey on Minimum Contents and Format of Contracts To Be Signed Between Banks and Their Individual Customers and on Principles and Procedures Relating to Transactions Executed Under Contracts"* are required to be finalized in favor of the customer.

With a view to informing the 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 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 bank, if the answer is found inadequate, or following the end of 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 attached to this Communiqué. It is a must to clearly and concretely state the underlying transaction and the resulting claims in the complaint form.

Complaints, covered by this Communiqué, which are directly filed by the complainant to the Authority without reference to the relevant bank or the Panel may promptly be transmitted by the Authority to the Association for action.

**Evaluation of Application:**

**ARTICLE 11-** With respect to complaints properly filed and reported hereunder, the Secretariat requests the relevant bank to advise its comments and deliver the required information and documents within fifteen days. The relevant bank is under obligation to furnish the requested information and documents to the Panel within fifteen days. However, upon demand of the bank, this period may be extended by fifteen days for only once.

Information and documents not delivered by the bank in a timely manner will not be taken into consideration. The Panel gives its decision on the basis of the information and documents in its possession.

During the process of evaluation of application, the Panel may request additional evidences, information and documents from the parties by giving a time therefor.

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

**ARTICLE 12-** The application is finalized by the Panel through examination of the dispute between the bank and the complainant within no later than ninety days following the date of application, and the resulting reasoned award is notified to the complainant and the relevant bank's head offices within twenty days thereafter.

If and when breach of provisions of the "*Communiqué of the Banks Association of Turkey on Minimum Contents and Format of Contracts To Be Signed Between Banks and Their Individual Customers and on Principles and Procedures Relating to Transactions Executed Under Contracts*" is detected, the dispute is required to be finalized in favor of the complainant.

Awards of the Panel with respect to disputes of an amount up to two thousand lira will be enforced by the banks, providing that the judicial remedies are reserved. Within fifteen days following receipt of an award, the bank will enforce the award, and inform the complainant and report both enforcement and information to the relevant Association in writing.

The upper limit mentioned in third 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.

**Panel Meetings and Decision Quorum:**

**ARTICLE 13-** Meeting agenda is determined by the secretariat according to the dates of applications, and is reported in writing to the Panel members no later than seven days prior to the meeting. The Panel members may, if deemed fit and necessary, be called and convened by the Chairman for a meeting.

The Panel meets with presence of all of its members, by considering the work load relating to applications, and awards are taken by affirmative vote of minimum three members. Members are not allowed to abstain from voting. The Panel members cannot take part in discussion of and decisions on complaints related to themselves or their spouse or their blood relatives or relatives by marriage up to (including) the third degree or relating to the bank they are working in. In such cases, the meeting is attended by one of alternate members of the same status.

Members are required to personally attend the meetings. In case of an excuse, such excuse is reported in writing to the Panel secretariat, whereupon one of alternate members of the same status is invited to the meeting by the secretariat.

**Negotiations and Voting:**

**ARTICLE 14-** Complaints are discussed 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 agenda item is put to vote. Voting is effected by open balloting. A complaint negotiation and decided by the Panel cannot be voted again. The Panel may take a decision of non-jurisdiction about complaints relating to claims for pecuniary or non-pecuniary damages requiring the discretion of judge.

**Awards of Panel:**

**ARTICLE 15 –** Awards of Panel are signed by the members present in the meeting. Members are required to sign the awards opposed by them by stating the reasons of their dissenting vote.

**Contents of Awards:**

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

- a. Date and number of award;
- b. Names and surnames of the awarding Panel members;
- c. Names, titles and addresses of the parties, and T.R. identity number of the complainant;
- ç. Summary of complaint and defense;
- d. Summary of technical and legal issues examined and discussed;
- e. Assessment of all proofs and statements filed;
- f. Justification and reasons of award;
- g. Reasons of dissenting votes of members, if any;
- ğ. Conclusion, and amount of award; and
- h. Results of assessment of complaint in terms of second paragraph of twelfth article of this Communiqué.

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

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

**Yearly Activity Report:**

**ARTICLE 18-** Banks report to the Association in April, July, October and January of every year the number, subject matters and results of complaints filed to them, and the Association in turn reports the same to the Authority by the end of months immediately thereafter. The Panel's yearly activity reports containing such information, as well as statistical data and information about complaints filed to the Panel and resolved by a final award, and complaints reported to the Panel, but at the same time referred to courts, will be submitted by the Association to the Authority and will be published in the Association's own internet website by no later than the end of March every year.

**Bank and Customer Secrets:**

**ARTICLE 19-** The Arbitration Panel and the Association's officers cannot disclose to third parties any secrets of banks and customers which come to their knowledge in the course of performance of their duties. Those who disclose the bank and customer secrets shall be 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 Association, the complaint will be resolved according to procedures to be determined by the Board of Directors of the relevant Association.

Banks proven to have breached the provisions of article 9 and 3<sup>rd</sup> paragraph of article 12 of this Communiqué shall be subject to the provisions of 3<sup>rd</sup> paragraph of article 81 of the Law upon decisions of the Association's Board of Directors.

**Repealed Provisions:**

**ARTICLE 21-** Provisions of the Communiqué on Composition and Operation Principles and Procedures of Customer Complaints Arbitration Panel, dated 1.9.2009, are hereby repealed and superseded.

**PROVISIONAL ARTICLE 1-** Panel or Panel required under the provisions of this Communiqué will be appointed until 31/08/2013. Until new Panels are established, the existing Panel or Panels appointed according to 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 as of the date of decision of the Board of Directors of the relevant Association.

**Enforcement:**

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