



Legal Newsletter Q4/2014

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 This latest roundup provides insight on the latest amended and repealed laws and regulations affecting different sectors.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. Email: fpekin@pekin-pekin.com



BANKING & FINANCE

New Regulation on the Fees Chargeable on Financial Consumers

The Regulation on the Fees Chargeable on Financial Consumers (the "**Regulation**") (*O.G., October 3, 2014, 29138*) has been issued by the Banking Regulation and Supervision Agency (the "**BRSA**"). The purpose of the Regulation is to regulate all fees, commissions and expenses to be collected from financial consumers in exchange of the services provided, apart from the interest and dividends accrued.

Banks, financial institutions which offer consumer loans, institutions issuing credit cards and all the products and services offered to consumers by these institutions fall within the scope of the Regulation.

Pursuant to Article 5 of the Regulation, agreements to be executed between these institutions and the financial consumers and all the notifications thereto shall be prepared with clear language and explicit expressions. In addition, notifications shall be written in legible form. All fees and expenses chargeable in relation to the agreement shall be specifically indicated and the approval of the financial consumer shall be obtained for each fee or expense. In addition, an informative form shall be given to each financial consumer showing the availability period of each fee and expense together with the standards to be used in the increase of such fees and expenses. Any increase in the fees and expenses is subject to the approval of the financial consumer.

The Regulation provides for the annulment of many of the fee items charged by the financial institutions in relation with the consumer loans and mandates that only the fees listed in Annex 1 of the Regulation may be collected from financial consumers.

Another significant procedure introduced by the Regulation is that the banks are now obliged to issue a credit card which does not have an annual membership fee for each financial consumer. In addition, pursuant to Article 11(7) of the Regulation, outstanding

annual membership fees of dormant credit cards may be collected within a maximum of twelve months following the accrual date. No enforcement procedures will be available for the credit card membership fees within this period. Furthermore, such enforcement restriction is also applicable to the account maintenance fee pursuant to Article 13(2).

Decree on the Collection and Enforcement Proceedings regarding the Resource Utilization Support Fund Deductions has been introduced

With the decree of the Council of Ministers on September 30, 2014, the Decree on the Collection and Enforcement Proceedings regarding the Resource Utilization Support Fund ("**RUSF Decree**") (*O.G. October 16, 2014, 29147*) has been introduced.

Pursuant to Article 1 of the RUSF Decree, the customs administrations are authorised to collect and initiate enforcement proceedings regarding the RUSF deductions.

The RUSF Decree regulates the RUSF deductions which have not been paid or have been paid incompletely in relation with imported goods.

Pursuant to Article 1(2) of the RUSF Decree, the enforcement proceedings in relation to and the collection of RUSF deductions shall be made in accordance with the procedure regulated under Customs Law (Law No. 4458) (*O.G. November 4, 1999, 23866*).

The decree enters into force seven days following its publication on October 16.

Amendment to the Regulation on Debit Cards and Credit Cards

Pursuant to the Regulation Regarding the Amendment of the Regulation on Debit Cards and Credit Cards (*O.G. October 22, 2014, 29153*), the number of installments for the purchase of goods and services shall not exceed nine installments. Regarding the purchase of jewelry, the maximum installment amount is determined as four. In addition, for the purpose of expenditures for telecommunication, food, oil and the purchase of gift cards and gift checks, payment in installments is prohibited.

Interest Rates Applicable on Credit Transactions

The Communiqué on the Maximum Interest Rates Applicable on Credit Card Transactions (*O.G. October 22, 2014, 29153*) issued by the Central Bank of the Republic of Turkey (the "**Central Bank**") regulates maximum contractual and default interest rates to be applied for credit card transactions.

It is stated that interest rates applied to credit card transactions in foreign currency shall be calculated as **80%** of the interest rate determined for TL currency. The default interest rates are calculated as an addition of **0.50 %** to the contractual interest rate.

The Central Bank announces the relevant interest rates quarterly.

The Communiqué (*O.G. December 3, 2014, 29194*) issued by the Central Bank within this framework sets forth the relevant interest rates to be applied to the transactions occurring after January 1, 2015 as follows:

Credit Card Transactions in TL

Monthly Maximum Contractual Interest Rate : 2.02 %

Monthly Maximum Default Interest Rate : 2.52 %

Credit Card Transactions in Foreign Currency

Monthly Maximum Contractual Interest Rate : 1.62 %

Monthly Maximum Default Interest Rate : 2.12 %

Limitation on Overdraft Accounts

The Communiqué on Benefits generated from Credit Transactions Other Than Interest, Profit and Loss Participation Rates in Participation Accounts and Deposit and Credit Interest Rates (*O.G. December 9, 2006, 26371*) has been amended (*O.G. November 15, 2014, 29176*) (the "**Amendment**").

According to the Amendment,

- interest rates to be accrued over overdraft accounts cannot exceed the maximum rates set by the Central Bank pursuant to the Article 26 of the Law No.5464,
- banks are obliged to publish on their websites the interest (or profit/loss participation) rates to be charged on deposits (participation accounts) and loan transactions.

Consumer loans are not within the scope of the aforementioned Communiqué and covered by the the Regulation on the Principles and Procedures Regarding the Fees to be charged on Financial Consumers (*O.G. October 3, 2014, 29138*).

The Central Bank Determines Discount Interest Rates

The discount rate for rediscount transactions on bonds with a term of maximum 3-month has been determined as **9%** and the interest rate to be charged on advance transactions has been determined as **10.50%** by the Central Bank (*O.G. December 14, 2014, 29205*).

Leasing, Factoring, and Financing Companies and Banks are Exempted from the Revolving Loan Prohibition

The Central Bank of the Republic of Turkey amended Clause 1.1.1 (Utilisation of the Loan) of Section III (Credits) of its Capital Movements Circular upon the letter of the Undersecretariat of Treasury dated November 7, 2014 and numbered 33111. In accordance with such amendment, leasing, factoring and financing companies and banks are allowed to obtain revolving loans from banks and financial institutions resident abroad.

Contractors are Exempted from the Prohibition on the Utilization of Non-Cash Loans from Turkish Banks in Foreign Currency

The Central Bank of the Republic of Turkey amended its Capital Movements Circular upon the letter of the Undersecretariat of Treasury dated October 21, 2014 and numbered 31960 in order to allow contractors operating in Turkey

- to obtain non-cash loans over foreign currencies from banks operating in Turkey and

to make payments in foreign currencies for works related to international projects that Turkey is a party to via intergovernmental agreements.

Debt Assumption by the Undersecretariat of Treasury

The Undersecretariat of Treasury ("**Treasury**") has introduced a new regulation on the principles and procedures to be implemented for debt assumption by the Treasury (the "**Regulation**") (*O.G. December 31, 2014, 29222*).

According to the Regulation, the Treasury may assume the debts of a debtor that falls under the definition of "debtor" set forth under Article 4 of the Regulation, by entering into a "Guarantee Assumption and Loan Agreement".

A "debtor" is defined as public administrations within the central administration, social security institutions, public economic enterprises, institutions which are subject to private law and more than fifty percent of whose share capital is owned by the state, funds, public banks, investment and development banks, metropolitan municipalities, municipalities, affiliates of these and other institutions of local administrations, institutions whose payment obligations have been guaranteed by the Undersecretariat of Treasury for projects that are foreseen to be implemented under build-operate-transfer, build-operate, transfer of operational rights or similar financing models and, non-governmental organizations provided that it only involves grants.

The Regulation authorises the Treasury to carry out investigations in the premises of the debtor to assess the genuineness of the documents submitted to the Treasury as well as to determine whether the Treasury guarantee is utilised in accordance with the Regulation and the Guarantee Assumption and Loan Agreement.

Higher Fines for Consumer Protection

As per the Communiqué on Administrative Monetary Penalties to be applied within the

scope of the Law on the Protection of Consumer (*O.G. December 27, 2014, 29218*), administrative monetary fines applicable to financial institutions as a result of breach of their obligations arising from the Consumer Protection Law (Law No. 6502) have been increased.

Treasury Issues New Regulation on Cross-Border Financing

The Regulation on the Principles and Procedures on Obtaining Cross-Border Financing within the Scope of Law No. 4749 (the "**Regulation**") (*O.G. December 25, 2014, 29216*) has been issued by the Treasury and abolished the previous regulation under the same name (*O.G. December 17, 2009, 27435*).

The most significant amendments are the introduction of:

- bond issuance as a means of obtaining cross-border financing by the Treasury and
- the Treasury's ability to issue a counter-guarantee to eligible foreign guarantors guaranteeing the repayment obligations of eligible debtors arising from cross-border financing transactions.

Eligible debtors are public administrations within the central administration, social security institutions, public economic enterprises, institutions which are subject to private law and more than fifty percent of whose share capital is owned by the state, funds, public banks, investment and development banks, metropolitan municipalities, municipalities, affiliates of these and other institutions of local administrations, institutions whose payment obligations have been guaranteed by the Undersecretariat of Treasury for projects that are foreseen to be implemented under build-operate-transfer, build-operate, transfer of operational rights or similar financing models and, non-governmental organizations (for grants only).



CAPITAL MARKETS

Public Offering of Borsa Istanbul Shares

The Council of Ministers published the Decree of on the Decision regarding Public Offering of the Shares of Borsa Istanbul A.Ş. Owned by the Treasury (the "**Decree**") (*O.G. November 14, 2014, 29175*).

The Decree indicates that the B Group shares of Borsa Istanbul A.Ş. owned by the Treasury may be offered to the public until **December 31, 2015**. However, the ratio of publicly offered shares cannot exceed **42.75%** of the total capital of the company. The Decree further sets forth the procedures to be followed regarding the aforementioned public offering.

Regulations Regarding Borsa Istanbul Activities

The Capital Markets Board (the "**CMB**") has published the Regulation on the Principles

regarding Activities of Borsa Istanbul A.Ş. (*O.G. October 19, 2014, No. 29150*) and Regulation of the Principles regarding Borsa Istanbul A.Ş. Activities in relation to Precious Metals and Precious Stones (*O.G. October 19, 2014, 29150*) which mainly cover the procedures and principles in relation to secure, transparent, efficient, stable, fair and competitive trading of capital market instruments and other agreements, documents and values considered appropriate by the CMB and precious metals and precious stones within Borsa Istanbul A.Ş.

98% Threshold Set for Delisting

The CMB has published the Communiqué No. II-27.2 on Right to Squeeze-Out and Right to Sell (*O.G. November 12, 2014, No. 29173*) (the "**Communiqué**") which provides substantial amendments to the previous communiqué. The main issues set out in the Communiqué are as below:

- If the total amount of voting rights in relation to the shares of the shareholder reaches **98%** of the total voting rights of the company, such shareholder becomes controlling shareholder. In case the shareholder becomes controlling shareholder through the procedure explained above or in case any additional shares are purchased by the already controlling shareholder, then right to squeeze-out all the other shareholders for the controlling shareholder and right to sell their shares for the other shareholders occur. It should be noted that such ratio was 95% in the previous communiqué. Such increase could discourage publicly-held companies from getting delisted.
- Such 98% ratio shall be considered as **95%** for the exercise of rights arising or to be arisen until **December 31, 2014** and as **97%** for the exercise of rights to be arisen until **December 31, 2017**. Therefore, application processes of the publicly-held companies which have already applied to be delisted will not be interrupted.
- Certain amendments have been made on the criteria determining the sale price and fair price regarding sale of the shares.
- As of the date of enforcement of the Communiqué, right to squeeze-out and right to sell shall become exercisable with the additional share purchases of the controlling shareholder.

In regards to the finalization of the application to the CMB for right to squeeze-out, a one-month period shall be given to the controlling shareholder as of the publication of the Communiqué in order for the controlling shareholder to reevaluate whether it wishes to exercise such right. In this period, right to sell cannot be exercised either.

Amendments on Communiqués Regarding Collective Investment

CMB has published the Communiqué No. III-55.1.b Amending on the Communiqué on the Principles regarding Portfolio Management Companies and Activities of Portfolio Management Companies ("**Amendment**") (*O.G. December 31, 2014, 29222*). Certain issues covered by the Amendment are as below:

- Portfolio management companies shall notify the CMB regarding the ancillary services they plan to render at the stage of obtaining operation permission. In

case other ancillary services will be rendered after obtaining the operation permission, a separate notification is required as well.

- Portfolio management companies cannot engage in brokerage activities, without any exception.
- The portfolios which the portfolio management company is the sub-portfolio manager cannot be included in the portfolios managed by the portfolio management company.

Furthermore, CMB has published the Communiqué No. III-52.3.a amending on the Communiqué on the Principles regarding Real Estate Investment Funds and the Communiqué No. III-52.4.a Amending on the Communiqué on the Principles regarding Venture Capital Investment Funds (*O.G. December 31, 2014, No. 29222*) which mainly deal with certain corporate governance rules for real estate and venture capital investment funds.

Other Regulations

The Council of Ministers published the Decree on the Decision regarding Amendment to the Articles of Association of the Central Bank of the Republic of Turkiye (*O.G. October 11, 2014, 29142*).



CORPORATE

Energy & Climate Change

Administrative and Technical Methods and Principles of Environmental Impact Assessments

The Regulation on Environmental Impact Assessment has been published by the Ministry of Environment and Urban Planning (*O.G. November 25, 2014, 29186*). The purpose of this Regulation is to regulate administrative and technical methods and principles which should be complied during Environmental Impact Assessment process.

In Annex 1 of the Regulation, the projects which Environmental Impact Assessment shall be implemented to are listed. Additionally, the projects which selection-elimination criteria shall be implemented to are also listed in Annex 2 of the Regulation. Hospitals and dialysis centers are removed from the scope of the Regulation on Environmental Impact Assessment.

In accordance with the new Regulation, shopping malls shall not be exempt from the Regulation on Environmental Impact Assessment anymore. Corporations, institutions and enterprises which may cause environmental problems as a result of its activities are obliged to prepare Environmental Impact Assessment Report or project presentation file.

Pecuniary Fines in the Petroleum Market Law Have Been Increased

The Communiqué regarding the Pecuniary Fines to be imposed in 2015 as per Article 19 of the Petroleum Market Law numbered 5015 has been published by the Energy Market Regulatory Authority (*O.G. December 12, 2014, 29203*). The amounts of the pecuniary fines specified in Article 19 of the Petroleum Market Law numbered 5015 shall be imposed as stated in this Communiqué as from January 1, 2015. The **upper limit** of the pecuniary fine stated in Article 19 Paragraph 7 of the Petroleum Market Law shall be increased from TL 72,752 to **TL 80,106** and the **lower limit** of the relevant fine shall be increased from TL 1,558 to **TL 1,715**.

Pecuniary Fines in the Electricity Market Law Have Been Increased

The Communiqué regarding the Pecuniary Fines to be imposed in 2015 as per Article 16 of the Electricity Market Law numbered 6446 has been published by the Energy Market Regulatory Authority (*O.G. December 12, 2014, 29203*). The amounts of the pecuniary fines specified in Article 16 of the Electricity Market Law numbered 6446 shall be imposed as stated in this Communiqué as from January 1, 2015. The pecuniary fine stated in Article 16 Paragraph (e) of the Electricity Market Law shall be increased from TL 1,039,300 to **TL 1,144,373**.

Pecuniary Fines in the Law on Amendment to the Liquefied Petroleum Gases Market Law and Electricity Market Law Have Been Increased

The Communiqué regarding the Pecuniary Fines to be imposed in 2015 as per Article 16 of the Law on Amendment to the Liquefied Petroleum Gases Market Law and Electricity Market Law numbered 5307 has been published by the Energy Market Regulatory Authority (*O.G. December 12, 2014, 29203*). The amounts of the pecuniary fines specified in Article 16 of the relevant Law 5307 shall be imposed as stated in this Communiqué as from January 1, 2015. The pecuniary fine stated in Article 16 Paragraph (a) shall be increased from TL 761,432 to **TL 838,412**.

Pecuniary Fines in the Law on Amendment to the Electricity Market Law and Natural Gas Market Have Been Increased

The Communiqué regarding the Pecuniary Fines to be imposed in 2015 as per Article 9 of the Law on Amendment to the Electricity Market Law and Natural Gas Market numbered 4646 has been published by the Energy Market Regulatory Authority (*O.G. December 12, 2014, 29203*). The amounts of the pecuniary fines specified in Article 9 of the relevant Law numbered 4646 shall be imposed as stated in this Communiqué as from January 1, 2015. The pecuniary fine stated in Article 9 Paragraphs (f) and (g) shall be increased from TL 913,719 to **TL 1,006,095**.

Authorization Deadline Postponed for Certification Companies

An amendment of the Regulation on Natural Gas Market Certificate has been published by

the Energy Market Regulatory Authority (*O.G. December 23, 2014, 29214*). The Amendment postpones the commencement of the practice of the authorization of companies providing certificates of internal facilities and service lines to January 1, 2016.

Obligation of Notifying EMRA for Construction of Distribution Network

An Amendment to the Regulation on Natural Gas Market Distribution and Customer Services has been published by the Energy Market Regulatory Authority (*O.G. December 24, 2014, 29215*). In accordance with the Amendment, distribution companies shall notify the Energy Market Regulatory Authority regarding the improvements occurred in the construction of distribution network.

Articles Regarding the Notifications to be made to EMRA have been Abolished

An Amendment to the Regulation on Liquefied Petroleum Gases (LPG) Market License has been published by the Energy Market Regulatory Authority (*O.G. December 24, 2014, 29215*) ("**EMRA**"). As per the Amendment, the provisions related to the principles, types and procedures of the notifications to be made to the EMRA have been abolished.

Additionally, from now on, licence owners are not obliged to keep the analysis reports and notification records for five years.

Principles Set for Project Approvals

A Regulation on Electricity Facilities Projects has been published by the Ministry of Energy and Natural Resources (*O.G. December 30, 2014, re.29221*). The purpose of this Regulation is to regulate methods and principles in respect of enabling the project approval transactions to be conducted in compliance with the relevant laws, standards and specifications in order to establish the power plants up to modern technology, connection of relevant facilities to the transmission or distribution networks, ensuring life, property and environmental safety, and authorising the relevant institutions or legal entities.

As per Article 12 of the Regulation, the compliance of the projects and standards with this Regulation shall be examined and information, document, report, source, code/no information of the standards and sections which are requested during the examination for project approval shall be submitted to the relevant project approval unit of the Ministry of Energy and Natural Resources.

Industrial Manufacturing & Service Industries

Annual Visa for Industrial Registry Certificates

A Communiqué on Industrial Registry numbered 2014/11 has been published by the Ministry of Science, Industry and Technology (*O.G. October 25, 2014, 29156*). The purpose of this Communiqué is to regulate methods and principles related to the registration of enterprises which are within the scope of Industrial Registry Law (*numbered 6948*) to the

industrial registry.

As per Article 7 (2) of the Communiqué, amendments related to the enterprises shall be conducted by the enterprises via electronic media. Another substantial issue stated in this Communiqué is the industrial registry certificate visa. Every other year, a visa should be issued as of the issue date of industrial registry certificate.

A New Regulation on Distance Agreements Has Been Published

A Regulation on Distance Agreements has been published by the Ministry of Customs and Trade (*O.G. November 27, 2014, 29188*), and will enter into force on February 27, 2015. The purpose of this law is to regulate methods and principles related to the distance agreements.

Article 5 of this Regulation specifies in detail the information which should be given to the consumer by the seller or supplier before executing a distance agreement or accepting any offer equivalent to an agreement.

Another substantial issue regarding the distance agreements is the duration of right of withdrawal. As per Article 9 of this Regulation, the consumer has a right of withdrawal from the agreement within 14 days without providing a justification and paying any penalty.

Others – All Sectors

- An amendment to Regulation on Insurance Agents has been published by the Undersecretariat of Treasury (*O.G. October 11, 2014, 29142*).
- An amendment to the Regulation on Independent Audit has been published by the Public Oversight, Accounting and Auditing Standards Authority (*O.G. October 21, 2014, 29152*).
- An amendment to the Regulation on Petroleum Market License by the Energy Market Regulatory Authority has been published (*O.G. November 28, 2014, 29189*).
- An amendment to the Regulation on Customs by the Ministry of Customs and Trade has been published (*O.G. December 2, 2014, 29193*).
- An amendment to the Regulation on Control of Air Pollution from Industry by the Ministry of Environment and Urban Planning has been published (*O.G. December 20, 2014, 29211*).
- An amendment to the Regulation on Control of Waste Batteries and Accumulators by the Ministry of Environment and Urban Planning has been published (*O.G. December 23, 2014, 29214*).
- An amendment to the Regulation on Petroleum Market License by the Energy Market Regulatory Authority has been published (*O.G. December 26, 2014, 29217*).

- An amendment to the Regulation on Electricity Market License by the Energy Market Regulatory Authority has been published (*O.G. December 26, 2014, 29217*).
- An amendment to the Regulation on Natural Gas Market License by the Energy Market Regulatory Authority has been published (*O.G. December 26, 2014, 29217*).
- An amendment to the Regulation on Implementation of Organized Industrial Zones by the Ministry of Science, Industry and Technology has been published (*O.G. December 27, 2014, 29218*).
- An amendment to the Regulation on Electricity Market Imports and Exports by the Energy Market Regulatory Authority has been published (*O.G. December 28, 2014, 29219*).
- An amendment to the Regulation on Insurance Agents by the Undersecretariat of Treasury has been published (*O.G. December 30, 2014, 29221*).



DISPUTE RESOLUTION

The Law Regarding Electronic Commerce

The Law on Regulation of Electronic Commerce numbered 6563 ("**E-Commerce Law**") was published in the Official Gazette dated November 5, 2014 and numbered 29166 and will enter into force on May 1st, 2015.

As per Article 1/2, the purpose of the E-Commerce Law is to regulate the developing electronic commerce in Türkiye with provisions regarding the:

- commercial communication,
- liabilities of service providers,
- agreements made by electronic means,
- obligations to provide information on electronic commerce,
- and sanctions.

The service provider (which is described under Article 2 as the individual or legal entity carrying out electronic commerce activities) has an obligation to provide information before the execution of an agreement by means of electronic communication. With this regard, the service provider shall present certain information specified under Article 3 of the E-Commerce Law, which include:

- introductory information which shall be up-to-date and comprehensible for the recipients,
- information on the technical steps necessary for the execution of the agreement,
- information as to whether the agreement will be preserved by the service provider and whether it will be accessible by the recipient,
- information on the technical means for the determination and correction of incorrect data entries and

- the confidentiality rules and information on alternative dispute resolution methods, if any.

Pursuant to Article 4 entitled "Order", the service provider shall ensure that the terms and conditions of the agreement, including the total price to be paid could be seen by the recipient at the time of confirmation of the order and prior to the entry of payment information. The service provider shall also confirm the recipient's order through the means of electronic communication without any delay.

As per Article 5 entitled "Guidelines for Commercial Communication",

- the information, which explicitly clarifies (i) the commercial communication and (ii) the individual or legal entity which such communication was conducted on its behalf, shall be submitted
- and the promotional commercial communications shall contain the indication that such communications are transmitted for promotional purposes and the terms and conditions and participation rules to these promotions shall be accessible and comprehensible.

It should also be noted that,

- commercial electronic messages can only be sent with the recipient's prior consent which may be obtained in writing or via any electronic communication means,
- the content of the commercial electronic messages shall be in compliance with the consent of the recipient,
- the recipient can at any time refuse to receive commercial electronic messages without providing any reason,
- both the service provider and the intermediary service provider are responsible for the preservation and protection of the recipient's personal information obtained within the electronic commerce activities and they are not entitled to use such data for any other purposes and to disclose the same to any other third party without the recipient's consent.

The E-Commerce Law also provides administrative fines under Article 12 amounting up to **TRY 15,000** to be imposed on the service providers and the intermediary service providers breaching their obligations under the law.



EMPLOYMENT

Pregnancy Indebtedness System Available for Self-Employed Social Insurance Holders

Upon the enforcement of the Law No. 6552 (*O.G. September 11, 2014, 29116*), there are certain amendments made on the pregnancy indebtedness system. As a result of such amendments, in addition to the employee social insurance holders, the pregnancy system

becomes also applicable for the self-employed social insurance holders and the insurance holders subject to the retirement fund. Therefore, after that amendment, all social insurance holders would be allowed to benefit from the pregnancy indebtedness. On the other hand, the other significant amendment is that the number of indebtedness has been increased to three from two. Accordingly, social insurance holders may have the right to benefit from this system for the number of three maternities.

Through the abovementioned amendments, the parts in relation to the pregnancy indebtedness system regulated under the Social Security Circular No. 2013/11 have been revised by the Social Security Circular No. 2014/32.

Administrative Fine Repealed for Lack of Notification of Self-Employed Social Insurance Holders

According to Social Security Circular No.2014/32; an administrative fine shall not be applied anymore for the self-employed social insurance holders (i.e.; including the employers, the shareholders of companies and the members of board of directors) who have never or have not submitted in due time their statement of employment or statement of resignation to the Social Security Institution. The persons who have not submitted such statements before December 11, 2014 are also included under the Circular.

The Regulations Regarding the Social Security Status of Foreign Workers

Through Article 40 of the Law No.6552(*O.G. September 11, 2014, 29116*), there are certain amendments made on the Social Security and General Insurance Law No.5510 with regard to the social security immunity of foreign employees who are assigned in Turkey through the secondment program. In relation to such amendments, certain revisions and insertions have been made on the respective part of the Social Security Procedures Circular No.2013/11. Those are stated as follows;

- The foreign workers appointed in Turkey no longer than 3 months as of September 11, 2014 and the persons proving that they are subject to a social security in their country will not be considered as social insurance holders;
 - If the foreign workers appointed in Turkey more than 3 months from a country which has not signed any social security treaties with Turkey are subject to the social security or retired in their country, they will also be considered as a social insurance holder in Turkey as of the last day of the 3rd month following the month that he has started to work in Turkey;
 - Since the Law No.6552 is effective from September 11, 2014; in relation to the foreign workers appointed in Turkey before this date, the three months period should start as of September 11, 2014. The employers of foreign workers (i.e.; the foreign workers who are also social insurance holders in their own country or receive a pension fund in their own country) shall pay long term, short term and general health insurance social security premiums.
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Changes on the Electronic Declaration System

According to the announcement made by the Social Security Institution on November 19, 2014; within the scope of the current periods beginning from the monthly premium and service document period of 2014/October, the employers who have unfairly benefited from the social security premium incentives will not be able to send via Electronic Declaration System their monthly premium and service document and law number in relation to the incentive which has been unfairly benefited before. In such a case, the electronic declaration system will prevent the employers to send the monthly premium and service document and the relevant law number through the system.

Prevention of Unfair and Unlawful Declarations of Self-Employed Social Insurance Holders

Self-employed social insurance holders are not allowed to declare themselves as an employee on their place of business or the company which they participate as of October 01, 2008. Therefore, according to the announcement made by the Social Security Institution on November 12, 2014; the computer systems of Social Security Institution are modified for the prevention of the unfair and unlawful declarations regarding the social insurance by the individual taxpayers. This system will also be applicable for the legal entities and the shareholders of companies.

The Law Regarding the Ratification to the Approval of Social Security Treaty between the Republic of Turkey and the Republic of Korea

The Social Security Treaty between the Republic of Turkiye and Republic of Korea was signed on August 01, 2012 in Ankara. The Law regarding the Ratification to the Approval of the Social Security Treaty between the Republic of Turkiye and Republic of Korea (Law No.6556) has been enacted by the Turkish Grand National Assembly and published in the Official Gazette dated October 30, 2014 and No. 29160.

As per Article 28 of the abovementioned Treaty, this treaty will be effective on the first day of the third month following the month in which the last diplomatic and written notification is made by any party to the other party in relation to the completion of all essential domestic procedures for the enforcement of this Treaty.




INTELLECTUAL PROPERTY

Trademark Registration

A Communique on Classification of Goods and Services Regarding Trademark Registration Applications has been published by the Turkish Patent Institution (the "**Communique**") (*O.G. December 8, 2014, 29199*).

The Communiqué regulates and sets out the principles related to the Classification of Goods and Services List which will be taken as a basis in the applications for registration of marks made to the Turkish Patent Institution in accordance with the Nice Classification regulated as per the provisions of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks. The Communiqué will enter into force on **December 1, 2015**.



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