

Amendments to the Communiqué regarding Decree No.32 on the Protection of the Value of Turkish Lira *May 2022*



Dear Clients, Colleagues and Friends,

Article 8 of the Communiqué numbered 2008-32/34 regarding Decree No.32 on the Protection of the Value of Turkish Lira (the “**Communiqué**”) setting forth provisions regarding agreements denominated in foreign currency or indexed to foreign currency has been amended with the communiqué numbered 2022-32/66 amending the Communiqué. The respective amendment has been published on the Official Gazette dated 19 April 2022 and entered into force on the same date.

Before the above-mentioned amendment, the Communiqué allowed for purchase price or other payment obligations provided in the movable sales agreements executed between Turkish residents, other than the ones concerning sale of vehicles, to be denominated or indexed to in any currency other than Turkish Lira and paid in foreign currency. By virtue of newly introduced paragraph 9 of Article 8 of the Communiqué, even though it would still be possible to denominate or index the contractual payment obligations of moveable property in any currency payments will need to be effectuated only in Turkish Lira.

The new rules will be applicable to all Turkish real and legal persons, including all companies incorporated in Turkey regardless of the fact that if some or all of its shares are directly or indirectly owned by non-Turkish shareholders.

On 21 April 2022, the Ministry of Treasury and Finance of Turkey announced certain clarifications with respect to implementation of the amendments to the Communiqué, and explained that the term “movable property” in the Communiqué covers all kind of goods and equipment other than immovable property. The below items though will be exempted and continue to be determined and paid in foreign currency:

- (i) Sales and exchange of diamonds and other precious metals at the Precious Metals and Diamond Markets of Borsa İstanbul,
- (ii) Payment obligations for the transactions realized pursuant to the Law on Public Financing and Debt Management numbered 4749, as well as issuance, offering, trade and transactions of the capital market instruments pursuant to the Capital Markets Law and its secondary legislation, and
- (iii) Agreements executed by the Turkish governmental authorities and institutions, or the affiliates of Turkish Armed Forces Foundation (excluding the ones concerning sale or lease of immovable property).

In addition to the above, it will still be possible to effectuate payment of invoices or negotiable instruments issued prior to 19 April 2022 in foreign currency. However, this exemption will not include to the payment instruments, such as cheques, denominated in foreign currency, which have been or will be issued on or after 19 April 2022.

Within the scope of such legislative change, it will be necessary to re-evaluate and revise the payment obligations of all existing agreements executed between Turkish real or legal persons (including companies with foreign shareholders), which contain payment obligations denominated in or indexed to foreign currency, which are not benefiting from above mentioned exemptions.. While revising the payment obligations in the contracts with FX denominations, it will be important to agree and determine a reference exchange rate (date and reference institution, (such as the Central Bank of Turkey). Additionally, accounting of differences in contract price and payment amount that may arise due FX fluctuations will need to be addressed as well.

The administrative fine to be applicable in case of breach of the provisions of the Communiqué varies between TRY 11,500 and TRY 100,200 (approximately USD 750 and USD 6,700) in 2022, which will be doubled in case of repetitive breaches.

Please do not hesitate to contact us for any further information on this briefing.

Kind regards,



Elvan Aziz

Partner

eaziz@paksoy.av.tr



Zekican Samli

Senior Associate

zsamli@paksoy.av.tr



Elif Yaver

Associate

eyaver@paksoy.av.tr

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