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To discuss how these developments affect your business interests please contact either:

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Banking & Finance

LATEST DEVELOPMENTS ON FX PAYMENT RESTRICTION

New Exemptions to the FX Payment Restriction

Exemptions to the FX payment restriction have been expanded by the Ministry of Treasury and Finance via the amending communiqué which has been published in the Official Gazette dated November 16, 2018 with immediate effect.

What are the new exemptions?

As per the recent amendment, the following contracts are also exempt from the FX payment restriction:

- Real estate sale, purchase and lease contracts, wherein the purchaser or the lessor (as relevant) is (i) a non-Turkish citizen; or (ii) a non-Turkish resident's branch, representation, office or liaison office located in Turkey; or (iii) a Turkish company, of which (a) at least 50% of the shares or (b) the sole or joint management control are directly or indirectly held by a non-Turkish resident; or (iv) a company located in free trade zones, only as part of its activities in such areas (the "**Exempted Parties**");
- Real estate lease contracts for the purposes of operating accommodation facilities certified by the Ministry of Culture and Tourism;
- Real estate lease contracts in relation to duty-free shops;
- Employment contracts to be executed by Turkish resident sailors;
- Service contracts between Turkish residents, and performance of which will commence in Turkey and end up abroad; or *vice versa*; or commence and end up abroad;
- Contracts of work between Turkish residents, where the contractor incurs FX costs;

- Heavy equipment sale, purchase and lease contracts between Turkish residents;
- License and service contracts between Turkish residents, relating to hardware and software produced abroad within the context of information technologies;
- Contracts between (i) contractors/appointed companies and third parties and (ii) such contractors'/appointed companies' counterparties and third parties, for the purpose of carrying out projects under FX denominated/indexed tenders, contracts and international treaties that have been executed by public institutions and organizations, or contracts entered into within the scope of such projects (except for real estate sale and purchase and employment contracts);
- Contracts pertaining to transactions carried out in accordance the provisions of the Law No. 4749 on Public Finance and Debt Management; and
- Employment and service contracts wherein the employers or the service receivers are Exempted Parties.

Significant Issues on Conversion into TL

- The period set forth for the conversion of FX denominated payments into TL payments is not changed.
- The FX or FX indexed denominated negotiable instruments, issued in relation to the contracts which fall under the scope of the FX payment restriction; however issued and released into circulation before September 13, 2018, are exempt from the FX payment restriction and thus, such amounts are not required to be converted into TL.
- Service contracts regarding transportation activities can be indexed to oil prices.
- A Turkish resident's branches, representations, offices, liaison offices located abroad; companies located abroad, of which at least 50% of the shares are held by a Turkish resident; and funds located abroad which are managed or operated by a Turkish resident will not be deemed as Turkish residents in terms of the FX payment restriction; to the extent that the relevant contracts are performed outside Turkey.
- Commercial vehicles sale and purchase contracts for passenger transportation and financial leasing contracts executed before September 13, 2018, are not required to be converted into TL.
- Parties are no longer required to convert FX/FX indexed payments into TL if the party benefitting from FX payment exemption is not willing to benefit from such exemptions, in cases where both parties cannot benefit from the FX payment restriction exemptions.

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