
The Law Amending the Law on Payment Services and Electronic Money Institutions has been accepted by the Turkish Parliament

Summary

The Law on Payment and Securities Settlement Systems, Payment Services and Electronic Money Institutions and Amendments to Certain Laws (the “New Law”) which was submitted to the Turkish Parliament on October 16, 2019, has been accepted by the General Assembly of Turkish Parliament on November 12, 2019. The Law on Payment and Securities Settlement Systems, Payment Services and Electronic Money Institutions (the “Law no. 6493”) numbered 6493 is being revised with this New Law consisting of 19 articles, in order to keep up with the developments in various Fintech markets; such as e-commerce, virtual money and open banking. The provisions of the New Law will enter into force as of January 1, 2020 except for the Article 15, which will enter into force 6 months after the New Law’s publication in the Official Gazette. The New Law is expected to be published in the Official Gazette soon.

Please find below summary of the changes in the regulations in the New Law:

- **All institutions in Law no. 6493 are now subject to the supervision of the CBRT.**

The most fundamental amendment in the New Law is authorization of the Central Bank of the Republic of Turkey (“CBRT”) regarding regulation and supervision of payment and electronic money services which was previously assigned to the Banking Regulation and Supervision Agency (“BRSA”). In Law no. 6493, CBRT was the authority for the “payment systems”, and BRSA for “payment institutions” and “electronic money institutions”. With the New Law, the aim is to remove the dual structure, increase the supervision authority of the CBRT and gather all of these activities under a single roof.

- **Two new payment services in line with the PSD2 are defined.**

The spread of financial technology services throughout the world has expanded the scope of the “payment service” activities. Accordingly, the Payment Services Directive (“PSD”) underpinning our Law no. 6493, was revised in the first place and the new payment services are defined in the European Union Payment Services Directive-2 (“PSD2”). In parallel to these developments also considering the needs of our country, the scope of the payment services has been expanded by way of creating a legal basis for these improvements and defining two new payment services in line with the PSD2. In this respect, following services will be considered as “payment services” subject to the supervision of the CBRT.

- *“Payment initiation service for a payment account at another payment service provider at the request of the payment service user” and*

- *“The online service of providing consolidated information of one or more payment accounts of the payment service user at the account information service providers”*

Such payment services take place in the New Law as similar versions of the “**payment initiation services**” and “**account information services**” provided in the PSD2. Those wishing to provide such payment services and the service providers who are currently offering such services will be applying to the CBRT to obtain a payment institution license. On the other hand, even though payment institution license is required for the account information services, the license requirements are alleviated.

- **Another major step has been taken regarding open banking.**
By way of authorizing CBRT as the supervising authority on data sharing between payment service providers within the scope of the payment initiation and account information services, an important step has been taken in terms of open banking in line with PSD2, that was first brought up by the new Turkish Regulation on IT Systems of Banks and Services of Electronic Banking.
- In addition to the “payment services” mentioned above, “**other transactions and services reaching a certain level in terms of total size or impact which will be determined by the CBRT**” is also considered as payment service in the New Law. Because financial markets are constantly developing, new type of payment services emerge every day and as a result of this power granted to CBRT any payment service that may occur in the future and reach a certain size may be included into the scope of the New Law without the need to amend the laws.
- A limitation regarding the **limited network exemption** and **commercial agent exemption** for the payment and electronic money institutions in the Law no. 6493 has been introduced. In case the transactions performed within this scope has reached the size and impact area determined by the CBRT, the services may be considered as a payment service.
- **Administrative fine amounts are updated.**
The administrative fines in the New Law have been increased considering the revaluation rates, from 20.000TL-500.000TL to 40.000TL-900.000TL. In line with the other amendments, CBRT is determined as the authority to impose these administrative fines. In addition, administrative fines to be imposed under this article may be brought before the administrative courts.
- **CBRT is authorized to determine the qualification and maximum amount of fees and expenses.**
The New Law authorizes CBRT to determine the qualification of fees, expenses, commissions and other benefits to be received by the parties, as well as maximum amounts and rates to be applied to the benefits received.

- **“Association of Payment and Electronic Money Institutions of Turkey” as a public occupational organization will be established.**

In addition to these developments, establishment of “Association of Payment and Electronic Money Institutions of Turkey” (the “Association”) is another change in the New Law. Becoming a member of the Association as a payment and electronic money institution is mandatory and institutions have been given one month to become a member after the establishment of the Association. Some of the authorizations given to the Association are as follows:

- Announcing the decisions taken in accordance with the relevant legislation and the measures requested by the CBRT,
 - Determining the professional principles and standards to be followed by the members,
 - Taking and implementing measures to prevent unfair competition among the members,
 - Determining the conditions that the members must comply with in their advertisements.
- The New Law also regulates that the funds collected by the electronic money institutions in return for electronic money issuance will be transferred to a separate account to be opened in the banks as mentioned in the Law no. 6493, however **these funds will no longer be blocked by the banks before CBRT.** Considering sectoral demands, it is expected that the procedures and principles will be regulated in the secondary legislation. It will also be determined by the CBRT whether the activities of electronic money institutions regarding payment services would be deemed as “loan” or not.
- **One-year transition period for the regulations is projected.** For CBRT to draft a regulation in line with the stated amendments in the New Law, one-year transition period starting on January 1st, 2020 is projected. In the meanwhile, current regulations will be in force.

If you have further questions, please do not hesitate to contact us.

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