

After the Ordinance on Banking, the State Bank has issued many directives on realizing this ordinance, especially on non-cash payment, such as Decision No 101/NH.QĐ (regulations on payment through banks) dated July 30, 1991, Decision No 289/NH.QĐ dated Nov 2, 1992 (regulations on issuing and using cheque) official letter No 06/CV-NH dated Jan 20, 1992 and Decision No 137/QĐ.NH dated July 29, 1993 (regulations on receiving and paying cash through interprovincial transfer), Decision No 74/QĐ.NH dated April 10, 1993 (provisional regulations on using bank cards), Decision No 236/QĐ.NH dated Dec 11, 1993 (regulations on issuing and using personal cheque).

Recently, executing Decree No 91/CP dated 25, 1993 on non-cash payment, the State Bank has promulgated Decision No 22/QĐ.NH1 signed by the Governor of the State Bank stipulating regulations on non-cash payment and Circular No 08/TT.NH2 dated June 2, 1994. This circular stipulated that cheque is an order of a drawer to a bank to pay a sum of money to a payee. Cheque could be drawn by a private person or an organization. Personal cheque is drawn by a person who has an account at a bank in order to make payments.

In writing a personal cheque for VNĐ5 million and up, the drawer should go through procedure of cheque guaranty. This procedure aims at protecting interest of payee. If a cheque is written for an amount that exceeds the account balance, the State Bank rules that:

- The drawer will be fined 30 per cent of overdraft.
- The drawer will be fined by the bank at the highest lending rate for overdue payment. This fine will be transferred to the payee.
- If violation repeated, the drawer's chequebook will be withdrawn (in at least 3 months or forever if violation is repeated one more time).
- If the drawer fails to repay the amount overdrawn to the bank or fails to return the chequebook within 10 days or makes other serious violation, the drawer will be brought to court for trial.

Thus, these regulations are stricter to drawers who overdraw. However, the payee's interest isn't well protected.

In order to make personal cheque become more trustworthy, we suggest the following:

- Encouragement to customers to open account at banks is necessary, because it attracts dead money to the

banks and popularizes non-cash way of payment. But the banks can't make lenient regulations on supplying this service. According to Circular No 08 dated June 2, 1994, a customer who wants to open an account need only produce his (or her) ID card and fill in some forms, then the account will be opened and a chequebook will be issued. Bad guys can buy a chequebook and draw many cheques a day for under VNĐ5 million each and cheat a lot of goods or service supplier.

Thus, upon opening an account for a customer, banks should consult a credit agency about the financial strength of, and the degree of trust that can be placed in that customer. They could also demand some identification (passport, criminal records, household census form, etc.) with photographs and customer's signature on it. After checking, the banks can have forms filled in by the customer. This practice is very necessary and should be applied in Vietnam banking system.

Do the banks bear joint responsibility for their issuing blank chequebook to their customers who turn out to be bad guys? If not, why do the banks benefit from fine paid by the customers for overdrawing? The best way to deal with the overdraft is to return the cheque to the person who presented it for payment, marked "insufficient funds", and inform the central bank and banking system about this cheque.

If the banks bear joint respon-

sibility to some extent, then it's reasonable for them to benefit fine for overdraft and so personal cheque can be easily circulated and the banks can persuade savers to open accounts.

In France, the drawee of a cheque will cash any cheque for under FrF100 (VNĐ211,000) even if the drawer is overdrawn. So French banks never issue chequebook to questionable persons.

French courts can fine persons who overdraw from FrF3,600 to 2,500,000 and gaol them for from one to five years.

So we suggest that:

- To make procedures for opening an account stricter. Necessary inquire process should be undertaken.

- The banks (drawee) should return the cheque to the payee enclosed with a formal letter informing bank's refusal of payment, or pay the cheque with the sum of money standing to drawer's credit in the account. The drawee should inform the central bank and banking system about this overdraft.

- As for cheques drawn for small sum of money (under VNĐ 200,000 for example), banks should pay to payee even if there is no money in drawer's account.

- The payee, upon receiving letter of bank's refusal of payment, should submit a formal complaint to police department.

- Those who violate bank's regulations should be punished severely by the law.

SOME THOUGHTS ON CIRCULATION OF PERSONAL CHEQUE

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