

| KURT & PARTNERS

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RECENT AMMENDMENTS ON
PAYMENT SERVICES AND ELECTRONIC
**MONEY ISSUANCE AND PAYMENT
SERVICE PROVIDERS REGULATION**



RECENT AMMENDMENTS ON PAYMENT SERVICES AND ELECTRONIC MONEY ISSUANCE AND PAYMENT SERVICE PROVIDERS REGULATION

I. Introduction

Today, payment services are carried out through banks, electronic money institutions, payment institutions, and postal and telegraph organizations. The number of these organizations is increasing day by day. Among these, electronic money institutions refer to organizations that can engage in electronic money issuance activities that can be used in many ways, such as credit cards and other digital payment systems.

To regulate the mentioned activities, first, the Law No. 6493 on Payment and Securities Settlement Systems, Payment Services and Electronic Money Institutions was enacted. Based on this law, the "Regulation on Payment Services and Electronic Money Issuance, Payment Institutions, and Electronic Money Institutions" ("Former Regulation") was issued and published in the Official Gazette No. 29043 dated 27/6/2014. Subsequently, the relevant regulation was repealed, and then the "Regulation on Payment Services and Electronic Money Issuance, and Payment Service Providers" ("Regulation") was issued and published in the Official Gazette No. 31676 dated 1 December 2021.

In this context, certain periods were granted to payment institutions and electronic money institutions to ensure a healthy compliance process for the new obligations introduced. Together with the "Regulation Amending the Regulation on Payment Services and Electronic Money Issuance, and Payment Service Providers" ("**Amendment Regulation**") dated **28 February 2023 and numbered 32118, the compliance periods foreseen for the matters detailed below are envisaged to be extended until 30 April 2023.**

II. Legal Regulation

The Former Regulation regulated the authorization and activities of payment service providers and electronic money institutions operating in Turkey, as well as the procedures and principles regarding payment services and electronic money issuance. In other words, the regulation specified which institutions could provide payment services, the mandatory requirements that these institutions had to comply with when obtaining and maintaining their operating licenses, as well as issues such as the issuance and repayment of electronic money. With the new provisions added to the regulation, payment service providers and electronic money institutions have been subjected to much more comprehensive and detailed obligations.

Prior to the Regulation, payment institutions, electronic money institutions, and payment service providers established before December 1, 2021, were subject to the Former Regulation. In this context, the Regulation provided for a compliance period for these institutions to comply with the regulations included in the Regulation, despite not being included in the Former regulation. This date was initially set as one year from the date of publication of the Regulation, that is, until December 1, 2022.

Finally, with the publication of the Amendment Regulation on February 28, 2023, the compliance period specified in the transitional provisions has been extended until April 30, 2023.

III. Definitions

- a) Institution:** Refers to payment institutions and electronic money institutions.
- b) Payment Instrument:** Refers to the personal instrument such as a card, mobile phone, password, or other similar means used by the customer to give payment orders to the payment service provider.
- c) Payment Service:** Refers to transactions made through transfers of money to the user's payment account or without a payment account.
- d) Payment Service Provider:** Refers to banks, electronic money institutions, payment institutions, and the Post and Telegraph Organization Joint Stock Company.
- e) Prepaid Instrument:** Refers to the physical or non-physical payment instrument that allows the use of funds that the customer can use for payment purposes, and is paid by the customer to the payment service provider before any expenditure.
- f) Funds:** Refers to banknotes, coins, virtual currencies, or electronic money.
- g) Wide Store Network:** Refers to legal entities that perform retail sales under a certain brand name throughout Turkey.
- h) Payment Initiation Service:** A type of service that aims to enable different types of payments such as person-to-person transfers or e-commerce payments, and usually results in transfers such as wire transfers, FAST, or POS payments.

IV. Compliance Provisions Extended to April 30, 2023

1. Provisions Not Included in the Former Regulation:

According to the regulation, payment and electronic money institutions that were operating at the time the regulation came into effect are obliged to comply with the provisions regulated in the new regulation that were not included in the Former regulation until 30/04/2023. Examples of new issues not regulated in the Former Regulation include "Prepaid Instruments", "Workplace Registration System" and "Services Provided to Workplace". However, it should be noted that payment and electronic money institutions must comply with the terms and obligations related to foreign exchange transactions that can be carried out according to the nationalities of the parties to the transaction by 1/12/2022.

Additionally, the regulations regarding the currencies that can be used in payments must be complied with by 1/12/2022. To illustrate, institutions can only carry out payment transactions in Turkish Lira for payment transactions where both parties are resident in Turkey and payment service providers operating in Turkey are used. In this context, provisions in the regulation that are aligned with the regulations set forth in the Decree No. 32 on the Protection of the Value of Turkish Currency are included in the paragraphs that regulate the obligations of institutions.

2. Obligations to be Complied with by Some Electronic Money Issuers and Prepaid Instrument Service Providers:

If there is an Institution that provides services only in its own store network and only for the purchase of a specific product or service group and exports electronic money, or if there is an Institution that provides prepaid instrument services that can only be used in a specific service network as a result of an agreement, these institutions must comply with two main obligations. So, except for the provisions related to the measures taken for the protection of payment funds and the protection of funds collected in exchange for electronic money, these institutions must comply with the other provisions of the Regulation by 30/4/2023.

3. Obligations to be Complied with by Some Payment Service Providers:

Payment systems operated by banks and having payment accounts at the time this regulation enters into force may be included. Among these, payment service providers who are among the top ten participants in terms of the total number of payment transactions made to their accounts in 2020 must fulfill their obligations regarding payment initiation and account information services in accordance with the principles specified, by 30/4/2023 at the latest.

4. Data Sharing Services:

The data sharing services refer to a data sharing system used in the initiation of payment orders. In this context, the rules and principles to be followed by the parties and the technical and operational requirements to be complied with in relation to the execution of transactions related to the service of presenting consolidated information on one or more payment accounts held by the payment service user at one or more payment service providers, subject to the payment service user's request, and the service of executing payment initiation services related to online platforms, subject to obtaining the payment service user's consent, will be determined by the Bank. The data sharing services used in payment services will continue to be provided using non-standard services until 30/04/2023.

5. For Those Who Have Applied for Operating License Before the Effective Date:

Organizations that have applied for an operating license before December 1, 2021 are subject only to provisions regarding operating license, equity and collateral obligations, and provisions regarding the protection of payment funds and electronic money collected in exchange for funds. Other obligations under the Former Regulation are still applicable. Accordingly, organizations that have been granted an operating license must comply with the regulations regarding the management of information systems used to carry out their activities under Law No. 6493 and the audit by authorized independent auditing firms until 30/04/2023.

6. With Respect To Certain Entities Issuing Electronic Money:

The prepaid instrument services that can only be used within the issuing institution's own network, for the purchase of a specific group of goods or services, or within a specific service network resulting from an agreement, and the Institutions that applied for and were granted a license prior to December 1, 2021, for their activities within the scope of Law No. 6493, must comply with the regulations regarding the management of the information systems used to carry out their activities and be audited by authorized independent audit firms by April 30, 2023 at the latest.

Conclusion and Evaluations

Payment services and electronic money issuance, as well as payment service providers, have become increasingly important with the growing digitalization and electronic transactions of today. The relevant Regulation aims to ensure the security of payment transactions and protect consumer rights. Additionally, it provides guidance to payment service providers in terms of carrying out their activities on a legal basis, managing operational risks, and providing effective services to their customers. Therefore, it is an important tool in creating a secure and stable environment in the financial services industry.