



Gokce Attorney Partnership

The Fine Print

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Highlights of this issue

A new phenomenon: Bitcoin

Changes to E-Invoice Legislation

Communiqué on Mergers and Spin-offs

Financial Reporting by the Investment Funds

Electronic Commercial Books

Communiqué on Registered Capital System

In The Spotlight

A new phenomenon: Bitcoin

Bitcoin is a virtual currency invented in 2009 by a programmer, who uses the nickname "Satoshi Nakamoto" and keeps his real identity as a secret so far.

Bitcoin is created, distributed and traded without a need for a central organization. The creation, distribution and trading takes place collectively through a series of open source software. Creation of Bitcoin is called "Bitcoin mining" due to its similarity with mining in terms of creation. As Bitcoin is not linked with any governmental or private entities, the value of the Bitcoin comes from its acceptance by its users.

Bitcoins have been the subject of online purchasing and trading in Turkey for the first time though a company established in the Turkish Republic of Northern Cyprus. The number of new Internet platforms established in Turkey regarding for Bitcoin or similar currencies and the number of which increase day by day.

Following the expansion of the market and areas of use in Turkey of Bitcoins, the Banking Regulation and Supervision Agency (BRSA) issued a press release on 25 November 2013 regarding risks that may arise due to the trading of Bitcoin and similar currencies. BRSA states in its press release that Bitcoin, which is known as a virtual currency, is not issued by a government or private entity; hence no guarantee is provided for their value by any party. Also Bitcoins cannot be considered as electronic money under the Turkish legislation due to its structure and function and therefore it is not possible to monitor and inspect the same. In this respect transaction of Bitcoins carries high risks.

We understand that Bitcoins that are traded in a considerable speculative market and are subject of intense purchase and sale despite all the risks that they carry. We are aware that some establishments outside of Turkey accepts Bitcoins as payment instruments. Whether Bitcoins will be regarded as the currency of the future is one of the hot debates in financial and legal platforms nowadays and seems that it will remain as such for some time.

The Turkish language text of BDDK's press release can be found at the following link: http://www.bddk.org.tr/WebSitesi/turkce/Duyurular/Basin_Aciklamalar-i/12574bitcoin_hk_basin_aciklamasi.pdf

Newsfeed

Changes to the E-Invoice Legislation

The communiqué numbered 433 issued by the Ministry of Finance in order to regulate the procedures and principles of postponing the final transitional period in relation to the Mandatory Electronic Invoice System (E-Invoice) and of the E-Archive System (E-Archive) was published in the Official Gazette and came into effect as of 30 December 2013.

According to the Communiqué, taxpayers registered with the E-Invoice System must send invoices for goods and services in form of e-invoice as of 1 April 2014. Further, according to the same change it is decided that taxpayers registered in the E-Invoice System will continue to prepare hard copy invoices under the general provisions for provision of goods and services for unregistered taxpayers.

The Communiqué also regulates the Electronic Archive Implementation (E-Archive). Taxpayers that obtain E-archive permission from the Revenue Administration may be able electronically store an invoice electronically created thereby. In such event, if final consumers agree to receive e-invoice taxpayers may send invoices by electronic means including the Internet.



In accordance with the Communiqué, taxpayers who provide goods and services via the Internet and have 2014 income statement gross sales proceeds equal to or greater than 5 million Turkish Liras excluding those who exclusively issue documents such as tickets and insurance policies have to establish the E-Archive System no later than 1 January 2016.

The Turkish language text of the Communiqué can be found at the following link: <http://www.resmigazete.gov.tr/eskiler/2013/12/20131230M1-16.htm>.

Regulation Amending the Regulation on Bank Cards and Credit Cards

The Regulation on Amending the Regulation on Bank Cards and Credit Cards was published in the Official Gazette of 31 December 2013 to come into effect on 1 February 2014.

Some of the changes provided by the Communiqué are as follows: (i) the period of installments for purchases of goods and services as well as for cash withdrawals to be effected with credit cards is limited to 9 months. (ii) no installments shall be applicable for telecommunications and jewelry expenditures as well as meal, food and fuel purchases with credit cards.

The Turkish language text of the Regulation can be found at the following link: <http://www.resmigazete.gov.tr/eskiler/2013/12/20131231-2.htm>.

Communiqué on Mergers and Spin-offs

The Communiqué on Mergers and Spin-offs was published in the Official Gazette and came into effect on 28 December 2013. Some of the provisions adopted by the Communiqué are as follows: (i) principles of informing shareholders in merger and spin-off transactions are regulated; (ii) principles are introduced in relation to merger transactions that can cause a substantial change in a listed public company's capital that they will execute with unlisted companies; (iii) the scope of special cases regarding merger transactions are broadened;

(iv) the provisions of merger and spin-off through the facilitated procedure are regulated.

The Turkish language text of the Communiqué can be found at the following link: <http://www.resmigazete.gov.tr/eskiler/2013/12/20131228-7.htm>

Communiqué on Principles on Financial Reporting by the Investment Funds

The Communiqué on the Rules of Financial Reporting by Investment Funds was published in the Reiterated Official Gazette 28867 on 30 December 2013 and came into effect on 31 December 2013. Some of the provisions adopted by the Communiqué are as follows: (i) The Turkish Accounting/Financial Reporting Standards shall be taken as a basis for preparing financial statements of investment funds; (ii) securities investment trusts are regulated within the scope of the Communiqué as limited to valuing the assets in their portfolios, and preparing their price reports and weekly reports; (iii) annual financial statements of funds shall be disclosed to the public within 60 days following the end of the relevant accounting period or the investment period if any;



(iv) the obligation to publish financial statements in the Turkish Trade Registry Gazette is removed; (v) the obligation of public disclosure of financial statements be fulfilled through the Public Disclosure Platform (KAP) and the obligation of keeping such statements public on the website for at least 5 years are introduced.

The Turkish language text of the Communiqué can be found at the following link: <http://www.resmigazete.gov.tr/eskiler/2013/12/20131230M1-17.htm>.

Communiqué on Principles about Incorporation of and Operations by the Investment Entities

The Communiqué on the Principles about Incorporation of and Operations by Investment Entities was published in the Official Gazette of 17 December 2013. Some of the provisions adopted by the Communiqué are as follows: (i) investment entities must create a policy of conflict of interest; (ii) brokerage firms are permitted to be established by one shareholder; but it is stipulated that the board of directors shall have at least three directors; (iii) conditions of risk notifications, which must be made to clients, are allowed to be determined by the investment company complying the minimum requirements established by the Communiqué depending on the characteristics of the capital

market instrument and the relevant market involved; (iv) brokerage firms are permitted to issue all capital market instruments, which enables them to carry out transactions relating to over-the-counter derivative instruments.

The Turkish language text of the Communiqué to come into effect on 1 July 2014 can be found at the following link: <http://www.resmigazete.gov.tr/eskiler/2013/12/20131217-13.htm>

Communiqué on Principles on Excluding Public Companies from the Scope of the Capital Markets Law and Requirement of Trading Shares on the Stock Exchange

The Communiqué on the Principles on Excluding Companies from the Scope of the Law and the Requirement of Trading Shares on the Stock Exchange was published in the Official Gazette and came into effect on 30 December 2013. In accordance with the Communiqué; if any of the following companies request from the Capital Market Board (Board) to be excluded from the scope of the Capital Market Law (Law); and such request is accepted by the Board, such company is excluded from the scope of the Law.

(i) Companies that are deemed public due to the number of shareholders may be excluded from the scope of the Law in the event that they take a general assembly decision in this respect. On the other hand, all shareholders who have not cast an affirmative vote for such resolution to be excluded from the scope of the Law or have not attended the shareholders meeting are granted the right to exit from the company;

(ii) Companies, more than 95% capital of which is held by at most 50 shareholders; or more than 50% capital of which is held directly and/or indirectly by provincial special administrations, municipalities or other public institutions and establishments; or share transfers in those are limited with the persons that bear certain qualities in accordance with their articles of association,

(iii) Companies whose number of shareholders is below 500,

(iv) Companies whose items of financial statement for the last two years are below a certain amount,



(v) Companies determined to be dissolved, went bankrupt or are in liquidation,

Moreover, if the Board finds the existence of the events under (ii), (iii), (iv) and (v) above, the Board may ex officio decide to exclude the company from the scope of the Law.

If no application is filed with the stock exchange within the due period thereof and no application is filed with the Board in order to be excluded from the scope of the Law, the Board may ex officio decide that the share of such companies be traded on the stock exchange.

The Turkish language text of the Communiqué can be found at the following link: <http://www.resmigazete.gov.tr/eskiler/2013/12/20131230M1-18.htm>

Communiqué on Electronic Commercial Books

The General Communiqué (Serial No: 2) Amending the General Communiqué on Electronic Commercial Books (Serial No: 1) was published in the Official Gazette dated 24 December 2013 and came into effect as of such date.

Real-person taxpayers that wish to create, record, maintain and submit their commercial books electronically must hold a qualified electronic

certificate generated under the provisions of the Electronic Signature Law No. 5070 or have obtained a Fiscal Seal under the Tax Procedure Law General Communiqué numbered 397.

By means of the Communiqué, real-person taxpayers are allowed to benefit from the e-book implementation by using a fiscal seal as parallel to the electronic invoice implementation.

The provision that legal-person taxpayers must have permission to benefit from e-invoice in order to benefit from e-book has been abolished.

The period of loading a certificate that appears under the section "Creating Electronic Business Books" of the Electronic Commercial Books General Communiqué No. 1 is specified as the last day of the third month following the month to which the commercial book relates.

The obligation, of those who started to maintain electronic commercial books within the accounting period or the calendar year under the Electronic Business Books General Communiqué No. 1, to have records of the previous period in the electronic commercial books has been removed. Further, one month is granted for the closing certification of statutory commercial books of taxpayers that wish to benefit from the electronic commercial book within the accounting period or the calendar year.

The Turkish language text of the Communiqué can be found at the following link: <http://www.resmigazete.gov.tr/eskiler/2013/12/20131224-15.htm>

Communiqué on Common Principles on Significant Transactions and Right of Exit

The Communiqué on Common Principles of Significant Transactions and Right of Exit was published in the Official Gazette and came into effect on 24 December 2013. The Communiqué regulates the procedures and rules in relation to significant transactions of public companies, the criteria for determination of significance, the requirements to effect such transactions, the exercise of the right of exit upon significant transactions, determining of the price of the exercise of the right of exit for unlisted companies and making a mandatory tender offer regarding significant transactions.

Some of the provisions adopted by the Communiqué are as follows: (i) criteria for determination of significant transactions; (ii) transactions of significant acquisition of assets between related parties are also considered as significant transactions; (iii) the rules of delisting are re-regulated; (iv) significant transactions may be withdrawn in cases which the total cost to be borne due to exercising the right of exiting exceeds a predetermined sum or certain shareholders, whose qualification was predetermined, exercise their right of exit.

The Turkish language text of the Communiqué can be found at the following link: <http://www.resmigazete.gov.tr/eskiler/2013/12/20131224-17.htm>.



Communiqué on Voting by Proxy and Proxy Solicitation

The Communiqué on Voting by Proxy and Proxy Solicitation was published in the Official Gazette and came into effect on 24 December 2013. Some of the provisions adopted by the Communiqué are as follows: (i) the principles in relation to issuing proxies electronically during electronic shareholders meetings are established; (ii) the requirement of application to the Capital Market Board for the proxy solicitation is removed; (iii) the proxy solicitation can be made for all the matters on the agenda of a shareholders meeting by provisions of grounds for such.

The Turkish language text of the Communiqué can be found at the following link: <http://www.resmigazete.gov.tr/eskiler/2013/12/20131224-18.htm>.

Communiqué on Registered Capital System

The Communiqué on the Registered Capital System was published in the Official Gazette and came into effect

on 25 December 2013. Some of the provisions adopted by the Communiqué are as follows: (i) companies that changed to the registered capital system in accordance with the Turkish Commercial Code prior to initial public offering, must amend their articles of association in accordance with the provisions of the Communiqué; (ii) the registered capital ceiling to be permitted for 5 (five) years may not exceed the amount fivefold of net worth or capital of companies, whichever is higher; (iii) it is permitted to exceed the registered capital ceiling once only for each ceiling by way of adding all internal resources and dividends to the capital and as a result of merger, division and similar actions that require a shareholders meeting.

The Turkish language text of the Communiqué can be found at the following link: <http://www.resmigazete.gov.tr/eskiler/2013/12/20131225-13.htm>.

Communiqué on Public Disclosure Platform

The Communiqué on the Public Disclosure Platform was published in the Official Gazette and came into effect on 27 December 2013. Some of the provisions adopted by the Communiqué are as follows: (i) it is regulated who will file notifications with the Public Disclosure Platform (KAP) and the principles of notification for

entities; (ii) the obligation of notification has also been imposed upon issuers that sell capital market instruments to qualified investors.

The Turkish language text of the Communiqué can be found at the following link: <http://www.resmigazete.gov.tr/eskiler/2013/12/20131227-7.htm>

Electricity Market Distribution Regulation

The Electricity Market Distribution Regulation was published in the Official Gazette on 2 January 2014 and came into effect as of such date.

The purpose of the regulation is to establish the principles and procedures in relation to the operation and planning of the distribution system securely and at a low cost as well as users already connected to, or to be connected to, the system.

The Regulation regulates the following: (i) rules of connection for legal entities that carry out generation activities and users other than legal entities; (ii) design and performance requirements for generation facilities; (iii) principles of project-drawing and facility design; (iv) planning electricity distribution facilities and network that a distribution company operates in the distribution area determined under its license; (v) monitoring user activities; (vi) methods to be implemented upon request in order to ensure demand-supply equilibrium from the National Load Distribution Center within the body of Türkiye Elektrik İletim A.Ş. and responsible for real-time balancing of electricity demand and supply and/or regional load distribution centers or a distribution company; (vii) principles and procedures for distribution companies and users to communicate details of operating activities and events to one another; (viii) access to sites under the ownership or responsibility of users or a distribution company and work safety, (ix) emergency states regarding the electricity system, (x) numbering and naming of the facilities or equipment and (xi) system tests.

The Turkish language text of the Regulation can be found at the following link: <http://www.resmigazete.gov.tr/eskiler/2014/01/20140102-1.htm>



Leasing, Factoring and Financing Companies

Regulation

The Regulation Amending the Regulation on the Principles of Incorporation and Operation of Leasing, Factoring and Financing Companies was published in the Official Gazette on 31 December 2013.

Article 11/A is added to follow article 11 of the Regulation on the Principles of Incorporation and Operation of Leasing, Factoring and Financing Companies; as follows:

"Limitations on vehicle and consumer loans

ARTICLE 11/A

(1) For vehicle loans and vehicle-secured loans to be made available to consumers or leasing transactions in order to acquire a passenger vehicle, the rate of total loan to the value of the vehicle cannot exceed 75% for vehicles with a final invoice value equal to or less than TL 50,000. For vehicles whose final invoice value exceeds TL 50,000, such rate is applied as 70% for the portion of the price up to TL 50,000 and as 50% for its portion above TL 50,000. The all-risks vehicle insurance policy value is taken as a basis in determining the value of secondhand passenger vehicles.

(2) The maturity of consumer loans may not exceed 36 months, and the maturity of vehicle loans and vehicle-secured loans may not exceed 48 months; excluding loans made available within the scope of mortgage financing described under first paragraph of article 57 of the Capital Markets Law No. 6362 and other loans for purposes of real estate acquisition.

(3) The limitations under the first and second paragraphs of this article do not apply in cases of (i) loans made available prior to the publishing date of this article and (ii) restructuring such loans.

(4) In the event that the limitations specified under this article are

exceeded, the loan amount in excess will be deemed as a value deducted from capital in the calculation of a company's net worth."

The first paragraph of article 11/A above comes into effect on 1/2/2014, and the other provisions of the Regulation at the date of their publication.

The Turkish language text of the Regulation can be found at the following link:

<http://www.resmigazete.gov.tr/eskiler/2013/12/20131231-4.htm>

Communiqué

The Regulation on the Accounting Practices and Financial Statements of Leasing, Factoring and Financing Companies was published in the Official Gazette on 31 December 2013 and came into effect as of such date.

The Regulation regulates the principles and procedures in relation to the accounting and reserve implementations of leasing, factoring and financing companies as well as the form and contents of financial statements thereof to be disclosed to the public.

Leasing, factoring and financing companies incorporated in Turkey

(the Company) are obliged to carry out proper accounting for all their transactions under the principles and procedures established by the Public Oversight, Accounting and Auditing Standards Board, and prepare their financial reports in a form and with contents so as to meet information requirements, as clear, reliable and comparable, suitable for auditing, analysis and interpretation, in a timely manner and accurately.

Companies are required to a) prepare their year-end consolidated and non-consolidated financial statements in the form and with the contents under Appendix-1 of the Regulation and b) publish the same on their websites together with the independent audit report within seven days as of the approval of the same at their general assembly meetings, and make the same accessible to users for five years.

Companies should carry out accounting for losses that have already arisen or that are expected to arise regarding receivables in accordance with the provisions of the Regulation as well as the Turkish Accounting Standards and the Communiqué on the Uniform Chart of Accounts and Prospectus Applicable to Leasing, Factoring and Financing Companies.



Companies are required to allocate special reserves for (i) at least 20% of receivables for which the collection of principal, interest or both has exceeded 90 days but has not yet exceeded 180 days from the term or due dates thereof, (ii) at least 50% of receivables for which the collection of principal, interest or both has exceeded 180 days but has not yet exceeded one year from the term or due dates thereof, and 100% of receivables for which the collection of principal, interest or both has exceeded one year from the term or due dates thereof. Companies must allocate the required provisions until the end of the month in which the delays specified under this paragraph have occurred.

Factoring companies are required to allocate special reserves for (i) at least 20% of receivables for which the collection of principal, interest or both has exceeded 180 days but has not yet exceeded 270 days from the term or due dates thereof, (ii) at least 50% of receivables for which the collection of principal, interest or both has exceeded 270 days but has not yet exceeded one year from the term or due dates thereof, and 100% of receivables for which the collection of principal, interest or both has exceeded one year from the term or due dates thereof.

Leasing companies are required to allocate special reserves for (i) at least 20% of receivables for which the collection of principal, interest or both has exceeded 150 days but has not yet exceeded 240 days from the term or due dates thereof, (ii) at least 50% of receivables for which the collection of principal, interest or both has exceeded 240 days but has not yet exceeded one year from the term or due dates thereof, and 100% of receivables for which the collection of principal, interest or both has exceeded one year from the term or due dates thereof.

Even if a delay in the collection of principal or interest payments has not exceeded the periods specified above or there is no delay in their collection, Companies may allocate special reserves for the sums of their receivables at the rates to be determined under their own discretion, without including



the sum of the securities in the calculation, and considering all the existing data regarding the debtor's creditworthiness and the principles of reliability and prudence stated under the relevant Turkish Accounting Standard. In the event that there are multiple receivables independent of one another from a specific debtor and special reserves are allocated for any one of such receivables, special reserves at the same rate will be required to be allocated for the other sums of receivables.

Companies are required to classify and track the securities for their receivables in terms of the security groups specified in the Regulation.

The sum of the securities shall only be considered as a deduction from the sum of receivables in calculating the sum of special reserves.

The Turkish language text of the Communiqué can be found at the following link: <http://www.resmigazete.gov.tr/eskiler/2013/12/20131224-8.htm>

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Answers. Not theories.

Gokce Attorney Partnership

About our firm

Gokce Attorney Partnership is an Istanbul-based law firm offering legal services across a broad range of practice areas including mergers and acquisitions, joint ventures, private equity and venture capital transactions, banking and finance, capital markets, insurance, technology, media, telecoms and internet, e-commerce, data protection, intellectual property, regulatory, real property, and commercial litigation. Please visit our web site at **www.gokce.av.tr** for further information on our legal staff and expertise.

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