

Turkey: Regulation of Payment Services and Electronic Payment Regime

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1. INTRODUCTION

In Turkey, principles and procedures regarding payment institutions and electronic money institutions are regulated under [Law No. 6493](#) and the Regulation on Payment Services and Electronic Money Issuance and Payment Institutions introduced by the Banking Regulation and Supervision Agency (BRSA). The regulation is the secondary legislation of Law No. 6493 on payment services and e-money institutions which came into force in June 2013. Law No. 6493 was drafted based on the European [Electronic Money Directive](#).

Law No. 6493 introduced a one-year transition period for payment services and electronic money institutions to obtain an operating licence from the BRSA, which started on June 27, 2014 (i.e., the enforcement date of the Regulation). Therefore, the deadline to comply with the requirements under Law No. 6493 and the Regulation and to obtain a licence for players operating as payment or electronic money institutions was June 27, 2015. The impact of this legislation on business practices remained obscure until then.

2. WHO IS REGULATED UNDER THE LAW?

Law No. 6493 mainly regulates the scope of service, licensing regime and obligations of two basic service providers: payment institutions (PIs) and electronic money institutions (EMIs). EMIs act as intermediaries and they provide users services to create an e-money account wherein the amount of the e-money is equivalent to the fund paid in return and to use the account for purchasing goods and/or services from providers that accept the issued e-money; whereas, PIs are described as legal persons authorised for providing “payment services”, within the meaning of Law No. 6493 (payment services are listed *numerus clausus* under Article 12 of the law).

3. ONE-OFF TRANSACTIONS

On December 26, 2015, the Regulation Amending the Regulation on Payment Services and Electronic Money Issuance and Payment Organisations and Electronic Money Organisations was published in the

official gazette.

One of the amendments introduced on December 26, 2015 is related to one-off payment transactions. With the amendment made in Article 29 of the regulation, the requirement of executing contracts for one-off payment transactions has been removed and wording allowing one-off payment transactions to be conducted through a receipt or similar documents has been inserted into the provision. The sector needed easier procedures for one-off payment transactions and the amendments lifted the heavy obligation to execute contracts for them.

4. FURTHER LEGISLATION

Considering the transition period and that payment services, in practice, are quite new to Turkey, it appears that the secondary legislation might need more amendments, based on the needs of payment services consumers and the payment services sector, as they implement it. The Payment and E-Money Association was established in October 2015 and it stated that approximately 40 companies in Turkey had submitted applications to the BRSA to obtain payment and e-money institution licences. Therefore, a newly-established sector in Turkey might raise further legal needs and the future may bring new amendments to electronic payment services in Turkey.

5. AUTHOR'S DETAILS



Gönenç Gürkaynak is the managing partner of ELIG, Attorneys-at-Law, a leading law firm of 62 lawyers in Istanbul, Turkey. Gürkaynak graduated from Ankara University, Faculty of Law, in 1997, and was called to the Istanbul Bar in 1998. He holds an LLM degree from Harvard Law School, and he is qualified to practice in Istanbul, New York and Brussels. Gürkaynak also became a solicitor of the Law Society of England and Wales (currently non-practising) after passing the QLTT. Prior to joining ELIG, Attorneys-at-Law as a partner more than ten years ago, Gürkaynak worked as an attorney at the Istanbul, New York and Brussels offices of a global law firm for more than eight years.

Gürkaynak heads the "Regulatory and Compliance" department of ELIG, Attorneys-at-Law. He also holds teaching positions at undergraduate and graduate levels at two universities and gives lectures at other universities in Turkey.

Geography: TURKEY

Sectors: E-MONEY

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