

Banking & Finance

Amendments to Outsourcing Regulation

Paragraphs (6) and (7) of Article 4 of the Regulation on Outsourcing of Support Services by Banks (the “**Outsourcing Regulation**”) (*published in the Official Gazette dated November 5, 2011 and numbered 28106*) have been amended in January.

The previous version of paragraph (6) provided that banks were entitled to hire another company’s employees on a temporary or permanent basis for various services including services related to information systems. Information systems have been removed from the scope of services that may be provided by another company’s employees.

The previous version of paragraph (7) provided that marketing services outsourced to an outsourcing services company must be limited to the marketing of credit cards and retail banking products and services excluding deposit and participation fund taking. These marketing activities could be performed via the utilisation of call centres, offering services within a branch or via internet, television, telephone, electronic service units and other distribution channels permitted by the applicable legislation. The amended version of paragraph (7) includes automobile dealers (except those selling second hand products) and real estate offices within the scope of platforms where marketing services may be performed.

In addition, by virtue of an amendment introduced to Article 9(2) of the Regulation on Outsourcing, assessment reports prepared by audit committees of banks opining on whether outsourcing services pose any issues preventing or risking efficient operation of the internal systems of banks and whether shareholders and other persons of the outsourcing services companies that have authority to represent the company continue to satisfy the requirements of the Outsourcing Regulation, may be submitted to the Banking Supervision and Regulation Agency (the “**BRSA**”) at least once a year. The previous version of Article 9(2) provided that assessment reports were obligatory every three months.

Amendment to the Regulation on Internal Systems of Banks

Article 7(0) of the Regulation on Internal Systems of Banks (*published in the Official Gazette dated June 28, 2013 and numbered 28337*) has been amended to reflect the change in frequency of reporting by the auditing committee to the BRSA as per the amendment to Article 9(2) of the Regulation. Please refer to the previous section for details of this amendment.

Revisions to Legal Reserve Requirements of Banks

Legal reserve requirements of banks for demand deposits and time deposits have been revised as follows:

- (i) 11.5% for demand deposits, call deposits and private current accounts,
- (ii) 11.5% for time deposits/participation accounts for a term up to 1 month (inclusive),
- (iii) 11.5% for time deposits/participation accounts for a term up to 3 months (inclusive),
- (iv) 8.5% for time deposits/participation accounts for a term up to 6 months (inclusive),
- (v) 6.5% for time deposits/participation accounts for a term up to 1 year (inclusive),
- (vi) 11.5% for other liabilities in Turkish lira for a term up to 1 year (inclusive),
- (vii) 12.5% for foreign currency demand and call deposits, private current accounts, precious metal demand deposit accounts,

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- (viii) 12.5% for foreign currency time deposits, participation accounts with a term and precious metal time deposit accounts for terms up to 1 month, 3 months, 6 months and 1 year.
- (ix) 12.5% for other liabilities in foreign currency for a term up to 1 year (inclusive) and
- (x) 10.5% for other liabilities in foreign currency for a term up to 3 years (inclusive).

Introduction of New Law on Combat Against Financing of Terrorism

Law on Suppression of the Financing of Terrorism (Law No. 6415) (the "**Law No. 6415**") (published in the Official Gazette dated February 16, 2013 and numbered 28561) has been enacted and is effective as of February 16, 2013. The Law No. 6415 has been put into force with a view to implement provisions of the International Convention for the Suppression of the Financing of Terrorism and resolutions of the United Nations Security Council on terrorism and suppression of financing of terrorism. Law No. 6415 aims to regulate the crime of financing of terrorism and set out principles and procedures on asset forfeiture to combat terrorism. Crimes related to the financing of terrorism were covered under the Law on Combat against Terrorism (Law No. 3713) (published in the Official Gazette dated April 12, 1991 and numbered 29843) in a general along with other issues regarding combat against terrorism. As of February 16, 2013, the provisions of Law No. 3713 have been repealed by the more specific and detailed provisions of the Law No. 6415.

Capital Markets

Amendments to Corporate Governance Principles

The Communiqué on Corporate Governance Principles has been revised by the Capital Market Board ("CMB") via the Communiqué Serial IV No. 63, (published in the Official Gazette dated February 22, 2013 and numbered 28567). The important amendments are mainly on related party and material transactions and as follows:

- In case that, the shareholders who have the management control of the company, members of the Board of Directors, high level executives and their relatives (the spouse, up to the 2nd degree relative by blood or marriage) enter into the material transactions that may cause a conflict of interest with the company or its subsidiaries, the general assembly shall be informed with respect to such transaction.
- Article 1.3.10 of the Communiqué provides the description of the material transactions. According to the said article the material transactions are as follows: transferring, granting rights in rem, renting whole or the substantial portion of the assets, granting incorporeal rights thereto or renting these, acquiring or renting substantial assets, granting privileges or changing the scope and subject of the existing privileges, delisting. In order for such transaction to be implemented, the approval of the majority of the independent members of Board of Directors is required. In case of lack of approval of the majority of the independent board members, the transaction shall be submitted to the general assembly.
- As per article 4.3.8 which stipulates additional requirements for the independent members of the Board of Directors, the independency of these members are evaluated by the CMB in accordance with the terms under article 4.3.7. In case that the CMB has dissenting opinion regarding these candidates, they cannot be offered in the general assembly meeting as the candidate for the independent members of Board of Directors.
- In order to ensure that the Board of Directors are implementing their duties in a healthy manner, the Audit Committee, Early Risk Recognition Committee, Corporate Governance Committee shall be constituted. In the previous version of this clause, Early Risk Committee was not mandatory since Corporate Governance Committee may be entitled for the duties thereof where the Early Risk Committee was not present.

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Amendments to the Precious Metals Regulation

As per a new article added to the Precious Metals Regulation following its publication in the Official Gazette dated March 7, 2013 and numbered 28580, the field of operation of the precious metals intermediaries extended through domestic purchase and sale of the precious metals and stones.

Competition

As underlined by the Competition Authority in its 14th Activity Report, the Authority started 2013 with a focus on the secondary legislation of competition law. The Authority published communiqué on privatization filings and guidelines on Leniency Regulation and updated the guidelines on merger and acquisition filings during the initial four months of the year.

In addition, new guidelines, including one concerning the concept of control in merger and acquisition filings, are expected to be published in the coming weeks.

The Communiqué on Privatization Filings (Communiqué No: 2013/2) amended the test determining which privatizations are subject to prior review of the Competition Board. In fact, parallel with the change in the test determining M&A transactions subject to Competition Board approval (see P&P NL 2013-1 for our explanations on the amendments to Communiqué 2010/4), the new test is based on the target undertaking or business's turnover. Accordingly, privatizations will be subject to the review of the Competition Board, if the undertaking/business to be privatized had a turnover exceeding TL 30 million. As was required by the former communiqué on privation filings (Communiqué No: 1998/4) the Competition Board's review will be two footed; initially the privation and its possible affects to the competition will be analysed before the tender specifications are published and secondly approval of the Competition Board will be seek for each qualified bidder after the tender but before the closing of the privation.

Guidelines on the Regulation on Active Cooperation for Detecting Cartels (Leniency Regulation) includes explanations and details on the leniency regulation and application and conditions of full immunity from fines and reduction of fines. From the effective date of the Leniency Regulation (February 2009) till the end of 2012, the regulation was operated only in 4 investigations. The publication of the guidelines, without doubt, is an attempt to shed more light to the leniency mechanism and increase its application. Among others, the guidelines clarifies confidentiality of the information provided by the leniency applicant, which closes the door to third party (e.g. customers seeking to file damage claims) access.

Corporate

Electronic Signatures

The Communiqué on Processes and Technical Criteria Related to Electronic Signatures (*published in the Official Gazette dated January 6, 2005 numbered 25692*) has been amended on January 30, 2013. The amendments are with respect to the articles on algorithms and parameters. The amendments draw the framework of the standards to be used for the verification data and the creation of the signature.

Electronic Communications Security

The Regulation on Electronic Communications Security (*published on July 20, 2008 numbered 26942*) has been amended on February 9, 2013. The amendments are with respect to the article on the obligation to provide information to the authority.

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Consumer Goods & Retail

Imports

Two communiqués on Import Monitoring Practice have been published on March 22, 2013. The communiqués cover the principles and procedures that shall be followed for the prospective monitoring practice to be applied in the import of certain goods regardless of their countries of origin.

Communiqué No. 2013/3 concerns goods made out of polypropylene and goods that are made out of products with addition polymerization, each with a unit customs value below USD 3.5 per kilogram gross weight, as well as other polypropylene supported products with only adhesives applied and a unit customs value below USD 3 per kilogram gross weight. Communiqué No. 2013/4 concerns goods made out of plastic with a unit customs value below USD 0.15 per item.

Common Transit

The Regulation on Common Transit (*published on August 24, 2011 numbered 28035*) has been abolished on February 7, 2013.

Dispute Resolution

Mediation in Civil Disputes

The provisions of the Law on Mediation in Civil Disputes (Law No. 6325) (*published in the Official Gazette dated June 22, 2012 and numbered 28331*) (“**LMCD**”) shall enter into force one year following its publication in the Official Gazette, on June 22, 2013. The Regulation on the LMCD (“**Regulation**”) was published in the Official Gazette dated January 26, 2013 and numbered 28540 and shall enter into force on the same date as the LMCD.

The LMCD regulates mediation in Turkish civil law for the first time. In that regard, Article 1 of the LMCD stipulates that mediation shall be applied only in the resolution of private law conflicts, including those having a foreign element, arising from acts or transactions of interested parties who have the capacity to settle such conflicts.

The preamble to the LMCD states that it aims to regulate the procedures and principles for resolving conflicts without applying to Courts. Under the LMCD and the Regulation, mediation is defined as “*a method of voluntary dispute resolution system carried out with the intervention of an impartial and independent third party; who is specially trained to convene the relevant parties by way of systemic techniques and with a view to help such parties mutually understand and reach a resolution through a process of communication*”.

According to the LMCD, a “Mediator” must fulfil the following conditions: (a) being a Turkish citizen; (b) being graduated from a Law faculty and having at least five years of professional experience; (c) being fully capable; (d) having no criminal record for having committed an intentional crime; and (e) having completed mediation training course and passed the written and practical exam administered by the Ministry of Justice. The persons fulfilling these conditions may act as mediators by registration to the Mediators’ Registry and may commence their services from the date of registration.

The main purpose of such a concept is to arrive at a more expedited solution of the disputes simply and easily through mediation, a form of alternative dispute resolution.

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Employment

Health and Safety-Services

Regulation on Occupational Health and Safety Services (*published in the Official Gazette dated December 29, 2012 and numbered 28512*) stipulates the procedures and principals on the establishment of occupational health and safety units and responsibilities of employers thereof.

Health and Safety-Assessment

Regulation on Workplace Health and Safety Risk Assessment (*published in the Official Gazette dated December 29, 2012 and numbered 28512*) stipulates the principles and procedures to be applied in risk assessments.

Health and Safety-Safety Committees

Regulation on Occupational Health and Safety Committees (*published in the Official Gazette dated January 18, 2013 and numbered 28532*) shall be applied in workplaces with more than fifty employees where continuous works made lasting more than 6 months.

Accordingly, the employer shall organize a committee focused on occupational health and safety which will be comprised of (i) the employer or the employer representative; (ii) workplace safety expert; (iii) workplace doctor; (iv) an official in charge with human resources, personnel, social affairs or administrative and financial affairs; (v) civil defense expert if any; (vi) foreman, master or work master if any and (vii) employee representative or head employee representative if any. In the event of a sub-contract relationship which both parties have more than fifty employees, both the primary employer and the sub-contractor shall constitute committees separately.

The committee shall convene at least once a month. However, if the workplace is evaluated in "dangerous" class, the committee may decide to convene in every other month and if evaluated in "less dangerous" class, the committee may decide to convene in once every three months considering the dangerousness class of the workplace.

The Regulation regarding Occupational Health and Safety Committees (*published in the Official Gazette dated April 04, 2004 and numbered 25426*) has been abrogated.

Amendment on the Communique on Occupational Hazard Classes Regarding the Occupational Health and Safety (*published in the Official Gazette dated March 29, 2013 and numbered 28602*). Accordingly, the List on Workplace Hazard Classes has been updated.

Regulation on Stopping of Works in Workplaces (*published in the Official Gazette dated March 30, 2013 and numbered 28603*) stipulates principles and procedures of partial or full retention of works in a workplace where it is determined by the committee appointed by the Ministry of Labor and Social Security's Head Office of Job Inspection that the workplace, process of work and work equipment pose a life-threatening danger on employees or where no risk assessment has been made in a workplace which is classified as very dangerous.

Employment Agencies

Regulation on Private Employment Agencies (*published in the Official Gazette dated March 19, 2013 and numbered 28592*) stipulates the establishment and working principles of agencies and their duties and powers.

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Social Security

Abrogation of the Communiqué Regarding the Delivery of Monthly Premium and Service Documents to Social Security Agency by Employers (*published in the Official Gazette dated February 10, 2013 and numbered 28555*). Accordingly, e-declaration application has been abrogated.

Energy & Climate Change

Electricity Market Grid

The Electricity Market Grid Regulation (*published in the Official Gazette dated January 22, 2003 and numbered 25001*) has been amended on January 3, 2013. The amendments are with respect to Annex 18 on the network connection criteria of the manufacturing plants based on wind energy.

Electricity Transmission System

The Regulation on the Supply Reliability and Quality of the Electricity Transmission System (*published in the Official Gazette dated November 4, 2004 numbered 25639*) has been amended on January 3, 2013. The amendments are with respect to the articles on the transmission system planning principles and the transmission system design principles.

LPG

The Regulation on the Audits to be Performed in the Liquefied Petroleum Gas (LPG) Market and the Principles and Procedures to be followed for Preliminary Investigation and Interrogations (*published in the Official Gazette dated May 10, 2006 numbered 26164*) has been amended on January 3, 2013. The amendments are with respect to the articles on sampling, testing and analysis.

Balancing and Reconciliation

The Electricity Market Balancing and Reconciliation Regulation (*published in the Official Gazette dated April 14, 2009 numbered 27200*) has been amended on January 5, 2013. The amendments are with respect to the articles on the calculation of the amount of energy imbalance, advance payment notifications and the process of [secured transaction](#).

Electricity Market Licensing

The Electricity Market Licensing Regulation (*published in the Official Gazette dated August 4, 2002 numbered 24836*) has been amended on January 10, 2013 and on January 31, 2013. The amendments are with respect to the articles on access to the system and system usage rights and review and evaluation of the license application.

Natural Gas Market Licensing

The Natural Gas Market Licensing Regulation (*published in the Official Gazette dated September 7, 2002 numbered 24869*) has been amended on January 31, 2013. The amendments are with respect to the articles on the review and evaluation of the license application.

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Promotion of Energy Sector Research and Development Projects

The Regulation Regarding the Program on the Promotion of Energy Sector Research and Development Projects (*published in the Official Gazette dated June 8, 2010 numbered 27606*) has been amended on February 21, 2013. The amendments are with respect to the articles on project applications, project-specific account, purchasing, procurement and accounting, liabilities and property rights.

Equalization Mechanism

The Communiqué on the Electricity Market Price Equalization Mechanism has been published on March 6, 2013 in the Official Gazette numbered 28579. The communiqué covers the development of a mechanism to completely or partially protect consumers from the price differences that occur due to cost differences amongst distribution companies and amongst appointed retail companies that are subject to regulation in terms of their activities.

Radioactive Waste Management

The Regulation on Radioactive Waste Management has been published on March 9, 2013 in the Official Gazette numbered 28582. The regulation covers the principles and procedures for the safe management of radioactive wastes that might arise during the utilization of nuclear energy and ionizing radiation resources and that may have a harmful effect on employees, society, environment and future generations.

Eligible Consumers

The Electricity Market Eligible Consumers Regulation (*published in the Official Gazette dated September 4, 2013 numbered 24866*) has been amended on March 16, 2013. The amendments are with respect to the articles on the scope of consumer eligibility, on keeping eligible consumers informed and keeping updated records regarding such consumers, on the obligations of suppliers and changes in the suppliers.

Electricity Market Law

The new Electricity Market Law has been published on March 30, 2013 in the Official Gazette numbered 28603. The law aims to build a financially strong, stable and transparent electrical energy market that functions according to the provisions of private law in the competition environment in order to provide electricity in a qualified, constant, sufficient, low-cost and environmentally friendly manner for the use of consumers and to provide for independent regulation and auditing in this market.

Insurance

General Health Insurance

The Communiqué on the "MEDULA" System Applied in General Health Insurance (*published in the Official Gazette dated July 6, 2006 numbered 26369*) has been abolished on February 10, 2013.

Information and Monitoring Center

The Regulation on the Insurance Information and Monitoring Center (*published in the Official Gazette dated August 9, 2009 numbered 26962*) has been amended on March 5, 2013. The amendments are with respect to the articles on the management committee,

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the central internal functioning and studies that will be requested by the Undersecretariat.

Intellectual Property

Patent Application Change

Amendment on the Regulation on Implementation of European Patent Convention Regarding Issuance of Patents in Turkey (*published in the Official Gazette dated March 30, 2013 and numbered 28603*) brings several changes in publishing of European patents and fee amounts thereof.

Industrial Design Change

Amendment on the Regulation on Implementation of Decree Regarding Protection of Patent Rights (*published in the Official Gazette dated March 30, 2013 and numbered 28603*) provides a time limit for patent application procedures or other procedures regarding patents that is 2 months.

Definition of Trademark

Amendment on the Regulation on Implementation of Decree Regarding Protection of Industrial Design Rights (*published in the Official Gazette dated March 30, 2013 and numbered 28603*) brings several changes in procedures of registration and fee amounts thereof.

Amendment on the Regulation on Implementation of Decree No. 556 Regarding Protection of Trademarks (*published in the Official Gazette dated March 30, 2013 and numbered 28603*) has changed definition of trademarks to commercial and service marks including common and guarantee marks.

Tariff Change

Communique on Tariff of Fares to be implemented by Turkish Patent Institute (*published in the Official Gazette dated January 03, 2013 and numbered 28517*) stipulates tariff of fares to be applied in Turkish Patent Institute Services.

Transportation, Logistics & Defence

Seaports

The Regulation on Seaports (*published in the Official Gazette date October 31, 2012 numbered 28453*) has been amended on February 27, 2013. The amendments are with respect to the articles on ship berthing and mooring rules, the notification obligation regarding hazardous loads and prohibited activities.

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