



THE NEW REGULATION ON ELECTRONIC MONEY AND PAYMENT SERVICES HAS BEEN INTRODUCED BY THE CENTRAL BANK OF TURKEY

The Regulation on Payment Services and Electronic Money Issuance and Payment Service Providers (“**Regulation**”) abrogating the Regulation on Payment Services, Electronic Money Issuance, Payment Institutions and Electronic Money Institutions (“**Abrogated Regulation**”) introduced by the Central Bank of the Republic of Turkey (“**Bank**”) and has been published in the Official Gazette dated 01 December 2021 and numbered 31676.

This newsletter contains information on the essential amendments brought under the new Regulation regarding payment services and electronic money issuance.

EXECUTIVE SUMMARY

Principal changes brought under the Regulation may be summarized as follows:

- (i) *The application procedure of obtaining an operation permit for operating as a payment institution or an electronic money institution has been changed and application procedure is now subject to the more strict conditions.*
- (ii) *It has been regulated that minimum equity amount cannot be less than; 3 million TL for the payment institutions that act solely as an intermediary for invoice payments, 5 million TL for the payment institutions and 13 million TL for the electronic money institutions.*
- (iii) *It has been stipulated that anonymous pre-paid instruments can be used in online transactions only in the certain cases stated under the Regulation.*
- (iv) *Conditions of cooperating with legal entities residing abroad have been introduced.*
- (v) *Provided that the conditions stipulated in the Regulation are met, assets that are issued in exchange for a fiduciary money and that are created virtually and distributed over digital network have been included in the scope of the electronic money.*

I – INNOVATIONS AND AMENDMENTS BROUGHT UNDER THE REGULATION

Material amendments and innovations under the Regulation are given below.

A. Amendments Have Been Made in the Procedure of Obtaining Official Authorization

The application procedure has been regulated through amendments regarding the process of obtaining an operation permit to operate as a payment institution or electronic money institution as follows.

First of all, an application should be made to the Bank with a notification petition and draft of their articles of association with the documents in Article 11 of the Regulation, before the registration of their trade name before the trade registry, in order to obtain an operation permit. In addition, paying an application fee of **500.000 Turkish Liras** has become mandatory and the receipt of the aforementioned payment shall also be attached to the notification petition.

Following the submission of the aforementioned notification petition, a document shall be issued by the Bank indicating that the application has been made. *Within 6 months* from the receipt of the aforementioned document, company should apply to the Bank for the informative examination.

If the Bank grants approval after the informative examination stage, an application shall be made to the Bank for the **final approval** stage *within 120 days at latest* following the receipt of the written notification regarding the approval. The operation permit will be granted upon the obtaining of the final approval given by the Bank after the final examination.

Within 10 days following the operation permit has been obtained, the Bank must be notified regarding the commencement of activity and the receipt indicating that the **licence fee** of **1.000.000 Turkish Liras** has been paid must also be attached to the notification.

B. Provisions Regarding Minimum Equity Amount and Professional Liability Insurance Has Been Introduced

It has been regulated that minimum equity amount cannot be less than; 3 million TL for the payment institutions that act solely as an intermediary for paying invoices, 5 million TL for the payment institutions and 13 million TL for the electronic money institutions. In addition, certain ranges have been stipulated in the Regulation for the size of payment capacity of these institutions, and it is stipulated that if the equity amount calculated with the formula which is based on these ranges is higher than the aforementioned amounts, then this amount will be taken into account as the minimum equity amount.

There is no minimum equity limit for account information service providers that provide consolidated online access to payment accounts of the customers and it has been regulated that these institutions obliged to take out professional liability insurance.

C. The Scope of Electronic Money Has Been Expanded

It has been stipulated that intangible assets that are **issued in exchange for a fiduciary money** and that are created virtually and distributed over digital network will be deemed as electronic money under Regulation. However, these assets; must be issued in exchange of funds that accepted by the issuing institution, must be kept electronically, must be used to perform payment transactions

identified in the The Law on Payment and Securities Settlement Systems, Payment Services and Electronic Money Institutions numbered 6493(“**Law**”) and must be accepted as an instrument of payment by real and legal persons other than the issuing institution. In this regard, crypto assets based on assets other than fiat money will continue to be not considered e-money.

Institutions that issue these intangible assets, which may be considered as electronic money, before the effective date of this Regulation, shall apply to the Bank within 1 year and obtain necessary operation permit.

Also it has been regulated that a separate regulation regarding foregoing will be issued by the Bank.

D. New Missions for the Interbank Card Center Have Been Envisioned

It has been regulated that a **workplace code will be given to the** businesses providing goods and services with a method of payment within the scope of payment methods, in order to ease the processes regarding payment transactions and prevent fraud and malicious use in respect of the activities regarding payments. Workplace codes will be given by the Interbank Card Center.

It has been stated that, open banking companies which will carry out payment order commencement service and services of consolidated customer data and presenting them in online platforms, shall obtain a technical compliance certificate from Interbank Card Center which indicates they can carry out these activities, at the final approval stage of operation permit application.

E. Restrictions on Minors and Pre-Paid Instruments Have Been Introduced

Certain restrictions have been introduced in terms of the services provided to minors. During the first issuance of pre-paid instruments and opening of electronic money accounts, it is required to obtain approval of the legal representative and this approval shall be recorded.

The concept of a pre-paid instrument has regulated as *“a pre-paid instrument that is not connected to the payment account in any way and has not been identified or verified; becomes usable by pre-payment or pre-loading; can be issued as re-loadable or non-reloadable; and that is allowed to be used up to the loaded balance amount”* for the first time with the Regulation.

Similarly, the electronic communication operator shall only provide pre-paid service or postpaid mobil payment service, on the condition that the legal representative of the minor has given its consent in order to carry out these transactions.

It has been regulated that, anonymous pre-paid instruments shall only be used in the businesses where the instrument owner is physically present or in payment transactions and invoice payment transactions regarding purchase of goods and services before the service providers and intermediary service providers who have Stamp of Trust.

F. Restrictions on Transactions over Exchange Have Been Regulated and Cooperation with Foreign Institutions Have Been Regulated

In the Abrogated Regulation, it was regulated that payment institutions and electronic money institutions may only transact over foreign currency, in the condition that they were related to payment service. This restriction has been preserved within the scope of the Regulation and additionally the cases where transactions can be made with foreign currency are counted. Payment

institutions are not permitted to execute transactions over foreign currencies where both parties are resident in Turkey and transactions related to payment services that used by payment service providers in Turkey.

Cooperation between institutions established in Turkey and electronic money institutions with legal entities residing abroad is subject to the condition that foreign institution obtains permit from the Bank. In this scope, cooperation may be carried out by providing payment services within the scope of Law to customers residing in Turkey with legal entities residing abroad and it will be limited with payment services where at least one of senders or recipients is abroad.

In cases where a cooperation has been made, the legal entity residing abroad cannot be the public face of the service. In this scope, it is prohibited for the cooperating legal entity to use its own brands and logos in a way that makes impression that it has an operation permit within the country and to set up website targeting customers residing in the country.

G. Other Regulations

Payment funds are permitted to be deposited on overnight maturity at the bank where the hedge account is.

Detailed conditions regarding persons who can represent payment institutions and electronic money institutions have been introduced and in this regard, the representatives shall be registered before Turkish Payment and Electronic Money Institutions Association.

II – ENFORCEMENT AND COMPLIANCE

The Regulation has been entered into force as the date of publication. Institutions which have been operating on the date of enforcement are obliged to comply with the provisions which are not included in Abrogated Regulation within 1 year.

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This newsletter has been prepared as of December 8, 2021 for informative purposes regarding Regulation on Payment Services and Electronic Money Issuance and Payment Service Providers which have published in the Official Gazette dated December 01, 2021 and numbered 31676.

Our assessments in this newsletter do not constitute legal recommendation or legal opinion and Aksu Çalışkan Beygo Attorney Partnership may not be hold responsible depending on these assessments. It is recommended to obtain legal opinion for your inquiries within the scope of this memorandum.

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