

CHEQUES IN LAW & PRACTICES

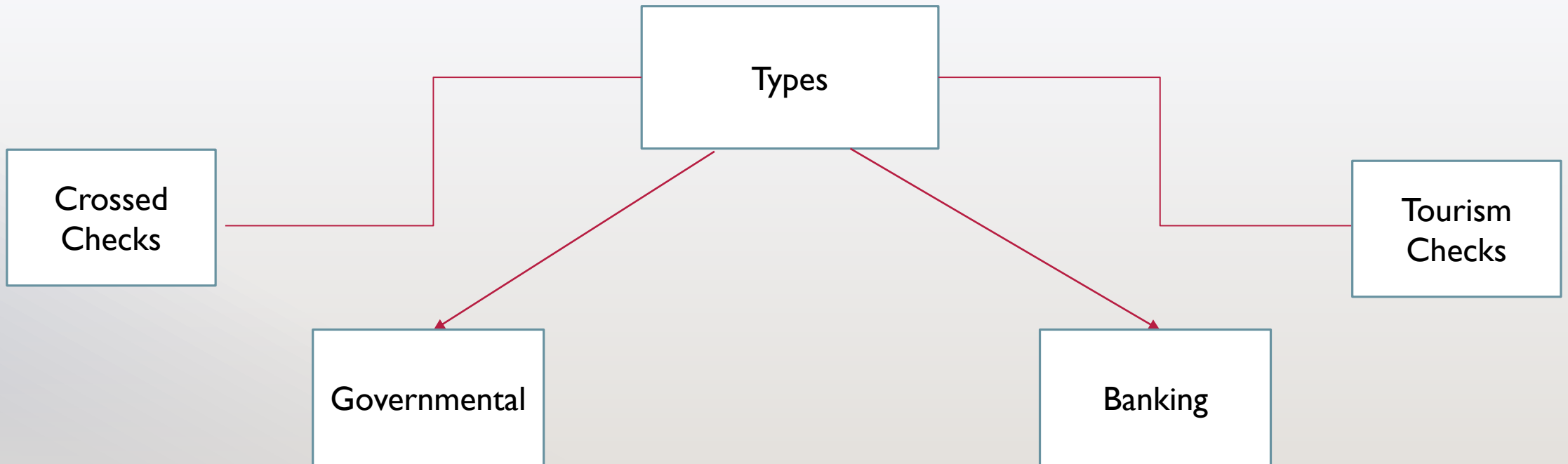
LEGAL DISCUSSION

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3ND DAY DISCUSSION MAPPING

- Types of Checks
- Objection
- Enforceability
- Electronic Payment Law no. 18 of 2019
 - Definition of Electronic Methods
 - Obligations
 - The situation of checks

TYPES OF CHECKS



TYPES OF CHECKS

FIRST: TOURISM CHECKS:

it is the check that passengers carry to avoid to cash during their travelling. Such checks are issued in specialized form to serve that purpose.

The example of this checks: I need to travel to France or any foreign country, I deposit the amount I will need during my stay in our of banks in Egypt, and get the tourism checks drawn of any of the branches of this bank or its corresponding banks in the country of my destination.

The depositing bank gives the client list of these banks and deliver to the client the number of checks that the client may need to use.

TYPES OF CHECKS

FIRST: TOURISM CHECKS:

it is the check that passengers carry to avoid to cash during their travelling. Such checks are issued in specialized form to serve that purpose.

It is agreed among the practitioners (jurists and judicial figures) that tourism checks are not considered technically checks .

The Law does not cover the tourism checks.

TYPES OF CHECKS

SECOND : CROSSED CHECKS:

They are those checks that contain two parallel lines on the its face. The lines give indication and reflect an intention that this check can only cashed and cleared through the Bank.

The check can not cashed directly to the beneficiary. It has to go through the settling bank.

Bank accept crossed checks from their clients (have an account from the Bank).

Banks may not deliver crossed checks except to their clients only.

The Crossed Check are payable only on their maturity dates (postdated checks).

TYPES OF CHECKS

SECOND : CROSSED CHECKS:

TYPES OF CROSSING

Generic Crossing
This the crossing that does not specify any bank between the lines.

Specific Crossing
This is when there is a specified bank mentioned between the lines.

TYPES OF CHECKS

SECOND : CROSSED CHECKS:

TYPES OF CROSSING

- General Crossing: The payee can submit the check to any bank where the payee has an account.
- The collecting Bank or settling bank, will collect the check from the CH and credit its balance to the account of payee.
- If the collecting bank is the drawee, the bank can pay directly to the payee after crediting the amount in the account of the payee
- The Bank will be liable in case it fails to comply with these rules.

TYPES OF CHECKS

SECOND : CROSSED CHECKS:

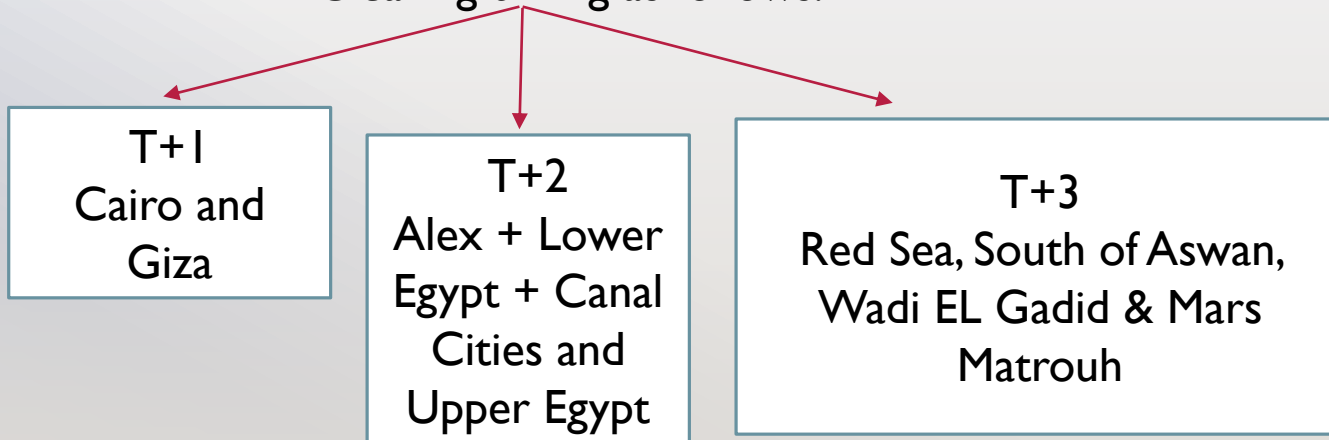
TYPES OF CROSSING

- Specific Crossing: The payee has either (i) presented it to the bank specified in the crossing if the payee has an account in that Bank, or (ii) presented to the payee account for collection
- No bank can settle this check except the bank specified in the crossing.
- In the payee has an account in that bank, the bank can pay directly to the payee.

TYPES OF CHECKS

CLEARING HOUSE

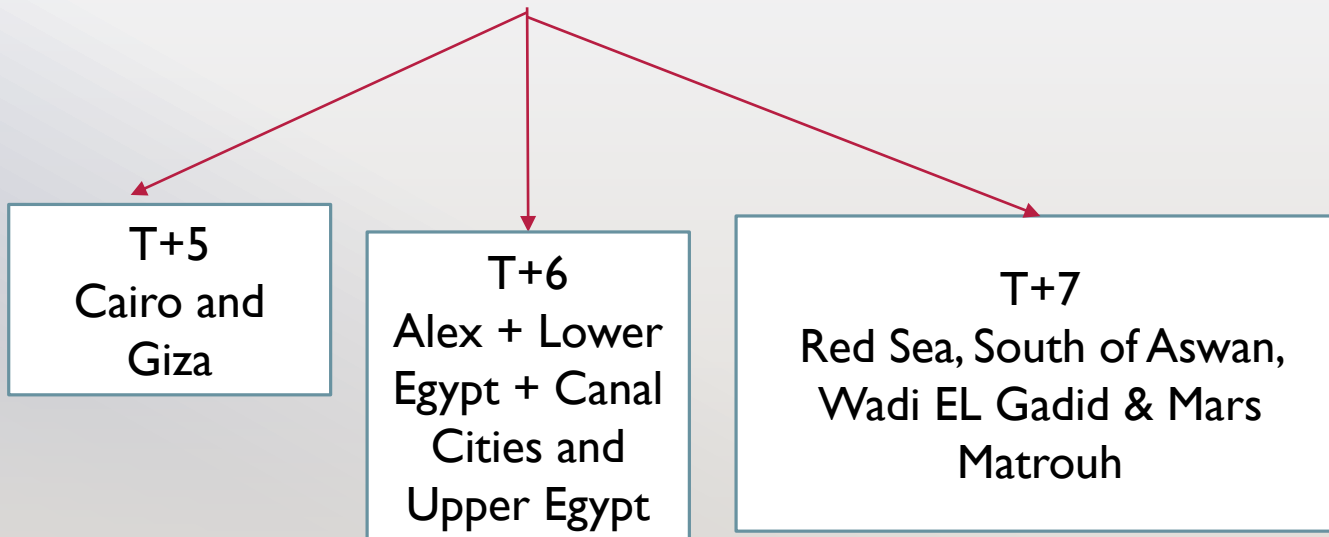
- is constituted from all licensed banks in Egypt.
- Clearing timing as follows:



TYPES OF CHECKS

CLEARING HOUSE

- Timing for the collection process for the checks from the day of presentation the check from the payee until crediting their account with the check's amount as follows:



TYPES OF CHECKS

SECOND : BANKING CHECK/ CASHIER'S CHECK

- Cashier check are those check that drawn by the bank on itself. The drawer and drawee are the bank.
- The Bank will be the obligor.
- Cashier's check has to be named check. It can not be bearer's check.
- Cashier's check can not be negotiated.

TYPES OF CHECKS

SECOND : BANKING CHECK/ CASHIER'S CHECK (CASHIER CHECKS V. CERTIFIED CHECKS

- Certified checks that where the banks confirm the checks. It means that the amount of the check is existed and held for the account of the payee. However, the drawer is still liable for the check. Also the drawer still has the right to stop the check for the reasons as will be specified later.
- Cashier Checks: the Bank issue the check on itself. The Bank is the obligor. The Check has to be named. The Bank may not stop the payment. The check can not be negotiated.

OBJECTION

- Checks for the Order : those are the checks that name the beneficiary but it is endorsable.
- In case of losing the check, the payee can file any stop objection to the drawer bank.
- The Bearer has to get a court order to make the payment of the check.
- The drawer and the Bank will be released from any liability if bank paid according to the court order.
- No obligation to the Bank to hold the check amount (debatable).

OBJECTION

- Bearer checks : those are the checks that does not specify or name a beneficiary.
- In case of losing the check or being stolen, the bearer can file an objection at the Bank
- The objection shall include the check number, the drawer's name and the check amount and any other information that may be useful.
- The Bank shall stop the payment and hold the amount under the matter being settled.
- The bearer has to public the incident in any of official journals.

OBJECTION

- Bearer checks : those are the checks that does not specify or name a beneficiary.
- In case another bearer that possesses the check appeared. In this case the check holder has to notified the objector.
- The objector has to make court claim during 30 days to make the payment of the check to the objector. If it failed, the bank shall make the payment to the check holder.
- In case 6 months elapsed from the date of objection, and no check holder has not shown up, the objector can file a court petition asking to have an order to make the payment of the check to the objector.

ENFORCEMENT

- Bounced Cheques v. Dishonor cheques: The concept of cheque Dishonour and cheque bounce is almost the same, but the only difference is that cheque Dishonour occurred due to distinctive signature, wrong date etc. But the cheque bounce occurred only due to insufficient funds in drawer's account.
- The check bounces only if there is not sufficient funds in the account. This occurs also even in the partial payment of the check.
- The dishonor check occurs when the drawer issues the check with bad faith to prevent the payee from cashing the check.

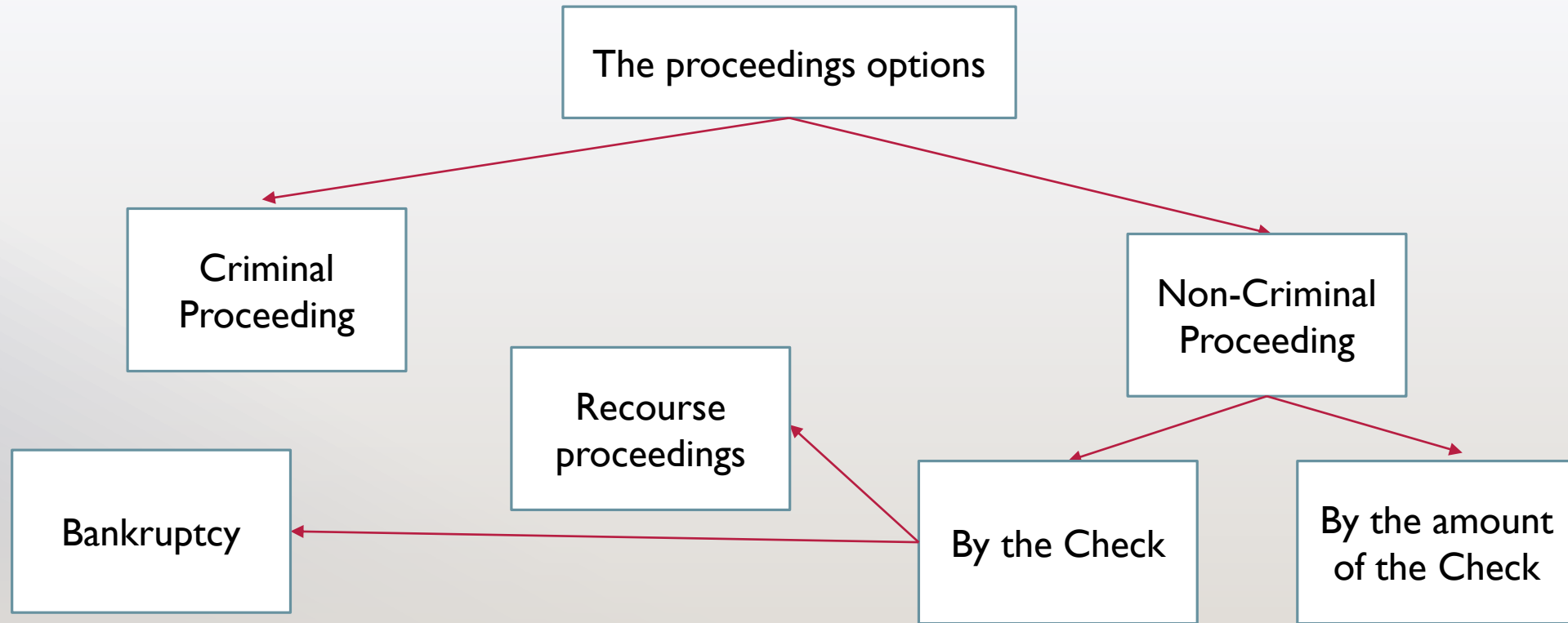
ENFORCEMENT

- In both cases (bounced cheques or Dishonored cheques), the bank has to issue a “Cheque Return Memo/ Statement” that includes:
 - 1) the number of the check;
 - 2) The number of the drawer;
 - 3) the amount of the check;
 - 4) The account number;
 - 5) The account name; and
 - 6) All the rejection reasons.

ENFORCEMENT

- In both cases (bounced cheques or Dishonored cheques), the bank has to issue a “Cheque Return Memo/ Statement”.
- If the Bank failed to issue the Cheque Return Memo or give false information, the employee issued the memo jointly with the bank will be fined from EGP 3000 to EGP 10000.

ENFORCEMENT



ENFORCEMENT

PROCEEDINGS

- Criminal Proceedings: issuing bounced checks or dishonored checks is penalized for imprisonment and a fine up to EGP 50K or either of them.

- Events of the Misdemeanor:

First: Bounced Checks: that is to issue a check with the knowledge that no sufficient fund to cover it.

Second: withdraw the balance or part of it after issuing the check

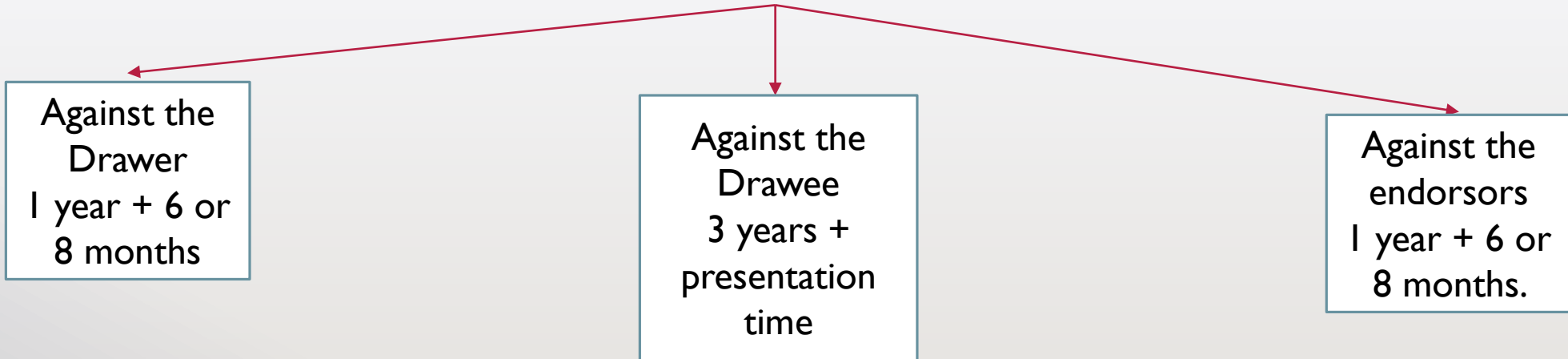
Third: Issue stop order to the drawee in the cases not covered under the law.

Fourth: issue dishonor checks: that is when the drawer issues the check in way that prevents its cashing.,

ENFORCEMENT

PROCEEDINGS

- Check resource Proceedings:



NON-CASH PAYMENTS (ELECTRONIC)

- Law no. 18 of 2019 issued in 2019 imposing certain requirements and restrictions on cash settlements and payments.
- Definition of Non Cash method: orders of deposits, transfers, debit, credit cards, and payments by mobile or other means approved by the Central Bank of Egypt.
- The issue of this definition: the expression or term of “non-cash” indicates that in not limited to electronic means of payments. However, the methods mentioned in the definitions are limited to electronic methods.
- The periodic book issued by the ministry of finance in 2018 excludes checks from electronic methods.

NON-CASH PAYMENTS (ELECTRONIC)

- Two Approaches :
- Check is non-cash method and then it is excluded from the application of the law.
- Check is cash method within the broader definition of the law.
- Discussion.