

Recent amendments to Turkish insurance legislation address ancillary insurance and remote contracts, facilitate digitalisation

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Dear Clients, Colleagues and Friends,

The Regulation regarding the Amendment of the Regulation on the Activities within the scope of Insurance Business, Insurance Contracts Executed in Favour of Consumers and Remote Insurance Contracts (the “**Regulation**”) was published in the Official Gazette no. 31122 dated 9 May 2020. It contains significant novelties that should bring new development opportunities to the insurance sector.

The Regulation not only allows businesses that are not primarily engaged in insurance intermediary activities to offer insurance services together with their goods and services under certain circumstances, but also goes one-step further with regard to the digitalisation of the insurance business, by enabling the provision of insurance services through remote sales devices. The Regulation also introduces consumer-protection concepts for the purpose of regulating the digitalisation of insurance services, such as the use of permanent data storage and secure payment.

The novelties introduced by the Regulation are summarised below.

1. Ancillary insurance

Pursuant to the Regulation, the businesses that are not primarily engaged in insurance intermediary activities may offer certain insurance services together with their goods and services, provided that all of the conditions below are met:

- Only the following insurance coverage can be offered: (i) breaking, loss, theft, breakdown or damage to the goods; (ii) loss, theft, delay or damage to baggage; and (iii) other risks associated with travel services, provided that such insurance services are offered in relation to the goods and services;
- Coverage shall be a simple insurance product rather than qualifying as a complex product, and the exemptions, limits and term shall be standard on a product basis;
- Liability, life or motor vehicle insurance coverage cannot be offered; and
- The premium shall not exceed the annual threshold of TRY 3,000 (to be updated at the end of each calendar year based on the changes to the consumer price index) and the term of the insurance shall not exceed five years, including renewals.

In addition, these entities cannot receive commission to be calculated over the insurance premiums for the insurance services. However, the Regulation allows those entities to collect service fees not associated with the insurance premiums. The non-intermediary businesses wishing to perform such insurance activities shall also abstain from engaging in activities which may cause misunderstandings with respect to their role and activity; and duly communicate to the consumers all required information, including the coverage and scope of the insurance, corporate name and contact details of the insurance company providing the insurance service. The insurance companies shall be obliged to take all necessary precautions for the purpose of avoiding any confusion in this respect.

Finally, the Ministry of Treasury and Finance shall be informed one month prior to the provision of such services.

2. Insurance offered through remote sales devices

The Regulation also contains provisions regulating the sale of insurance products through remote sales devices such as kiosks, websites and mobile applications. It is important to note that such remote sales devices cannot be placed in businesses that are not authorised to sell insurance, except for certain institutions determined by the Regulation.

Accordingly, land registries and water and power administrations, which are the control points of the compulsory earthquake insurance, may have remote sales devices for the Turkish Catastrophe Insurance Pool (DASK) and vehicle inspections stations, which are the checkpoints for the compulsory motor vehicle liability insurance, may have remote sales devices to be placed by the Executive Committee of the Insurance Agents of the Turkish Union of Chambers and Exchange Commodities (SAIK).

Commissions accrued from the sale of insurance products through the digital devices placed in these checkpoints shall be distributed to the agents based on the principles to be determined by the Ministry of Treasury and Finance.

In addition, insurance companies holding a compulsory motor vehicle liability insurance licence must allow sales through such remote sales devices. The provisions of the Regulation in relation to the placement of remote sales devices and the relevant liabilities attached thereto will enter into effect on 15 June 2020.

3. Remote insurance contracts and other measures to facilitate digitalisation

While stressing the importance of complying with the obligation to deliver the insurance policy set forth under Article 1424 of the Turkish Commercial Code, the Regulation allows the fulfilment of such obligation through permanent data storage systems (*Kalıcı Veri Saklayıcısı*) in remote insurance contracts.

The Regulation also contains customer protection measures, such as the mandatory use of a 3D secure payment method for debit and credit card payments in remote insurance contracts, which will enter into force on 15 July 2020, and the provision of secure payment systems through virtual POS for the contracts executed face-to-face, which will enter into force on 15 October 2020. Finally, insurance companies are obliged to establish the necessary infrastructural systems as to the 3D Secure payments for the insurance intermediaries who request to use such systems in premium collections.

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