

Amendments to electronic payment legislation

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[Introduction](#)
[Amendments](#)
[Comment](#)

Introduction

The principles and procedures regarding payment institutions and electronic money institutions are regulated by the Regulation on Payment Services and Electronic Money Issuance and Payment Institutions, introduced by the Banking Regulation and Supervision Agency (BRSA).

On December 26 2015 the Regulation Amending the Regulation on Payment Services and Electronic Money Issuance and Payment Institutions was published in the *Official Gazette*. It amends provisions regarding one-off payment transactions and frame contracts and has had a positive impact on the payment services market.

Amendments

The amendments introduced include the following:

- Taxes, fees, social security support contributions and penalties due on these payments have been removed from Article 3's definition of an invoice payment. As a result, these payments are no longer considered as invoice payments under the regulation.
- A new paragraph has been included in Article 5 on payment services. As per the amended version of the provision, an institution is not required to make an additional agreement with the invoicing authority if it outsources invoice payment services to a bank that is authorised by the invoicing authority for the collection of receivables on its behalf.
- Article 8(2) of the regulation has been amended. It lists the documents required for payment institution licence applications made by companies with shareholders that are banks or financial institutions established abroad and which directly or indirectly hold more than 10% of shares or are managing shareholders. These companies are no longer obliged to provide an activity and business schedule, proof of power of attorney or detailed information on board members and the general manager.
- Article 16 no longer grants power to the board of directors to determine the conditions in which a deputy general manager can attend board meetings in the absence of a general manager.
- Article 24(2) has been amended as regards the calculation of shareholder equity for companies with shares in banks or financial institutions.
- The requirement regarding the type of contract for one-off payment transactions has been removed from Article 29. Instead, one-off payment transactions can be conducted using a receipt or similar document rather than a contract. Contracts for one-off transactions must now include proof of customer consent. One-off payment transactions made remotely must now include a copy of this text.
- Under Article 30 of the regulation (which governs the pre-information requirement that payment service providers must provide to customers), payment service providers must publish the following information in a visible manner at their workplace:
 - the maximum period in which a transaction must be completed;
 - total service fees; and

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- exchange rates to be implemented.
- Under the amendments to Article 57, parties to frame contracts between consumers and payment service providers can decide not to implement Article 35(9), Paragraph (g) or to implement it in a different form.
- Under Article 58 of the regulation, one-off payment transactions were exempt from the requirement to execute a contract if the transaction fell under TRY300 or the limit of the payment instrument did not exceed TRY500, or the fund amount of the payment instrument did not exceed TRY500. This exemption has been removed by the amending regulation.

Comment

The regulation is secondary legislation of Law 6493 on payment services and electronic money institutions, which came into force in June 2013. However, Law 6493 set a one-year transition period for the receipt of operating licences from the BRSA, which started on June 27 2014 (ie, the regulation's enforcement date). Therefore, the deadline to comply with Law 6493 and the regulation in order to obtain a licence for a payment or electronic money institution was June 27 2015.

As payment services are new in Turkey, it is likely that further amendments to the secondary legislation will be required based on the needs of consumers and the payment services sector. For example, the payment services sector needed more straightforward procedures for one-off payment transactions and the December 26 2015 amendment accordingly made a receipt or similar documents sufficient for one-off payment transactions.

Conversely, the amendment implicitly narrowed the scope of payment services that require BRSA authorisation. Invoice payments are listed under payment services in Article 12 of Law 6493 and to narrow the definition of invoice payments, services for paying taxes, fees, social security contributions and penalties due to these payments are no longer considered as payment services.

The Payment and E-Money Association, established in October 2015, stated that approximately 43 companies in Turkey submitted payment and electronic money institution licence applications to the BRSA. This newly established sector may generate future legal requirements and demand further amendments to electronic payment services as practice evolves.

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