Firm News

Happy New Year to all our colleagues and friends!

Banking & Finance

Information Systems at Risk Centre and Information Exchange and Set-off and Netting Entities

Banking Regulatory and Supervisory Agency (the "BRSA") has issued the Communiqué on the Principles Regarding the Management of Information Systems at Information Exchange and Set-off and Netting Entities and the Auditing of Business Processes and Information Systems (the "Communiqué") (published in the Official Gazette dated December 4, 2013 and numbered 28841). The Communiqué sets forth principles for the management of information systems of the Risk Centre of the Banks Association of Turkey and information exchange and net-off and setting entities (collectively referred to as "Entities") and the auditing of such systems and the business processes. Certain provisions of the Communique are highlighted below:

- According to the Communiqué, "secret" information could be accessed only through a two-phase security and identification system.
- The Board of Directors of Entities shall prepare a plan for the continuity of information systems and an emergency and contingency plan. The plans and required measures shall be notified to the member businesses. Relevant actions shall be conducted by the member businesses in order to take the measures notified by Entities. In case member businesses fail to take relevant measures to provide the persistence and contingency of the information systems, Entities shall notify the BRSA in regards to such member business along with the relevant measure (Communique, Article 6/7).
- The Board of Directors of the Risk Centre and Information Exchange Entities shall adopt a resolution in regards to the up-to-datedness of the information and notify the BRSA and the Central Bank within one month.
- Entities are allowed to outsource such activities; however, the activities of the supporting service provider are also subject to the inspection of the independent auditing company.
- Entities shall accord their operations and information systems with the Communiqué until January 1, 2015. The independent auditing of the Entities shall be conducted starting from the date of January 1, 2014

3-D Secure and PCI/DSS Standards for Bank Cards and Credit Cards

The Banking Regulation and Supervision Agency has issued an amendment to Article 27/A of the Regulation on Bank Cards and Credit Cards (*published in the Official Gazette dated March 10, 2007 and numbered 26458*) on November 21, 2013. The purpose of the amendment is to ensure secure, safe and reliable online transactions involving the use of bank and credit cards. In addition to the 3-D secure technology allowing the card holder to be recognized, the amendment has allowed any other collateral technology or system to be used by banks on the condition that the technology or system used meets at least the security cautions of the 3-D Secure protocol. The amendment has set the minimum standards to be met as the "Payment Card Industry - PCI – Data Security Standard - DSS-). Furthermore, the most essential amendment has been the liability for banks to ensure that the agreements executed with member businesses include the standards set forth by the abovementioned provision and to supervise and audit the application of these by the member businesses. The liability to amend the agreements with member businesses in accordance with the amended provision in a manner to carry the abovementioned standards shall be fulfilled by January 1, 2016.

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Buffers of Capital Protection and Cyclical Capital

Banking Regulation and Supervision Agency (the "**BRSA**") has published the Regulation Regarding the Protection of Capital and Cyclical Capital Buffers (the "**Regulation**") (*published in the Official Gazette dated November 5, 2013 and numbered 28812*). The purpose of the Regulation is to determine the principles regarding the generation, calculation and functioning of the additional core capital through the maintenance of a cyclical capital buffer and a capital protection buffer. The Regulation defines the cyclical capital buffer as the amount of additional core capital which has to be reserved in order to avoid the inadequacy of the equity capital with regards to the provisions regarding capital adequacy in case the credit expansion causes the general risk level of the financial industry to increase. The capital protection buffer has been defined as the amount required to be reserved by banks in order to avoid any losses caused by the economic and financial difficulties, which may result in the inadequacy of the equity capital with regards to the provisions regarding capital adequacy. Banks, in accordance with the procedures and principles designated by the BRSA, shall calculate the cyclical capital buffer ratio on an individual basis and determine the amount of the cyclical capital buffer that is required to be reserved. The ratio determined by the bank shall be notified to the BRSA. The ratio of the capital protection buffer has been determined by the Regulation as 25%. The Regulation has also introduces the limitation against profit sharing in case the amount calculated by the bank as the additional core capital does not suffice to eradicate the capital inadequacy. The Temporary Article 1 of the Regulation sets the time limit of the adjustment process as January 1, 2019 and designates an annual based plan with regards to the annual rates of capital protection buffer. The abovementioned provisions enter into force in January 1, 2014.

Calculation and Evaluation of the Leverage of Banks

Banking Regulation and Supervision Agency (the **"BRSA"**) has introduced the Regulation Regarding the Calculation and Evaluation of the Leverage of Banks (the **"Regulation"**) (*published in the Official Gazette dated November 5, 2011 and numbered 28812*). The purpose of the Regulation is to ensure the capital adequacy of banks against the possible risks they may encounter due to leverage effect. The Regulation defines the leverage rate as the division of the capital to the total risk amount, which is calculated on a monthly basis and stipulates that the arithmetic average of the 3 months for the 4 quarters within a year does not exceed 3% each. The same method of calculation and the same maximum leverage rate have been determined for consolidated and non-consolidated accounts. Banks shall notify the BRSA regarding their leverage rates. In case of discordance with the maximum leverage rate, banks shall reduce it to a maximum of 3% within six months. Banks shall maintain their leverage rate as 3% at most by January 1, 2015.

Law on Consumer Protection

Please see the Dispute Resolution section for information on the new Law on Consumer Protection (*Law No. 6502, published in the Official Gazette dated November 28, 2013, and numbered 28835*), which enters into effect on May 29, 2014, six months from its publication date.

Instalment Period is Limited to 9 Months

The BRSA has amended the Regulation on Bank Cards and Credit Cards (the "**Regulation**") (published in the Official Gazette dated December 31, 2013 and numbered 28868). As per the amending Regulation, a new provision has been inserted into Article 26, providing that the instalment period for payments in exchange of purchase of goods or services shall not exceed 9 months, including the duration for which the payment has been postponed. It has also been specified that the purchases of food and fuel oil and the purchases related to telecommunication and jewellery shall not be subject to instalment. The amendment enters into force on February 1, 2014.

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Limitations regarding Housing, Vehicle and Consumer Loans

The BRSA has amended the Regulation on Credit Transactions of Banks (the "**Regulation**") (*published in the Official Gazette dated December 31, 2013 and numbered 28868*). A new article has been inserted into the Regulation, titled as "Limitations regarding housing, vehicle and consumer loans" (the "**Article**"). As per the amendment, for the loans utilized by consumers for the procurement of housing and the financial leasing transactions and loans which are secured by housing facilities, the ratio of the amount of the loan to the value of the housing - which shall be estimated by the authorized companies only - shall not exceed 75%. For loans utilized by consumers for the procurement of vehicles and financial leasing transactions and loans which are secured by vehicles whose value does not exceed TL 50,000, the ratio of the amount of the loan vehicle to the value of the vehicle shall not exceed 70%. In terms of vehicles whose value exceeds TL 50.000, the ratio shall not exceed 70% of the value of the vehicle up to TL 50.000 and 50% for the remaining amount. The limitation for vehicle loans shall enter into force on February 1, 2014; whereas other provisions shall enter into force immediately following their publication in the Official Gazette. Furthermore, as per the amendment, the term of the consumer loans shall not exceed 36 months. The term of vehicle loans and loans secured by vehicles shall not exceed 48 months. The limitations specified above shall not be applied to the loans which have been issued before the publication date of the Regulation. Any infringement of the abovementioned restrictions causes the excessive loan amount to be disregarded in the calculation of the equity capital.

In addition, the Regulation on the Principles Regarding the Establishment and Operation of Financial Leasing, Factoring and Finance Companies has been amended (*with the Regulation published in the Official Gazette dated December 31, 2013 and numbered 28868*) in line with the amendment of the Regulation on Credit Transactions of Banks. As per the amendment, financial leasing, factoring and finance companies shall also be subject to the restriction regarding the amount of the vehicle loans utilized by consumers. Accordingly, for vehicle loans utilized by consumers and financial leasing transactions and loans secured by vehicles, the ratio of the amount of the loan to the value of the vehicle shall not exceed 70%, in case the value of the vehicle does not exceed TL 50.000. If the value of the vehicle exceeds TL 50.000, the abovementioned ratio shall not exceed 70% up to the amount of TL 50.000 and 50% for the remaining amount. Furthermore, the term of consumer loans shall not exceed 36 months, and that of vehicle loans and loans secured by vehicles, the term shall not exceed 48 months. The limitation for the vehicle loans shall enter into force on February 1, 2014; whereas other provisions enter into force immediately following their publication in the Official Gazette. The limitations specified above shall not be applied to the loans which have been issued before the publication date of the Regulation. Any infringement of the abovementioned restrictions causes the excessive loan amount to be disregarded in the calculation of the equity capital of the company.

Foreign Exchange Indexed Assets and Liabilities Continue to be Taken into Account for the Liquidity Adequacy Ratio

The Regulation on Measurement and Evaluation of the Liquidity Adequacy of Banks (the "**Regulation**") has been amended by the BRSA (*published in the Official Gazette dated December 31, 2013 and numbered 28868*). Although Article 8 of the Regulation states that foreign exchange indexed assets and liabilities shall not be taken into consideration in the calculation of total foreign currency liquidity adequacy ratio of banks, as per the Temporary Article 2 of the Regulation, until December 31, 2013 foreign exchange indexed assets and liabilities had to be taken into consideration for the calculation of the abovementioned ratio. With the amendment herein, the date until which the foreign exchange indexed assets and liabilities shall be taken into account in the calculation of foreign currency liquidity adequacy ratio of banks shall be prolonged until December 31, 2015. The amendment has also introduced changes in the annexes of the Regulation.

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Financial Reports shall be Submitted to BRSA by April 30

The Regulation on the Procedures and Principles For Accounting Practices and Retention of Documents by Banks has been amended by the BRSA (*published in the Official Gazette dated December 31, 2013 and numbered 28868*). The amendment provides for the accordance of the Regulation with the new Turkish Commercial Code by removing the references made to the previous Commercial Code. In summary, the amended provision determined that the submission of consolidated and un-consolidated financial reports to the BRSA shall take place by the end of April that follows the year about which the financial reports have been prepared. The amendment also provides for the publication of the financial reports in the Official Gazette and on their Internet pages. The amendment enters into force following the publication of the amendment on the Official Gazette.

The Interest Rates Applied on Rediscounting and Advance Transactions have been Increased to 10.25% and 11.75% Respectively

The Central Bank of the Republic of Turkey has amended the interest rates to be applied on rediscount and advance transactions under the Communiqué published in the Official Gazette dated December 27, 2013 and numbered 28864 (the "**Communiqué**"). As per the Communiqué, the annual discount interest rate applied on the rediscounting transactions which have a maximum of 3 months until the maturity date has been increased to 10.25% and the interest rate applied on the advance transactions has been increased to 11.75%. These rates shall be applied immediately following the publication of the Communiqué in the Official Gazette.

New Communiqué on Mandatory Reserves

The Central Bank of the Republic of Turkey has issued the new Communiqué on Mandatory Reserves (the "**Communiqué**") (*published in the Official Gazette dated December 25, 2013 and numbered 28862*) and repealed the previous Communiqué on Mandatory Reserves (*published in the Official Gazette dated November 16, 2005 and numbered 25995*). Banks and finance companies which are established in Turkey and/or operate in Turkey by a branch, including those operating in free trade zones are subject to the provisions of the Communiqué. As per the Communiqué, (i) deposit funds, (ii) participation funds, (iii) funds arising from repurchase agreements, (iv) utilized credits (except the credits provided by the Treasury guarantee), (v) securities issued, (vi) subordinated debts (except the subordinated debts taken into account in the calculation of equity capital), (vii) credits monitored by the foreign branches, (viii) deposit/participation funds of the local residents which are monitored by foreign branches, (ix) exceeding parts of the liabilities against foreign headquarters or branches with regards to the amounts specified in (vii) and (viii), (x) debts arising from credit card payments are obliged to set aside mandatory reserves. The Communiqué sets forth mandatory reserve ratios with slight differences compared to the previous Communiqué. In addition, the coefficient factors with which the specified percentage segment of liabilities in Turkish lira is to be multiplied with in order to determine the amount of the mandatory reserve which can be provided in foreign currency have been changed with the new Communiqué. The duration of the allocation of mandatory reserves has been determined as 14 days, starting from Friday of the second week following the date of the calculation of mandatory reserve. The Communiqué also stipulates that banks, which have a leverage rate specified in the Communiqué, shall allocate additional reserves. The Temporary Article 4 of the Communiqué provides that the sanctions designated for the non-allocation or deficient allocation of mandatory reserves will not be applied to the liabilities which have been removed from the mandatory reserve liability with the new Communiqué. The Communiqué enters into force on January 17, 2014.

Uniform Accounting Plan for Financial Leasing, Factoring and Finance Companies

With the introduction of the Communiqué on Prospectus and Uniform Accounting Plan to be implemented by Financial Leasing, Factoring and Finance Companies (the "**Communiqué**") (*published in the Official Gazette dated December 24, 2013 and*

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numbered 28861), the following communiques have been repealed: the Communiqué Regarding the Form and the Content of Financial Statements to be Publicly Disclosed and the Prospectus and Uniform Accounting Plan of the Financial Leasing, Factoring and Finance Companies (*published in the Official Gazette dated May 17, 2007 and numbered 26525*) and the Communiqué on the Principles and Procedure Regarding the Reserves Required for the Receivables of the Financial Leasing, Factoring and Finance Companies (*published in the Official Gazette dated July 20, 2007 and numbered 26588*). The Communiqué specifies the content of the Uniform Accounting Plan in detail.

Accounting Practices and Financial Statements for Financial Leasing, Factoring and Finance Companies

The BRSA has introduced the Regulation on Accounting Practices and Financial Statements of Financial Leasing, Factoring and Finance Companies (the "**Regulation**") (*published in the Official Gazette dated December 24, 2013 and numbered 28861*). The purpose of the Regulation is to introduce principles and procedures on accounting of financial leasing, factoring and finance companies (hereinafter collectively referred to as "**Companies**") and to set out formal requirements for financial reports which shall be publicly disclosed. The Regulation also specifies the amounts of general and special reserves that are required to be allocated in exchange of specific transactions and risks. Furthermore, companies are required to categorize the collaterals given by customers in their favour as first, second, third and fourth groups of collateral. The amount to be reserved in exchange of the collateral will depend on to which category the collateral belongs. The Regulation enters into force immediately following its publication in the Official Gazette.

Capital Markets

More Flexibility for Venture Capital Investment Companies

The Capital Market Board (**"CMB"**) issued the Communiqué No. III-48.3 regarding the principles on Venture Capital Investment Companies ("**Communiqué**") (*published in the Official Gazette dated October 9, 2013, No. 28790*). Communiqué regulates the principles regarding Venture Capital Investment Companies in detail, determines the principles of minimum capital requirements, minimum free float rate and sale to the qualified investors. Furthermore, the Communiqué gives Venture Capital Investment Companies the opportunity to provide "mezzanine finance" to venture capital firms (Article 21/3-f) and enables the Venture Capital Investment Companies to give pledges or collaterals in favour of small and medium sized enterprises under certain conditions.

New Regulation merges Communiqués of Foreign Capital Market Instruments, Depository Receipts and Foreign Investment Funds

CMB Communiqué No. VII-128.4 on the Foreign Capital Market Instruments, Depository Receipts and Foreign Investment Funds ("Communiqué") (published in the Official Gazette dated October 23, 2013, No. 28800), replaces the communiqués on foreign capital market instruments/ depositary receipts and the foreign investment funds. Some of the rules set by the Communiqué are outlined below:

- Both public and private offerings are covered by the Communiqué.
- A "Representative" shall be appointed for the public offering of foreign capital market instruments and the sale of foreign fund units.
- Representatives can be either banks or qualified brokerage companies located in Turkey.
- The market maker can also be a Representative under certain circumstances.
- The "Investor Information Form" is introduced to replace the circular used for purposes of disclosure to investors.
- Certain provisions, mostly relevant to foreign investment funds, shall come into effect as of July 1, 2014.

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Exchange Traded Funds

The CMB has issued the Communiqué No. III-52.2 on Principles Regarding Exchange Traded Funds ("**Communiqué**") (*published in the Official Gazette dated November 27, 2013, No. 28834*). The Communiqué determines the principles and procedures concerning the establishment, activities, public disclosure and public offering of fund units and of Exchange Traded Funds (the **"ETFs"**). Only portfolio management companies can be the founders of the fund and the assets of the funds shall be kept by the authorized custodians. In addition, the assets to be included in the portfolio of Exchange Traded Funds are diversified and the portfolio structure is determined in detail. Besides, in the Communiqué, the terms "tracking difference" and "tracking error" are described in parallel with the international practice. Most of the provisions of the Communiqué shall come into effect as of July 1, 2014.

Gains within 6 Months shall be Paid to Issuers

The CMB has published the Communiqué No. VI-103.1 Regarding Managers' Payment of Net Purchase and Sale Gains to the Issuers ("**Communiqué**") (*published in the Official Gazette dated December 12, 2013, and No. 28849*). The Communiqué relies on the Capital Markets Law Article 103/4 and indicates that (i) the board members and the committee members of an issuer, (ii) the persons with administrative responsibilities at the issuer and (iii) the persons that have the power to determine and control the issuer's financial and operational policies, decisions or targets directly or indirectly, shall pay the net gains they have obtained through the purchases and sales within the same six-month period. It is indicated in the Communiqué that, the purpose of this regulation is to remove the inequality of opportunity between the persons who reach such insider information of the issuers easier and faster due to their positions and the investors that reach the insider information after the public disclosure.

The Establishment and the Principles of Activities of Investment Firms

The CMB issued the Communiqué No. III-39.1 on the Establishment and Activity Principles of Investment Firms ("**Communiqué**") (*published in the Official Gazette dated December 17, 2013, No. 28854)* as a complementary regulation to the Communiqué on the Principles Regarding Investment Services and Activities and Ancillary Services (*published in the Official Gazette dated July 11, 2013, No. 28704)*. The Communiqué determines the principles regarding the establishment of the firms which carry out investment services, activities and ancillary services and the authorization and activities of such investment firms. The Communiqué shall come into effect as of July 1, 2014.

Some of the rules and amendments set by the Communiqué are outlined below:

- Investment firms shall build up policies of conflict of interest for the sake of protecting the investors and creating an environment of trust in the market.
- Brokerage companies are allowed to be established by one shareholder, however the board of directors of the brokerage companies shall constitute of minimum three members.
- The concept of "customer" is identified for the investment firms to classify their customers as professional or general customers. In parallel with such classification, investment firms shall make the general customer compatibility test in order to determine whether the product or service marketed by the investment firm or demanded by the customer is suitable for such customer.
- Activity permissions of investment firms will not be required to be registered to the Trade Registry to the extent that such permissions are provided due to the capital market regulations.
- The agency system is removed and the off-centre offices of the brokerage companies are determined as branches and contact offices.

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A New Communiqué on Common Principles Regarding Significant Transactions and the Right of Separation

The CMB issued the Communiqué No. II-23.1 on Common Principles Regarding Significant Transactions and the Right of Separation ("**Communiqué**") (*published in the Official Gazette dated December 24, 2013, No. 28861*). Significant transactions of public companies involves mergers, separations, transfers of a substantial amount of assets, completely or substantially changes of the subject of activity and similar types of transactions. Some of the issues covered by the Communiqué are listed below:

- Procedures and principles applicable to the significant transactions of publicly held companies,
- Exercise of the right of separation in relation to the significant transactions and the cases where the right of separation is not applicable,
- Pricing of the right of separation in non-listed companies,
- Mandatory tender offer in connection with the significant transactions,
- Mandatory meeting and decision quorums applicable to general assembly meetings in regards to the significant transactions and
- The principles in relation to delisting.

Electronic and Physical Proxy Voting and Public Solicitation of Proxies

The CMB issued the Communiqué No. II-30.1 on Principles Regarding Proxy Voting and Proxy Solicitation ("**Communiqué"**) (*published in the Official Gazette dated December 24, 2013, No. 28861*). Communiqué involves provisions in regards to the procedure of the provision of proxies for the voting at general assembly meetings of public companies, electronic proxies, formats of proxies, public solicitation of proxies and voting agreements and the appointment of the "Management Representative".

Some of the rules and issues set by the Communiqué are outlined below:

- In scope of the electronic general meetings regulated in Turkish Commercial Code, if the appointment of the proxy is made through the electronic general meeting system, then there is no requirement of submission of a notarized proxy form.
- The proxy forms and information forms are updated.
- The scope of the provisions regarding public solicitation of proxies are broadened so as to include all the issues that are on the agenda of the general assembly and the obligation of submission to the CMB in this regard is removed in order to speed up the procedure of public solicitation of proxies.
- In case of an attempt tof the public solicitation of proxies by the persons who do not hold the management control, the board of directors of the related company can make public solicitation of proxies through the Management Representative.
- The obligation of voting in writing in the general assembly meetings made physically is limited to the situation of public solicitation of proxies.

New Communiqué on the Registered Capital System

The CMB issued the Communiqué No. II-18.1 on Registered Capital System ("**Communiqué**") (*published in the Official Gazette dated December 25, 2013, No. 28862*). The Communiqué indicates that, the upper limit of the registered capital ceiling shall not exceed the fivefold of the higher of the paid-in or the equity capital of the company and such ceiling shall be applicable for five years only.

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Other Regulations

- CMB Regulation on Special Funds (*published in the Official Gazette dated November 9, 2013, No. 28816*) determines the procedures and principles for the operation of Special Fund established for the partial payment of the claims arisen from capital market activities of the investors of intermediary institutions whose certificates of activity have been cancelled by CMB before December 18, 1999.
- CMB Regulation on Management and Accretion of Special Fund Assets (*published in the Official Gazette dated December 6, 2013, No. 28843*) determines the principles and procedures regarding management and accretion of Special Fund assets within the framework of the third temporary article of the Capital Markets Law.
- CMB Communiqué No. VII-128.5 on Principles of the Submission of Performance and Performance-based Remuneration of Individual Portfolios and Collective Investment Undertakings and Rating and Ranking of Activities of Collective Investment Undertakings was published in the Official Gazette dated December 17, 2013, No. 28854.

Public Disclosure Platform

CMB has issued the Communiqué No. VII-128.6 on Public Disclosure Platform ("**Communiqué**") (*published in the Official Gazette dated December 27, 2013, No. 28864*). The Communiqué mainly covers the issues below:

- The companies and institutions that are obliged to make the disclosures are defined and the disclosure principles in relation to these companies and institutions set out.
- For the sake of optimization of the public disclosures, the Communiqué also imposes ton issuers the obligation to make disclosures of sales to qualified investors.
- An electronic information system is enabled in order to provide information security regarding the delivery of the disclosures by persons who do not have electronic certificates.

Mergers and Separations

In scope of consistency with the provisions of Capital Markets Law (published in the Official Gazette dated December 30, 2012, No. 28513) ("**Capital Markets Law**") and Turkish Commercial Code (published in the Official Gazette dated February 14, 2011, No. 27846) ("**Turkish Commercial Code**"), CMB has published the Communiqué No. II-23.2 Regarding Mergers and Separations ("**Communiqué**") (published in the Official Gazette dated December 28, 2013, No. 28865). The Communiqué determines the principles of mergers and separations transactions to which the publicly held companies are the parties, in conformity with the provisions of Capital Markets Law and Turkish Commercial Code. Furthermore, with the Communiqué, the principles regarding notification to the shareholders in mergers and separations transactions are regulated in accordance with the EU regulations in order to provide effective disclosure for the investors. The Communiqué also introduces new provisions on financial statements to be taken as a basis in mergers and separations transactions. Additionally, new principles in relation with the mergers of listed companies with non-listed companies which may cause considerable extent of changes in their capitals are set out. Lastly, provisions for mergers and separations in simplified methods are re-regulated.

Exclusion of Non-Listed Companies from the Scope of Capital Markets Law and Obligation for the Trading of their Shares on Borsa Istanbul

The New Communiqué No. II-16.1 on the Principles Regarding Exclusion of Non-Listed Companies From the Scope of Capital Markets Law and Obligation to Trade the Shares on Borsa Istanbul ("**Communiqué**") (*published in the Official Gazette dated December*

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30, 2013, No. 28867) issued by the CMB merges the issues under the Communiqué Serial: IV, No. 39 regarding the Principles on Exemption Conditions and De-Registration of the Issuers (*published in the Official Gazette dated March 16, 2011, No. 27876*) and Communiqué Serial: IV No. 58 Regarding the Principles on Publicly Held Companies the Shares of Which Are Traded In the Free Trade Platform (*published in the Official Gazette dated February 11, 2012, No. 28201*). The issues covered by the Communiqué are summarized below:

- The Communiqué sets out the procedures and principles in relation to the exclusion of the companies which are not listed but which are deemed as publicly-held companies due to the number of their shareholders from the scope of the Capital Markets Law; or by their own initiative through a general assembly resolution or by the CMB; and listing of their shares on Borsa Istanbul according to their will.
- A right of separation is granted to the shareholders who voted against such exclusion decision or did not attend the general assembly.
- The companies with less than 500 shareholders may be excluded from the scope of the Capital Market Law.
- The companies which are not excluded from the scope of Capital Market Law shall apply to the related platform of Borsa Istanbul in two years after they gain the status of publicly-held companies in order to be listed on Borsa Istanbul. In case the companies do not apply in the related period, the CMB may decide on their trading in the related platform, without seeking any request of such companies.
- The Communiqué also sets out the procedures and principles in relation to the requirements for the publicly-held companies which are not excluded from the scope of the Capital Market Law to be listed on Borsa Istanbul.

Financial Reporting Principles of the Investment Funds

CMB Communiqué No. II-14.2 on Financial Reporting Principles of the Investment Funds ("**Communiqué**") (*published in the Official Gazette dated December 30, 2012, No. 28867*) sets out financial reporting principles to be applied by the investment funds. The Communiqué has come into effect as of December 31, 2013. Some of the rules set by the Communiqué are outlined below:

- Turkish Accounting/Financial Reporting Standards shall be taken as a basis in preparation of the financial statements of investment funds.
- Financial report is defined and financial statements, declarations of responsibility and portfolio reports are included in this scope.
- Investment trusts are also included in scope of the Communiqué, in terms of asset valuation in their portfolios, price reports and preparation of weekly reports.
- The period for the public disclosure of the annual financial statements is determined as 60 days following the end of accounting period. The obligation regarding the publication of financial statements in the Turkish Trade Registry Gazette is removed. Therefore, such obligation is to be performed through the Public Disclosure Platform and the related statements are to be kept publicly on the website of the founder for minimum five years. For 2013 as the first year of implementation, a period of 30 days is given in addition to the 60 days determined by the Communiqué regarding the public disclosure of financial statements.

Competition

The Minimum Amount of Administrative Penalty for Unauthorized M&As Raised to TL 15,226

The administrative penalty imposed under the Article 16 of the Law Regarding the Protection of Competition (Law No.4054) for merger or acquisition transactions subject to authorization and realized without the authorization of the Competition Board has

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been amended by the Communiqué numbered 2014/1 (*published in the Official Gazette dated December 21, 2013, and numbered 28858)*, which enters into effect on January 1, 2014. Accordingly, the penalty to be determined pursuant to the Article cannot be less than TL 15,226.

Corporate

Audit Standards

The Public Oversight Accounting and Auditing Standards Authority issued the following communiqués in order to determine the audit standards with regards to financial statements, independent audit agreements and the related documentation:

- Communiqué on the Quality Control Standards of Independent Audit, Limited Independent Audit, and Other Audits of Financial Statements, and for Independent Auditors Performing Related Services, and Independent Auditors (*published in the Official Gazette dated October 2, 2013, and numbered 28783*)
- Communiqué on Compromising on the Provisions of the Independent Audit Agreement (*published in the Official Gazette dated November 14, 2013, and numbered 28821*)
- Communiqué on Quality Control Standards of the Financial Statements (*published in the Official Gazette dated November 14, 2013, numbered 28821*)
- Communiqué on the Documentation of Independent Auditing (*published in the Official Gazette dated November 14, 2013, numbered 28821*)
- Communiqué on the Independent Auditor's Liability With Regards to Fraud Within the Scope of Independent Audit of Financial Statements (*published in the Official Gazette dated December 10, 2013, and numbered 28847*)
- Communiqué on Taking into Consideration the Laws Related to Independent Audit of Financial Statements (*published in the Official Gazette dated December 10, 2013, and numbered 28847*)
- Communiqué on Communication with the Supervisors of the Audited Company (*published in the Official Gazette dated December 10, 2013, and numbered 28847)*

New Principles for Electronic Bookkeeping

An amendment to the General Communiqué on Electronic Books was published in the Official Gazette dated December 24, 2013 and numbered 28861. Article 3 of the General Communiqué on Electronic Books (*published in the Official Gazette dated December 13, 2011 and numbered 28141*) obliged real person taxpayers, who would like to keep their financial and commercial books in electronic form, to obtain a qualified electronic certificate under the Electronic Signature Law, whereas legal entities with the same objective are obliged to obtain a Financial Seal under the General Communiqué on Tax Procedure Law (Serial No: 397) (*published in the Official Gazette dated March 5, 2010 and numbered 27512*). By virtue of this amendment, real person tax payers may now choose to obtain a qualified electronic certificate or a Financial Seal for electronic bookkeeping purposes at their own discretion. The amendment also introduced the obligation for taxpayers wishing to create, save, keep and submit electronic books to file an application in accordance with the application guideline published on the website www.edefter.gov.tr and to provide any additional technical information and documents that the Revenue Administration or General Directorate of Domestic Trade may request. Furthermore, the period for taxpayers to sign their electronic books, which are formed on a monthly basis, has been increased from one month to three months starting from the end of the relevant month.

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Dispute Resolution

New Consumer Protection Law Widely Effects Suppliers and Banks

Aiming for harmonisation between Turkish and EU legislations as well as the Turkish Code of Obligations and the Turkish Commercial Code, provisions of the main legislation on consumer rights, namely Law on Consumer Protection numbered 4077 **("the former Law No. 4077")** *(Published in the Official Gazette dated March 08 1995 and numbered 22221)* was re-examined and as a result, the New Law on Consumer Protection numbered 6502 **("Law No. 6502")** was published in the Official Gazette dated November 28, 2013 and numbered 28835 and will enter into force six months following its publication date in the Official Gazette (i.e. on May 28, 2014). Compared to the former Law No. 4077, the new Law No. 6502 provides more detailed regulations and sanctions concerning many cases and strengthens the protection of consumers against good and service suppliers. The Law prioritizes the enlightenment of the consumers regarding the content of the contracts they execute with good and service suppliers. It has been made obligatory that any costs or fees required for the good or service provided for the consumer except from interests shall be notified to the consumer as an annex to the contract these payments arise from. In addition, the new Law has designated the form of the contracts executed with consumers in order to avoid illegibly small fonts and confusing forms of writing and prohibited unilateral amendment of the contract provisions by the suppliers within the term of the contract in a manner contradicting with the interests of the consumer.

One of the important provisions of Law No. 6502 relates to the right of withdrawal of consumers (which shall be used within 14 (fourteen) days) concluding various contracts (such as contracts related to periodic vacation, long term vacation, contracts which are executed outside the workplaces, prepaid and distance contracts, distance sales of financial and loan services) without effectively examining the terms because of the attraction of such transactions and marketing tactics.

The Law No. 6502 also includes measures related to the supervision of the market (e.g. the supervision of unfair conditions, advertisements and practices and the prohibition of all advertisements and unfair commercial practices that could mislead the free will of consumers). Pursuant to Article 4 of the Law No. 6502, conditions provided in the contract shall not be amended against the consumer during the period of contract. Another important amendment brought by the Law No. 6502 is the prohibition of compound interest on consumer transactions, even in default situations. Furthermore, several regulations concerning the Arbitral Commission for Consumers and the Consumer Courts are set forth, providing also that Consumer Organizations will be able to file a lawsuit that Consumers cannot usually file separately.

The Law has an independent section for consumer credits for which detailed provisions have been introduced as a novelty. The definition of consumer loans has been expanded in a manner that would allow the credit card agreements to enter into scope. Cases in which the credit card agreements provide for a suspension of payment for more than 3 months will fall within the scope of consumer loans with the enforcement of the Law. In addition, the Law has rendered it obligatory to deliver an informative questionnaire to the consumer regarding the crucial issues of the loan agreement. The consumers are granted a right of withdrawal within the 14 days following the execution of the contract without reason. The interest rate of the fixed term loan agreements shall be designated as a fixed rate by the contract and shall not be changed; as well as the terms of the agreement which shall not be changed in a manner contradicting the interests of the consumer. In order to avoid the application of the execution of insurance agreements in order to function as warranties for the consumer loan, the Law has prohibited the execution of any insurance agreements contrary to the consumer's will. Also, in case an account is established for the loan agreement, no charges or fees are demandable by the Bank. The section for mortgages also contain the same provisions regarding the liability to enlighten the consumer through an informative questionnaire, formal requirements of the agreement and the prohibition on the execution of insurance agreements against the will of the consumer. However, in mortgage contracts, the interest rate may be designated both as a fixed rate or a variable rate; nevertheless, the

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fixed rate shall not be changed and the variable rate shall only be changed in a very limited scope designated by the Central Bank.

In conclusion, the former Law No. 4077, which was the first law to include provisions aimed at the protection of consumer rights in Turkish Law will be abolished by the entering into force of the Law No. 6502 bringing more detailed regulations and sanctions, including provisions harmonized with EU legislation as well as the Turkish Code of Obligations and the Turkish Commercial Code.

Tax

Issuance Authority of the Certificate of Fiscal Residence is Delegated with the Double Tax Treaty Circular

The Double Tax Treaty Circular dated February 02, 2007 and No. ÇVOA/2007-1 has been abrogated with the Double Tax Treaty Circular dated December 20, 2013 and No. ÇVOA/2013-1 (the **"Circular")** due to the developments occurred in due course. Under the Circular, revised explanations are provided with regard to the certificate of fiscal residence.

According to the new Circular, the issuance authority of the certificate of fiscal residence is delegated to the below tax authorities;

Taxpayers	Competent Tax Authority
Taxpayers who are registered to Large Scale Taxpayers Office	Presidency of Large Scale Taxpayers Tax Office
Constant taxpayers (both individuals and legal persons) of the tax offices organized under the Presidencies of Ankara, Antalya, Bursa, Istanbul, Izmir, Kocaeli, Trabzon Tax Office	Presidencies of Ankara, Antalya, Bursa, Istanbul, Izmir, Kocaeli, Trabzon Tax Office
Individuals being a citizen of the Republic of Turkey (potential taxpayers) who are not constant taxpayers, residing in the tax jurisdiction of the Presidencies of Ankara, Antalya, Bursa, Istanbul, Izmir, Kocaeli, Trabzon Tax Office	Presidencies of Ankara, Antalya, Bursa, Istanbul, Izmir, Kocaeli, Trabzon Tax Office
All Foreign individuals	Revenue Administration (Presidency of the Foreign Affairs and the Council of the European)
Taxpayers asking for the certificate of fiscal residence to be submitted to Austria, Switzerland and Saudi Arabia authorities	Revenue Administration (Presidency of the Foreign Affairs and the Council of the European)
Others which do not fall under the scope of the above	Revenue Administration (Presidency of the Foreign Affairs and the Council of the European)

The Circular will be effective as of January 06, 2014 and the circular No. ÇVOA/2007-1 will be abrogated as of January 06, 2014. The references made to the circular No. ÇVOA/2007-1 shall be considered as the ones made to the relevant sections of the Circular.

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Exchange of Tax Information between Turkey and South Africa

The protocol, amending Article 24 titled "Exchange of Information" of the Convention between the Republic of South Africa and the Government of the Republic of Turkey for the Avoidance of Double Taxation with respect to the Taxes on Income and the Prevention of Fiscal Evasion in accordance with the updated OECD Model Tax Treaty, was signed on December 25, 2013 by way of exchange of notes. The protocol will be effective upon the ratification of the parliaments of both States and the completion of all necessary procedures.

The Double Tax Treaty between Turkey and Mexico

The Convention between the Government of Mexico and the Government of the Republic of Turkey for the Avoidance of Double Taxation with respect to the Taxes on Income and the Prevention of Fiscal Evasion has been signed in Ankara on December 17, 2013. The convention will be effective upon the ratification of the parliaments of both States and the completion of all necessary procedures.

Revenue Administration Clarifies the Transition Period for Electronic Bookkeeping

As it was announced in our Legal Alert Tax 1/2013 dated May 21, 2013; pursuant to the Communique No. 421 of the Turkish Procedural Law, the use of the electronic invoice and the electronic commercial books has become mandatory for certain taxpayers. It has also been stated in the said Communique, the taxpayers who are obliged to use e-invoice shall start to use the application of electronic bookkeeping within the calendar year 2014.

In this regard, under the Circular No.67 published by the Revenue Administration of the Ministry of Finance on November 26, 2013, the explanations are made in relation to the current situation of taxpayers who are obliged to use electronic bookkeeping system in accordance with the Communique No.412.

Pursuant to Circular No.67, since the commercial books will be kept on a monthly basis in the electronic bookkeeping system, the taxpayers who are obliged to use such system will not form their electronic books in December, 2014, if they apply such system within December, 2014.

On the other hand, under the Circular No.67, it is stated that the taxpayers who will apply for the electronic bookkeeping system (i) within December, 2014, will be obliged to use the system as of January 1, 2015 (ii) before December, 2014, will be obliged to use the system as of December, 2014 latest. Also, the taxpayers subject to the special accounting period shall apply for the electronic bookkeeping system before December 1, 2014, and they will be obliged to start to use such system within December 2014 latest.

The Lists Attached to the Special Consumption Tax was Amended

"Decree of the Council of Ministers regarding the determination of Value Added Tax rates applied for goods and services and the determination of Special Consumption Tax applied for certain goods fall under the List No. (I) attached to the Special Consumption Tax Law" (Decree No.2013/5595) (the "**Decree No. 5595**") has been published in the Official Gazette dated December 01, 2013 and No.28838.

As it is known, upon enforcement of the Law No. 6487 (Published in the Official Gazette dated June 11, 2013 and No.28674), petroleum products except for the fuel oil, which were not included under the List No (I) attached to the Special Consumption Tax (the "**SCT**") Law (Law No.4760) (Published in the Official Gazette dated June 06, 2002 and No.24783) (the "**SCT Law**") have been added with its tax amounts to the schedule (B) of the List No (I). In line with such addition that has been made to the SCT Law, the list stated under Article 1 of the Decree of the Council of Ministers No.2013/3792 has been

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revised through the Decree No. 5595 by adding such products to the abovementioned list.

In addition, the list stated under Article 3 of Decree of the Council of Ministers No.2013/3792 is revised by the Decree No. 5595.

Moreover, Decree of the Council of Ministers dated June 05, 2006 and No.2006/11202 has been abrogated as of January 01, 2014, by Article 5 of the Decree No. 5595.

VAT Reductions for Machinery, Electronic Papers and Poultry

Value Added Tax (the "**VAT**") rates regarding the certain goods that have been regulated under the Value Added Tax Law ("**VAT Law**") (Law No. 3065, Official Gazette dated 02 November 1984, No. 18563), are amended through the Decree No. 5595.

As it is known, the VAT rate regarding the supply of poultries in gross has been reduced from the rate of 8% to 1% by Decree of the Council of Ministers dated November 27, 2011 and No.2011/2466. However the VAT rate for the retail supply of such goods has not been amended. In addition, upon enforcement of the Decree No. 5595, some of the poultries which fall under the position 01.05 of the List No. I of the VAT Law, are moved to the "Section A) Foodstuff" of the List No.2 of the VAT Code and become subject to the VAT at a rate of 8%. Therefore, the reduced rate of 1% regarding the supply of some poultries is raised to 8%.

Furthermore, in accordance with the Decree, the VAT rate in relation to the sale of electronic newspaper and electronic magazine is reduced to the rate of 1%; on the other hand such rate is reduced to 8% for the sale of e-book.

Supply and lease of the machinery and equipment (except for the used one and component, part, accessory and fixtures of such) that fall under the customs tariff statistics positions stated in the List No. (I) of the Decree No. 2007/13033 and also have the characteristics of depreciable asset, i) to the finance lease companies ii) from the finance lease companies to VAT taxpayers and to the income and corporate income taxpayers, the profit of which are determined through the principle of balance sheet and also who are not VAT taxpayer since their transactions have become exempt from VAT, within the scope of finance lease transactions is reduced to the VAT rate 1%.

Revenue Administration Clarifies the Calculation Method of SCT for the Supply of Vehicles

The SCT Communique No.28 (the "**Communique No.28**") which makes several amendments on the SCT Communique No.14 (the "**Communique No.14**"), has been published in the Official Gazette dated November 28, 2013 and No.28835. Through the Communique No.28, the Section No.7 of the Communique No.14 titled *"Tax Base in Vehicles"* has been amended. Accordingly with regard to the vehicles which fall under the List No. (II) attached to the SCT, if such good has been imported over the sale and purchase price, the amount of VAT base which is calculated in the course of importation will be declared as SCT and will be paid. If such good is produced in Turkey, the higher of the tax amounts which is calculated over sale amount of the producer will be declared as SCT.

The Revaluation Rate for the year 2013: 3,93%

The revaluation rate has been determined as 3,93 % for the year 2013 under the General Tax Procedural Law Communique No. 430 (Published in the Official Gazette November 19, 2013 and No. 28826). Such rate is also applicable for the last advance tax period of 2013.

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Development on Tax Information Exchange Agreements signed with Jersey and Bermuda

As it was announced in our Legal Alert Tax 1/2013 dated May 21, 2013, Tax Information Exchange Agreements signed between (i.) Jersey and Turkey and (ii.) Bermuda and Turkey have been approved by the Turkish Parliament. Accordingly, the "Decree of the Council of Ministers regarding the Determination of the Enforcement Dates for Certain Agreements" (Decree No.2013/5520) has been published in the Official Gazette dated November 10, 2013 and No.28817. In accordance with the said Decree;

- The enforcement date of the agreement signed between Turkey and Jersey is determined as September 11, 2013,
- The enforcement date of the agreement signed between Turkey and Bermuda is determined as September 18, 2013.

Automotives

A New Regulation for Automotive Sector

Type Approval Regulation on Weight and Size of Motor Vehicles and Trailers (*published in the Official Gazette dated October 12, 2013, and numbered 28793*) was issued by the Ministry of Science, Industry and Technology. This Regulation provides detailed information on the obligations of manufacturers and the requisite conditions and procedures relating to administrative approvals of the weight and size of motor vehicles in accordance with the European Union Regulation dated December 12, 2012 and numbered (EU) 1230/2012.

Consumer Goods & Retail

Regulatory Updates Hygiene, Sanitary, Baby, Chemical Products

The Ministry of Customs and Trade has issued the following legislation with respect to the sale of certain consumer and retail products in order to ensure market quality, public health and safety and protection of the environment (*published in the Official Gazette dated October 31, 2013 and numbered 28807*):

- Regulation Regarding Toys
- Communiqué Regarding the Manufacture, Import and Market Supervision and Inspection of Pacifiers, Baby Bottles, Baby Bottle Teats, Sippy Cups, Sippy Cup Lids and Similar Products and Notification Principles
- Communiqué Regarding the Manufacture, Import and Market Supervision and Inspection of Tampons, Sanitary Pads, Nursing Pads, Diapers and Similar Products and Notification Principles
- Communiqué Regarding the Manufacture, Import and Market Supervision and Inspection of Air Fresheners and Notification Principles
- Communique Regarding Detergents and Surfactants Used in Detergents
- Communiqué Regarding the Manufacture, Import and Market Supervision and Inspection of Toothbrushes, Electric/Battery Powered Toothbrushes and Interdental Brushes Used In Dental Care and Notification Principles
- Communiqué Regarding the Amount of Substances That Could Turn into N-Nitrosamines and N-Nitrosatable in Teats and Soothers Made of Elastomer and Rubber and Their Determination
- Communiqué Regarding the Manufacture, Import and Market Supervision and Inspection of Supportive Chemical Substances Used In Pools and Notification Principles
- Communiqué Regarding the Manufacture, Import and Market Supervision and Inspection of Hygiene Products Containing Strong Acids or Base and Notification Principles

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Separate Licenses are Required for the Sale of Alcoholic Beverages and Tobacco Products

The Regulation on Procedures and Principles Regarding the Sale and Display of Tobacco Products and Alcoholic Beverages (*published in the Official Gazette dated January 7, 2011 and numbered 27808*) was amended by a regulation published in the Official Gazette dated December 3, 2013 and numbered 28840. The amendment changes the previous practice under the Sub-Clause (C) of the Regulation, which allowed sales of both tobacco products and alcoholic beverages under a single retail sale or wholesale license, and require retailers and wholesalers to obtain a separate sale license for each type of product. Please note that retailers and wholesalers holding a joint sale license for alcoholic beverages and tobacco products shall return their current licenses before June 30, 2014 to the relevant authorities and shall apply for separate sale licenses for alcoholic beverages and tobacco products. Sale licenses of sellers who do not comply with this obligation will not be extended for the 2015 period.

Tobacco and Alcohol Market Regulatory Authority Requires Prior Approval for Product Procurement

Product procurement of fuel bioethanol producers holding an ethyl alcohol distribution compliance certificate from other fuel bioethanol producers holding an authorisation for distribution shall be subject to the prior approval of the Tobacco and Alcohol Market Regulatory Authority in the event of force majeure as per the Amendment Regulation (*published in the Official Gazette dated December 28, 2013 and numbered 28865*).

Fees Determined for the Sale Certificates of Tobacco and Alcohol

According to the Decision of the Tobacco and Alcohol Market Regulatory Authority (*published in the Official Gazette dated December 25, 2013 and numbered 28862*), fees for (i) Wholesale Certificates for Tobacco Products, Alcoholic Beverages and Ethyl Alcohol/Methanol, (ii) Retail Sale Certificates for Tobacco Products, Alcoholic Beverages and Ethyl Alcohol/Methanol, (iii) Non-bottled Alcoholic Beverages Sale Certificates and (iv) Waterpipe Tobacco Products Compliance Certificates for 2014 have been determined with respect to the Article 15 of the Regulation on Procedures and Principles Regarding the Sale and Display of Tobacco Products and Alcoholic Beverages (*published in the Official Gazette dated January 7, 2011 and numbered 27808*). The double amount of sale certificate fee shall be paid for certificates permitting sale of both tobacco products and alcoholic beverages. Furthermore, vendors shall pay determined amounts to the Authority until March 31, 2014 in order to request time extension for their certificates; otherwise their certificates will become invalid by the end of April.

Law on Consumer Protection

Please see the Dispute Resolution section for information on the new Law on Consumer Protection **(Law** No. 6502, *published in the Official Gazette dated November 28, 2013, and numbered 28835*), which enters into effect on May 29, 2014, six months from its publication date.

Penalties under Consumer Protection Law Increased by 3.93%

The administrative penalty imposed under Article 25 of the Law on Consumer Protection (Law No. 4077) has been amended by the Communiqué (*published in the Official Gazette dated December 25, 2013 and numbered 28862*). Accordingly, all penalty amounts stipulated under Article 25 of the Law to be imposed from January 1, 2014 on have been increased by 3.93%.

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Employment

Medical Leave Reports

The Regulation on Social Security Transactions (*published in the Official Gazette dated May 12, 2010 and numbered 27579*) was amended on October 1, 2013. The subject of the amendment is with respect to the medical reports to be taken during recuperation/rest leaves. Accordingly, the rest leave reports shall be issued by the contractual health care providers of the Social Security Institution. However, in certain circumstances the approval of the health committee of the governmental contractual health care providers is a requirement as a validity condition. However, such approval is not a requirement for the rest leave reports issued as per the maternity insurance.

Workplace Health and Safety for Construction Work

The Regulation on Workplace Health and Safety for Construction Work (*published in the Official Gazette on October 5, 2013 and numbered 28786*) regulates the minimum health and safety conditions to be carried out at construction works. The Regulation stipulates provisions regarding the liabilities of the project manager and employers. The Regulation also covers the obligations which have to be fulfilled by the project manager and the employer. In this regard, the employer is obligated to execute the technical maintenance and controls before operating the equipment and the facility and he shall execute such transaction periodically, he is also obligated to ensure that the construction materials are in order and they are clean enough. Furthermore, the employer may also appoint a project manager to execute the abovementioned transactions on behalf of him.

Execution of Collective Bargaining Agreement

The Regulation on Determining the Authority for Collective Bargaining Agreement and Voting to Strike (*published in the Official Gazette dated October 11, 2013 and numbered 28792*) regulates the determination of the authority to execute collective bargaining agreements. The regulation also covers the authority determination application and rejection thereto, authorization certificate, and request to vote for strike. In this regard, as per the Regulation, once the trade union fulfils the requirements stipulated under the relevant legislation, a written application shall be submitted to the Ministry for determination that such trade union is authorised to execute a collective bargaining agreements. The authorization certificate shall be issued within six days provided that a rejection with respect to the authorization of the trade union is not submitted during the reclamation period.

Revaluation Ratio Increase affects the Statutory Salary Communique/Tax Procedural Law

The Communique on Tax Procedural Law (*published in the Official Gazette November 19, 2013 and numbered 28826*) stipulates the revaluation ratio of 2013 which is increased to the amount of 3.93 %. Such ratio shall be applied to the last temporary tax term of 2013. The revaluation ratio shall affect the calculation of statutory salary and other costs stipulated under the relevant laws.

Statutory Minimum Wage: Gross TL 1,071 Monthly

The Minimum Wage Determination Commission Decision (published in the Official Gazette dated December 31, 2013 and numbered 2013/1) regulates the amount of the statutory minimum wage of the employees. As per the Decision, the statutory minimum wage for employees regardless of their age is TL 35.70 on a daily basis for 1 January 2014 to 30 June 2014. There used to be a difference in the statutory minimum wage of employees with respect being older or younger than 16 , however such differentiation is abolished with this new Decision. Accordingly, the statutory minimum wage for employees is TL 1,071.00 gross and TL 846.00 net for the term between January 1,

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2014 and June 30, 2014. Please note that such amounts are determined for monthly payments.

Small Workplaces Health and Safety

The Regulation on Workplace Health and Safety Service Support (*published in the Official Gazette dated December 24, 2013 and numbered 28861*) regulates principles and procedures on the performance of the workplace health and safety services at workplaces with less than 10 employees. The Regulation covers the determination of the workplaces that will benefit from the support on such services. In this regard, determination shall be based on the registration made before the Social Security Institution. Employers of the workplaces in danger or very danger classes and who have less than 10 employees all across Turkey may benefit from such support. Additionally, the Regulation covers the obligations of the employers who will benefit from such services. In this regard, employers shall submit the monthly premium and service letters in the statutory period to the Social Security Institution.

Energy & Climate Change

New Electricity Market Regulation Brings a Preliminary Licensing Mechanism

Electricity Market Licensing Regulation was published in the Official Gazette dated November 2, 2013, and numbered 28809. The purpose of this Regulation is to determine the principles and procedures regarding “Preliminary Licensing” and “Licensing”, as well as the rights and duties of the “Preliminary License” and “License” holders, in accordance with the new Electricity Market Law, published at the Official Gazette dated March 30, 2013 and numbered 28603. Basic principles of the preliminary licensing mechanism, set by the new regulation, are outlined below:

- A preliminary license shall be provided to legal entities which would like to receive a production license.
- In cases where generation activities will be carried out in more than one facility, a preliminary license shall be acquired for each facility.
- During the preliminary license period, (i) in case of any direct or indirect changes in the shareholding structure, any share transfers or any transactions resulting in a share transfer in the preliminary license holder legal entity, except for inheritance and bankruptcy; and/or (ii) in case of the pre-licensee fails to fulfil its obligations determined by the Energy Market Regulatory Authority, (“**EMRA**”) the preliminary license shall be cancelled.
- The preliminary license period cannot exceed 24 months, however EMRA will be entitled to extend this period up to 36 months depending on the type of source of the application and its installed power.
- The existing license applications will be regarded as preliminary license applications and concluded within that scope (Provisional Article 8).

The Regulation also stipulates other changes including but not limited to the licensing principles, market constraints and restructuring of the companies. Please refer to the Regulation for more detailed information.

Electricity Generation Without License

Regulation on Electricity Generation Without License in the Electricity Market was published in the Official Gazette dated October 2, 2013, and numbered 28783. The purpose of this Regulation is to determine the procedure and principles regarding energy generation without being subject to obtaining a license or incorporation of a company in order to fulfil the electricity demand of the consumers from the closest electricity generation facility and to strengthen the small-scale generation facilities within the economy. The Regulation covers principles regarding the licensing exemptions, technical responsibilities and the scope of the electricity generation without license.

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You may find below some types of activities which can be performed without obtaining a license, pursuant to this Regulation;

- Generation facilities that do not establish connection with the transmission system or distribution system;
- Generation facilities based on renewable energy sources having a maximum installed capacity of 1 MW or the limit determined by the Council of Ministers;
- Generation facilities based on renewable energy sources having the same measurement point for production and consumption and using all the produced energy without distributing them to the transmission system or distribution system.

Certification and Support of Renewable Energy Resources

Regulation on the Certification and Support of Renewable Energy Resources was published in the Official Gazette dated October 1, 2013, and numbered 28782. This Regulation aims to regulate the procedure and principles regarding the granting of Renewable Energy Resource Certificate to generation license holder legal entities for generation facilities based on renewable energy resources, as well as the establishment and operation of the Renewable Energy Resources Support Mechanism stipulated under the Law on the Usage of Renewable Energy Resources for Electricity Energy Generation dated May 10, 2005, and numbered 5346. The Regulation introduces minor changes to renewable energy licensing procedure and principles including detailed rules on measurement of electricity generated in hybrid facilities using renewable energy resources except for solar energy. It also provides the possibility to license holders for generation facilities which became or will become partially operational between the dates May 18, 2005 and December 31, 2015 to benefit from the Renewable Energy Resources Support Mechanism for 10 years in addition to license holders for wholly operational facilities.

New Regulation on the TEIAS Competition of Wind and Solar Energy Applicants

Regulation on the Competition Regarding the Preliminary License Applications in order to Establish a Production Facility Based on Wind and Solar Energy was published in the Official Gazette dated December 6, 2013, and numbered 28843. This Regulation aims to determine the procedure and principles regarding the competition to be carried out by the Turkish Electricity Transmission Company ("**TEIAS**") for the applications made for the same area, connection point or connection area, the rights and responsibilities of the legal entities to enter the competition, and the process to be carried out following such competition. The Regulation merged the previous regulations on competition regarding license applications for production facilities based on wind and solar energy. Changes in this merged Regulation includes determination of the payment term of the contribution amounts to be paid to TEIAS for both types of facilities as 3 years starting from the temporary acceptance of the first unit of the production facility, and change in the currency for contribution amounts from USD to TL with respect to license applications for production facilities based on solar energy.

Other Regulations

- Regulation on the Procedure and Principles Regarding the Determination, Grading, Protection and Usage of the Renewable Resource Areas For Electricity Energy Production *(published in the Official Gazette dated November 27, 2013, and numbered 28834)*.
- Regulation on the Procedure and Principles Regarding the Supervision and Preliminary Review and Investigation of the Petroleum Market *(published in the Official Gazette dated November 27, 2013, and numbered 28834)*.

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Administrative Penalties under the Environmental Law have been Increased

The administrative penalties imposed under the Article 20(k) of the Environmental Law (Law No. 2872) for (i) destroying biodiversity, (i) violation of sub-paragraph (d) of the Article with respect to the protection and utilisation principles for Special Environmental Protection Areas, (iii) violation of sub-paragraph (e) with respect to the protection and utilisation principles for wetlands and (iv) failure to establish or operate mandatory waste collection, pre-treatment, treatment or disposal facilities have been increased by the Communiqué numbered 2014/1 (*published in the Official Gazette dated December 28, 2013, and numbered 28865)*, which enters into effect on January 1, 2014. Accordingly, the penalty imposed for the abovementioned acts shall be TL 35,193. Furthermore, starting construction or operation before the initiation or completion of the Environmental Impact Assessment procedure shall be subject to an administrative fine in the amount of TL 175,891 as per the Article 20(k).

Licensing of Environment Measurement and Analysis Laboratories

Environment Measurement and Analysis Laboratories Qualification Regulation (*published in the Official Gazette dated December 25, 2013 and numbered 28862*) has been issued by the Ministry of Environment and Urban Planning. The Regulation governs principles for the licensing of private or public laboratories conducting measurements and analyses constituting the basis for approvals, licenses, monitoring and audits to be submitted to the Ministry or monitoring agencies authorized by the Ministry and for the increase of quality of such measurements and analyses.

Industrial Manufacturing & Service Industries

Harmful Products will be Labelled

Regulation on Classification, Labelling and Packaging of Materials and Compositions (*published in the Official Gazette dated December 11, 2013, and numbered 28848)* was issued by the Ministry of Environment and Urban Planning. This Regulation provides principles for the classification, labelling and packaging of harmful products introduced to the market. Pursuant to this Regulation, manufacturers and import suppliers will be under the obligation to identify, classify and label harmful products before their launch on the market.

Other Regulations

- Please also review the section of Consumer Goods and Retail.

Insurance

Unclaimed Amounts shall be Published on the Websites of Insurance and Pension Companies

Statute of limitations for insurance contracts is set under Articles 1420 and 1482 of the Turkish Commercial Code (Law No. 6102). The Regulation on Funds Unclaimed by Rights Holders within the Scope of Insurance Policies Subject to Private Law Provisions (*published in the Official Gazette dated October 8, 2013 and numbered 28789*) enacts provisions applicable to amounts subject to statute of limitations (*i.e.* unclaimed amounts). Insurance and retirement companies are obliged to publicly announce unclaimed funds from the first business day of February until June 15th before the funds can be transferred to the Assurance Account.

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New Era of Private Health Insurance

The Undersecreteriat of Treasury substantially changes the rules of the game for the industry of private health insurance. The Private Health Insurance Regulation WAS published in the Official Gazette dated October 23, 2013 and numbered 28789 and will enter into force on April 23, 2014 (with the exception of Article 17, which shall enter into force on October 23, 2014). The insurance company shall not amend the liability scope and change special conditions or technical principles of health insurance policies with lifetime renewal guarantees and charge extra premium rates to the detriment of the insured in cases of new illnesses (Article 7).

The Regulation covers types of private health insurance contracts, provisions regarding their termination, right to information and rules governing offers, lifetime renewal guarantees, group contract participation certificates, and insurance plan changes, as well as general provisions on treatments after policy expiration, confidentiality, complementary insurance products, insurance rate tariffs and workplaces offering private health insurance to employees. Accordingly insurance companies shall inform those who would like to be insured of their rights and obligations both in written and verbally and give them information about material aspects which could affect their decision. Furthermore, the insurance company shall have the right to obtain information and receive documents from persons and institutions which the insured is treated by and Social Security Agency, Ministry of Health and Insurance Information and Monitoring Centre regarding the insured within the scope of relevant regulations. The insurant, the insured and the agent of the insured (if any) are obliged to give correct and complete answers to questions raised by the insurance company. In the event the insured and the insurant requests cancellation within 30 days after the execution date of the health insurance contract and no compensation has been paid to the insured; premiums paid by the insured/insurant shall be reimbursed within 5 days uninterruptedly. Companies providing private health insurance guarantees shall establish required administrative and technical infrastructure in order to secure connection with health service providers and to make compensation payments faster (Article 17).

Intellectual Property

Classification of Goods and Services in Trademark Registration Applications

The Communiqué on Classification of the Goods and Services in Trademark Registration Applications was published in the Official Gazette dated December 4, 2013 and numbered 28841 The Communique shall become effective on January 1, 2014 and it regulates the list of the goods and services and procedures thereto in accordance with the Nice Agreement.

Pharmaceuticals, Healthcare & Biotechnology

Sold-out Pharmaceutical Products Induces the Suspension of Licenses

The Regulation on Licensing of Pharmaceuticals (*published in the Official Gazette dated January 19, 2005, and numbered 25705*) was amended by the Regulation on Amendment of the Pharmaceuticals Licensing Regulation published in the Official Gazette dated November 14, 2013, and numbered 28821. The recently introduced amendments mainly related to the licensing process, suspension and cancellation of the license. Article 22 introduces a new case for suspension and states that the absence of a pharmaceutical product (which was previously on the market) from the market for a period of one year shall constitute a reason for suspension of the license. Moreover, as per Article 23 of the Regulation, in the event that the license holder decides not to use the license, such license will be suspended for a year, and if the license has not been transferred during this period, the license will be cancelled.

In This Issue

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Real Estate & Construction

Construction in Rural Areas

The Zoning Law (published in the Official Gazette dated May 9, 1985, and numbered 18749) (Law No.3194) (the "**Zoning Law**") was amended on August 2, 2013 by the Law on the Amendment of Several Laws and Ministry Decrees (Law No. 6495) (the "**Law No. 6495**"). By virtue of Article 73 of the Law No. 6495, Article 8 (on preparation and execution of construction plans) and Article 27 (on construction in villages) of the Zoning Law have been amended. Article 8 states that the construction plans must be published on the relevant authorities' web sites. Pursuant to the same Article, construction and zoning plans and projects will only be evaluated and approved by governmental authorities and no other institution, including but not limited to professional chambers, will be entitled to grant such approval, unless explicitly authorized by the law. The Article 27 replaces the provision which was annulled by the Constitution Court[1] and enacts regulations in regards to constructions at villages. Pursuant to such provision, a construction permit shall not be required for certain types of buildings and a regulation shall be published by the Ministry of Environment and Urban Planning for the implementation of Article 27.

Transportation, Logistics & Defence

Transportation of Hazardous Materials by Road

Regulation on Transportation of Hazardous Materials by Road was published on October 24, 2013. The Regulation covers the principles regarding safe transportation of hazardous materials without endangering human health and the environment, and the rights and obligations of all persons involved in the transportation process, including but not limited to the consignors, receivers, drivers and loaders.

Licensing of Commercial Airway Transport Enterprises

Regulation on Commercial Airway Transport Enterprises (SHY-6A) was published on November 16, 2013. The purpose of this Regulation is to determine the requisite procedure and principles regarding the issuance, suspension and cancellation of licenses of commercial airway transport enterprises which transport persons and goods for a fee. Article 15 of the Regulation sets out the requirements that the enterprises are obliged to fulfil in order to obtain authorization from the General Directorate of Civil Aviation to carry out commercial airway transport are stated. Moreover, the Regulation covers in detail the procedures to obtain a preliminary license and a license for commercial airway transport enterprises, as well as the administrative sanctions that will be imposed on such enterprises in the event that they fail to meet their obligations under this Regulation. Article 10 of the Regulation provides that enterprises holding a preliminary licenses or a license must first obtain authorization from the General Directorate of Civil Aviation in order to realize share transfer or capital increase transactions. The requisite paid-in share capital amounts for commercial airway transport enterprises have also been amended pursuant to Articles 15, 16 and 17, and as per Temporary Article 2, such enterprises will have to make the necessary changes in their paid-in share capital within three years from the effective date of this Regulation.

Other Regulation

A regulation amending the Customs Regulation (*published in the Official Gazette dated October 7, 2009, and numbered 27369*) was published in the Official Gazette dated November 21, 2013 and numbered 28828.

[1] The decision of the Constitution Court dated November 29, 2012, numbered 2011/106 E. and 2012/192 K., published in the Official Gazette dated April 2, 2013 and numbered 28606

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