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Highlights of this issue

Unfair Terms in Consumer Agreements

**Brand new right to Lessor to terminate
lease agreements**

**Regulation on Payment Services,
Electronic Money Issue**



New Regulation on Unfair Terms in Consumer Agreements

Regulation on Unfair Terms in Consumer Agreements came into effect on 17 July 2014. The Regulation was drafted in accordance with the Law on Consumer Protection No. 6502 which came into effect on 7 November 2013. The Regulation includes similar provisions with the previous regulation on the same subject matter while

introducing some minor changes.

Similar to the previous one, the Regulation provides certain examples of unfair terms. In the event that a consumer agreement includes an unfair term, the Ministry of Customs and Trade gives 30 days to the party, who drew up the agreement, to remove such unfair term from the agreement. This period may be extended up to 90 days by the Ministry. If the party does not remove the unfair term from the agreement in the given time period an administrative fine of TL 200 may be imposed for each agreement.

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

<http://www.resmigazete.gov.tr/eskiler/2014/06/20140617-8.htm>

Lessors have a brand new right to terminate their residence and workplace rental agreements, which are renewed for 10 years

Article 347 of the Turkish Code of Obligations came into effect on 1 July 2014.

According to this article, a lessor may terminate his/her residence and workplace rental agreement at the end of each extended lease period after 10 year of extension. The notice regarding the termination of the rental agreement needs to be sent to the lessee 3 months prior from the end of the extended period.



Regulation on Payment Services, Electronic Money Issue and Institutions of Payment Services and Electronic Money

Regulation on Payment Services, Electronic Money Issue and Institutions of Payment Services and Electronic Money was published in the Official Gazette and came into effect on 27 June 2014. Regulation elaborates certain provisions in the Law on Payment and Security Reconciliation Systems, Payment Services and Electronic Money Institutions.

Regulation states that electronic payment services, which are clearly defined in the Law, can only be carried out by the Turkish Central Bank, banks, Turkish Postal Service (PTT) and other institutions authorized by the Banking Regulation and Supervision Board. As per the Regulation, payment services institutions are obliged to use differential phrases with respect to payment services in their commercial titles.

Regulations mainly provides the following: (i) prohibition of providing interest and other benefits to the users, (ii) obligation of issuing receipt for the transactions and (iii) terms and conditions for repayment of electronic funds.

Other important topics regulated under the Regulation with respect to payment services and electronic money



institutions may be listed as (i) management structure of the institutions and their branches, (ii) permitted outsourced services, (iii) internal audit, (iv) initial and equity capital requirements, (v) reserved funds and account management, (vi) agreements with the users and

(vii) exemptions from the Regulation.

Turkish text of the Regulation can be found at the following link:
<http://www.resmigazete.gov.tr/eskiler/2014/06/20140627-6.htm>

Communiqué on Mortgage Financing Institutions

Terms and conditions regarding incorporation and operations of the mortgage financing institutions (MFI) are set forth under the Communiqué on the Principles for Mortgage Financing Institutions published in the Official Gazette dated 17 July 2014 and came into effect as of such date. As per the Communiqué, the Capital Market Board is authorized to monitor and supervise the implementation of the Communiqué.

Under the Communiqué, requirements in order to incorporate a MFI have been determined as follows: MFI shall (i) have a registered capital, (ii) have a minimum capital amount of TL 10,000,000, (iii) have only registered share certificates issued, (iv) have its capital paid in full and in cash without any collusion at its incorporation, (v) have its the Articles of Association in line with the Law, the Communiqué and relevant legislations, (vi) to have its founders, Board members and general manager have the qualifications under the Communiqué, and (vii) to have its shareholding percentages explicit and transparent.

In addition to incorporation requirements listed above, the Communiqué also regulates the requirements for founders, principles for commercial title of the MFI's, necessary approvals to be obtained, management and organization structure of MFI's and other principles

required from the MFI's. The Turkish language text of the Communiqué can be found at the following link:
<http://www.resmigazete.gov.tr/eskiler/2014/07/20140717-8.htm>

Internal Systems of Banks and Capital Sufficiency

The Regulation on the Internal Systems of Banks and Internal Evaluation Process for Sufficiency of Capital was published in the Official Gazette dated 11 July 2014 and numbered 29057, and entered into force as of such date. The Regulation regulates the procedures and principles relating to internal control, internal audit, risk management systems and internal evaluation process for sufficiency of capital of banks.

The Regulation provides that Banks are obliged to establish "internal systems" consistent with the scope and structure of their operations and in line with changing conditions so as to supervise and control the risks they incur. The board of directors of banks will be held responsible for the preparation and operation of such internal systems.

The Regulation also lists the liabilities of the Board members, the qualifications, authorities and liabilities of the members of the Auditing Committee, the liability of the top management separately.

The internal control system, communication structure and information systems, financial reporting systems, control of such systems, duties and liabilities of internal control personnel, internal audit system, duties and liabilities of internal auditors, procedures and principles of internal audit, procedures and principles of risk management are regulated in detail under the Regulation.



The Turkish language text of the Regulation can be found at the following link:
<http://www.resmigazete.gov.tr/eskiler/2014/07/20140711-5.htm>

Answers. Not theories.

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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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