

Read below the latest legal developments in Turkey. This latest roundup provides insight on the latest amended and repealed laws and regulations affecting different sectors.

To discuss how these developments affect your business interests please contact Fethi Pekin, Managing Partner.
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BANKING & FINANCE

Ratios for Statutory Reserves have been amended

Pursuant to the Communiqué numbered 2015/5 (published in the Official Gazette dated August 29, 2015 and numbered 29460) issued by the Central Bank of the Republic of Turkey (the “Central Bank”) amending the Communiqué on the Statutory Reserves (published in the Official Gazette dated December 25, 2013 and numbered 28862) (the “Statutory Reserves Communiqué”), the ratios for the statutory reserves that shall be allocated by banks against the risks they are exposed to in relation to transactions conducted in foreign currency have been amended as follows:

Demand deposits, special current accounts and term deposits/participation funds with a term of 1 month, 3 months, 6 months or 1 year	13%
Term deposits/participation funds with a term of 1 year or more	9%
Liabilities other than that of term deposits/participation funds with a term of 1 year at most (including 1 year)	25%
Liabilities other than that of term deposits/participation funds with a term of 2 years at most (including 2 years)	20%
Liabilities other than that of term deposits/participation funds with a term of 3 years at most (including 3 years)	15%
Liabilities other than that of term deposits/participation funds with a term of 5 years at most (including 5 years)	7%
Liabilities other than that of term deposits/participation funds with a term more than 5 years	5%

The abovementioned ratios shall enter into force on October 9, 2015. Until this date, pursuant to the newly introduced Temporary Article 6 of the Statutory Reserves Communiqué, following ratios are applicable to the liabilities of banks in foreign currency other than that of deposit/participation funds:

Liabilities other than that of term deposits/participation funds with a term of 1 year at most (including 1 year)	20%
Liabilities other than that of term deposits/participation funds with a term of 2 years at most (including 2 years)	14%
Liabilities other than that of term deposits/participation funds with a term of 3 years at most (including 3 years)	8%
Liabilities other than that of term deposits/participation funds with a term of 5 years at most (including 5 years)	7%
Liabilities other than that of term deposits/participation funds with a term more than 5 years	6%

Amendment to the Liquidity Coverage Ratios

The Banking Regulation and Supervision Agency (the “BRSA”) has amended the Regulation on Liquidity Coverage Ratios (published in the Official Gazette dated March 21, 2014 and numbered 28948) (the “Liquidity Coverage Regulation”) on August 20, 2015. The purpose of the amendment is to ensure that banks have sufficient high-quality assets (“HQLA”) in accordance with the Basel III standards. Certain provisions that the BRSA has introduced within the scope of the amendment are highlighted below:

- HQLAs are assets that can be converted into cash in private markets which are classified as Level 1, 2A and 2B assets depending on their liquidity as described in the Liquidity Coverage Regulation. In order for an asset to be qualified as HQLA, a discount rate floor of 10% for Level 2A assets, 20% for Level 2B non-security assets and 40% for Level 2B securities have been set. Assets that have no performance or fail to satisfy these requirements are not included in the HQLA.
- Level 1 assets include a bank’s accounts and reserves at a central bank and overnight lending through central banks from now on.
- Level 2B assets include sovereign and central bank debt instruments with a risk weight of 50% from now on.
- In order to be classified as a stable deposit or fund, the customer should have a deposit fund account for at least 12 months, or should have a loan with an unsatisfied maturity or without a maturity, or a loan with a maturity over 12 months, or actively using another bank’s product.
- The deposits qualify as operational deposits if a customer has a deposit fund account active for over 12 months.
- Options that have a maturity of less than 30 days or other options that can be exercised before their maturity are counted when they are in money.
- Off balance sheet liabilities are classified in two groups from now on: non-cancellable or conditionally cancellable liabilities and unconditionally cancellable liabilities.

Amendment to the Communiqué on Financial Statements to be Publicly Disclosed by Banks as well as Explanations and Footnotes therein

As per the amendment introduced in relation to the Communiqué on Financial Statements to be Publicly Disclosed by Banks as well as Explanations and Footnotes therein (published in the Official Gazette dated June 28, 2012 and numbered 22337) (the “**Financial Statements Communiqué**”), matters to be disclosed by banks with regard to their liquidity risk under Article 13 of the Financial Statements Communiqué have been regulated more extensively in comparison to the former wording of the article. As such, disclosure by banks concerning their liquidity risk, as amended, shall include detailed information such as (i) liquidity risk management, (ii) bank’s funding strategy (iii) techniques that are used to minimize liquidity risk (iv) usage of stress test, emergency liquidity plan.

Additionally, matters to be disclosed by banks in regard to their liquidity coverage ratio has been regulated as a new paragraph under the same article and banks are required to disclose detailed information on their liquidity coverage ratios such as; (i) significant factors affecting the liquidity coverage ratio, (ii) items that constitute high quality liquidity assets, (iii) items that constitute fund resources and the density of fund resources, funding needs and liquidity risk (iv) and other cash flow related to liquidity. Following the recent amendments on the Financial Statements Communiqué, banks are required to disclose their liquidity coverage ratios under two separate tables for the current period and the previous period.

Moreover, a new sub-article has been included under the Financial Statements Communiqué as Article 13/Ç entitled “Leverage Ratio”, under which the required information that banks shall disclose in relation to their leverage ratio has been regulated. Banks are required to disclose (i) information regarding the matters that caused the difference between the current and the previous leverage ratio and (ii) the comparison of their total assets and total risks as

determined in consolidated balance sheets prepared according to the Turkish Accounting Standard under separate tables as per the latest amendment in the form provided under Article 13/Ç.

As per the amendment to Article 25/2-b, liquidity risk management and liquidity coverage ratio under Article 13 and leverage ratio under Article 13/Ç have been included among the issues to be addressed under the explanations or footnotes sections of the interim financial tables.

Amendments to the Financial Statement Communiqué will enter into force on December 31, 2015.

Definition of Cumulative Deposits have been amended

As per the Communiqué numbered 2015/4 (published in the Official Gazette dated July 23, 2015 and numbered 29423) issued by the Central Bank, the definition of 'cumulative deposits' of the Communiqué on the Terms and Types of Deposits and Participation Funds (**Communiqué No. 2007/1**) (published in the Official Gazette dated February 3, 2007 and numbered 26423) has been amended. Pursuant to the amendment, the new definition of cumulative deposits is "the type of deposit the term of which is at least three years and which allows for depositing money to the account monthly or quarterly, as determined by the relevant contract".



CAPITAL MARKETS

A New Communiqué Regarding Record Keeping and Documentation:

The Capital Market Board (**the "CMB"**) has published the Communiqué on Principles Regarding Record Keeping and Documentation in Investment Services and Activities and Ancillary Services (Communiqué No. III-45.1) (**the "Communiqué"**) (O.G. January 22, 2015, 29244) in order to be put in effect as of October 1, 2015 without prejudice to several articles which are provisioned to be applicable as of the date of publication of the Communiqué. Accordingly, the Communiqué has broadened the scope of the Communiqué on Principles Regarding Record Keeping and Documentation in Intermediary Activities (Serial No. V/6), combining the regulations of record keeping and documentation of derivatives, leverage procedures and share market transactions in one single regulation. With regard to the above, certain novelties which are included in the Communiqué are as follows:

- The time period for record keeping is increased from 5 years to 10 years in accordance with the relevant provisions stipulated under the Turkish Commercial Code (O.G. February 14, 2011, 27846). Furthermore, the required record keeping period for voice recordings is also increased from 2 to 3 years.
- The Communiqué provides that framework agreements can be executed in accordance with the Regulation on Contracts Executed Outside the Workplaces Regarding Financial Services (O.G. January 31, 2015, 29253) and can be amended in the electronic medium provided that the conditions stated in the Communiqué have been met.
- The Communiqué provides specific provisions regarding the record keeping and documentation of over the counter transactions such as swaps and forwards.
- The Communiqué also stipulates separate provisions for account abstracts of general customers and professional customers. In the light of the foregoing, the general customers shall no longer be able to reject

receiving their monthly account abstracts while professional customers may instruct investment institutions that they do not require account abstracts. Accordingly, investment institutions are required to send account abstracts to the address of general customers. If approved by the customer in writing, such account abstracts may be sent via e-mail, or may be made accessible via the electronic medium.

- Lastly, the Communiqué requires investment institutions to instill their accounting records with regard to the capital markets transactions to their legal books within the next business day following the settlement.



CORPORATE

TELECOMMUNICATIONS, MEDIA & TECHNOLOGY

Regulation on Commercial Communication and Commercial Electronic Messages has been published

Regulation on Commercial Communication and Commercial Electronic Messages (published in the Official Gazette dated July 15, 2015 and numbered 29417) has been issued by the Ministry of Customs and Trade. This Regulation covers the terms and conditions regarding the obligation to provide information about commercial communication by electronic communication devices and restrictions on commercial electronic messages. As per the Regulation, all real and legal persons operating electronic commercial (“**Service Providers**”) must receive an approval before sending the commercial electronic messages for advertising, marketing goods and services, advertising the company or celebration and wishes to increase reputation. The approval is effective until the use of the right to reject. Receiving commercial electronic messages may be rejected by persons without giving any reason. Service Providers must indicate that receivers of such commercial electronic messages may be rejected any time. Rejecting receiving such commercial electronic messages should not bear any burden on the people and should be free.

TRANSPORTATION, LOGISTICS & DEFENCE

A NEW REGULATION ON THE REGISTRATION OF RAILWAY VEHICLES

The Regulation on Registration and Record of Railway Vehicles (published in the Official Gazette dated July 16, 2015 and numbered 29418) has become effective on July 16, 2015, accordingly abolished the Regulation on Technical Acceptance of Freight Wagons and Major Components of Wagons Domestically Produced by Third Parties. This Regulation governs the mandatory registration of railway vehicles which are domestically produced or imported and used by private parties in the railway infrastructure system.

INSURANCE

Capital Requirements regarding Insurance, Reinsurance Companies and Pension Companies

A new Regulation on Capital Requirements regarding Insurance, Reinsurance and Pension Companies has been published by the Undersecretariat of Treasury in the Official Gazette dated August 23, 2015 numbered 29454. The purpose of the Regulation is to regulate the requirements regarding capital adequacy for insurance, reinsurance companies and pension companies, and liabilities of the relevant companies. Pursuant to Article 7 of the Regulation,

insurance, reinsurance and pension companies shall have capital in compliance with the total amount which should be calculated for non-life insurance, life insurance and pension.

Within the scope of Article 7, 5 types of principles regarding required capital have been enumerated: (i) Required capital in compliance with bonus principle, which is including relevant rates applying on gross premiums and company's mischief defined in article. (ii) Required capital in compliance with mischief principle, which is stipulating brut mischiefs calculating according to risk groups defined above.

In addition, pursuant to Article 7(5) of the Regulation, required capital for life units is the total amount which should be calculated according to liability and risk. (i) Required capital in compliance with liability principle states the amount calculated by rates applying on mathematical provisions and one-year life assurances. (ii) Required capital in compliance with risk principle defines the capital from which mathematical provisions and unearned premiums are subtracted.

Within the scope of Article 7(6), required capital for pension business branch is stipulated. It's determined as %5 of saving available in individual pension accounts. The second manner which is based on risk types has been specified within Article 8. There are 5 types of principles below this article: (i) In active risk calculation, active account items partaking in balance sheet are multiplied with risk weightings available in the referred article. (ii) Reassurance risk calculation is a risk type in which total reassurance premium is considered.

For every different transferred risk, there are different multipliers determined in Article 8(2) which shall be applied on herein risks. (iii) Extreme bonus increase risk calculation determines the multiplier of 0,2 for the circumstance in which the brut premiums' annual increase rate is more than the sector increase rate. (iv) In provision for outstanding claim risk calculation, multipliers partaking in Article 8(5) is applied on provision for outstanding claim amount. (v) Currency risk is calculated by considering total foreign exchange assets, liabilities and similar financial instruments.

ENERGY

A New Electricity Market Rates Regulation

A new Regulation on Electricity Market Rates has been published by Energy Market Regulatory Authority in the Official Gazette dated August 22, 2015 and numbered 29453. The purpose of the Regulation is to regulate the procedures and principles regarding preparation, examination, evaluation, transformation and recognition of rates subject to the electricity market. In addition, the Regulation covers procedures and principles on measures of rate proposals preparation regarding transmission, whole sale, distribution, connection, retail sale, market operation and last source rates.

According to Article 13 of the Regulation, the income planning should be completed in compliance with the following basis: (i) Supplying reliable, adequate, perpetual, low-cost and good quality electricity to consumers, (ii) Providing the long-term productivity on investments, and (iii) Promoting the development on competition in the electricity market.

Pursuant to Article 18 of the Regulation, electricity rates should be prepared by each legal entity which provides electricity in accordance with the relevant legislation and should be submitted to the Energy Market Regulatory Board to obtain the approval of the Board.

Unfulfilled liabilities are regulated pursuant to Article 20. Except force majeure events, legislation entities subject to regulate rates shall make rate application and figure out the deficiencies in the rate application on time.

As per Article 21, convenience of prices available in rate proposal with parameters and Communiqués are defined. Referred prices shall be calculated by considering parameters regarding income regulation and related Communiqué provisions.

Regulation on Granting New Production Licenses for Plants in the Electricity Market During Their Construction Has Been Abolished

Regulation on Granting New Production Licenses for Plants in the Electricity Market During Their Construction (published in the Official Gazette dated May 4, 2013 and numbered 28637) has been abolished with a regulation published by Energy Market Regulatory Authority in the Official Gazette dated September 19, 2015 and numbered 19480. The abolished regulation stipulated the granting of new production license to license holders who have started constructing an energy plant based on a valid production license obtained before the new Electricity Market Law dated 6446 came into effect and such production licenses are cancelled or stopped for any reason.

Regulation on Electricity Market Consumer Services has been Amended

Amendment to Regulation on Electricity Market Consumer Services has been published by the Energy Market Regulatory Authority in the Official Gazette dated September 16, 2015 and numbered 29477. Accordingly, consumers are not obliged to fulfill their obligations to their previous suppliers anymore before changing their suppliers. Furthermore, discount amount of the free consumption limit shall be determined by the Energy Market Regulatory until January 1st of each year. This date was January 31, before the amendment.

Others – All Sectors

- A new Communiqué has been published in the Official Gazette dated August 25, 2015 and numbered 29456 in order to abolish the Communiqué on Electricity Market Retail Sales Agreement (published in the Official Gazette dated August 31, 2003 and numbered 25215).
- A new regulation on Advertising Activities of Medicinal Products for Human Use has been published in the Official Gazette dated July 3, 2015 and numbered 29405.
- Cabinet Decree on Pricing of Medicinal Products for Human Use has been published in the Official Gazette dated July 10, 2015 and numbered 29412.
- A new regulation on Carriage of Hazardous Substances by Railway has been published in Official Gazette dated July 16, 2015 and numbered 29418.
- A new regulation on Tunnel Management has been published in Official Gazette dated August 4, 2015 and numbered 29435.
- A new regulation on Service Provider and Intermediary Service Providers at Electronic Commerce has been published in Official Gazette dated August 26, 2015 and numbered 29457.



DISPUTE RESOLUTION

Regulation on Service Providers and Intermediary Service Providers in Electronic Commerce

Regulation on Service Providers and Intermediary Service Providers in Electronic Commerce ("**Regulation**") was published in the Official Gazette dated August 26, 2015 and numbered 29457 and will enter into force on its publication date.

As per Article 4 of the Regulation, the service provider is defined as "the individual or legal entity which performs electronic commerce activities" while the intermediary service provider is defined as "the individual or legal entity which provides the electronic commerce platform for the commercial activities of third parties".

Article 5 of the Regulation regulates the obligations of service providers to provide information. Pursuant to the first paragraph of the said Article, the service provider shall provide the below information on its own electronic commerce platform prior to commencing electronic commerce activities;

- (i) registered electronic mail address, e-mail address, and phone number, its company name, or registered trademark,
- (ii) professional organization and sectoral institutions of which it is a member, if any, together with its professional rules and information regarding how such rules may be accessed,
- (iii) if the service provider is a business man, its commercial name, central registry record number (MERSIS) and headquarters address.

As per the fourth paragraph of Article 5, the service provider which performs sales through an intermediary service provider shall provide the information below on the platform provided by the intermediary service provider prior to commencing electronic commerce activities;

- (i) at least one of its commercial name, company name or registered trademark,
- (ii) registered electronic mail address,
- (iii) central registry record number (MERSIS),
- (iv) its headquarter address and approved phone number are maintained by the intermediary service provider.

As per Article 6 of the Regulation, the intermediary service providers are also obliged to provide information as set forth under Article 5 (mentioned above).

Pursuant to Article 6 of the Regulation, the intermediary service providers shall ensure that the service providers comply with their abovementioned obligations prior to commencing electronic commerce activities. However, the intermediary service providers are neither obliged to supervise the content provided by the service providers, nor obliged to check whether there is any illegal activity in relation to the content or goods or services subject to the content.

The obligations of service providers and intermediary service providers as to providing technical information regarding the order process are set forth under Article 7 and 8 of the Regulation.

With respect to the protection of personal data, Article 10 of the Regulation provides that the service providers and intermediary service providers are obliged to protect the personal data obtained by them in relation with their services and to ensure that such personal data cannot be reached illegally.

In conclusion, the Regulation sets forth the obligations of service providers and intermediary service providers as to general information and information to be provided to the consumers prior to the execution of agreement and during the order process on the electronic commerce platform.



EMPLOYMENT

The Severance Pay Threshold Increased as of September 1, 2015.

The severance pay threshold increased to 3.828,37 TL to be applied between the dates September 1, 2015 and December 31, 2015.

The threshold for Social Security Premium and Unemployment Insurance Premium and Social Security Support Premium Applicable as of July 01, 2015 for Incomes Constituting Basis

The monthly upper limit for social security premium shall be applied as TL 8.277,90 between July 01, 2015 and December 31, 2015 period.

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