

# THE FINE PRINT

Answers. Not theories.

- Updates in Suspicious Transaction Notifications for Payment and Electronic Money Institutions

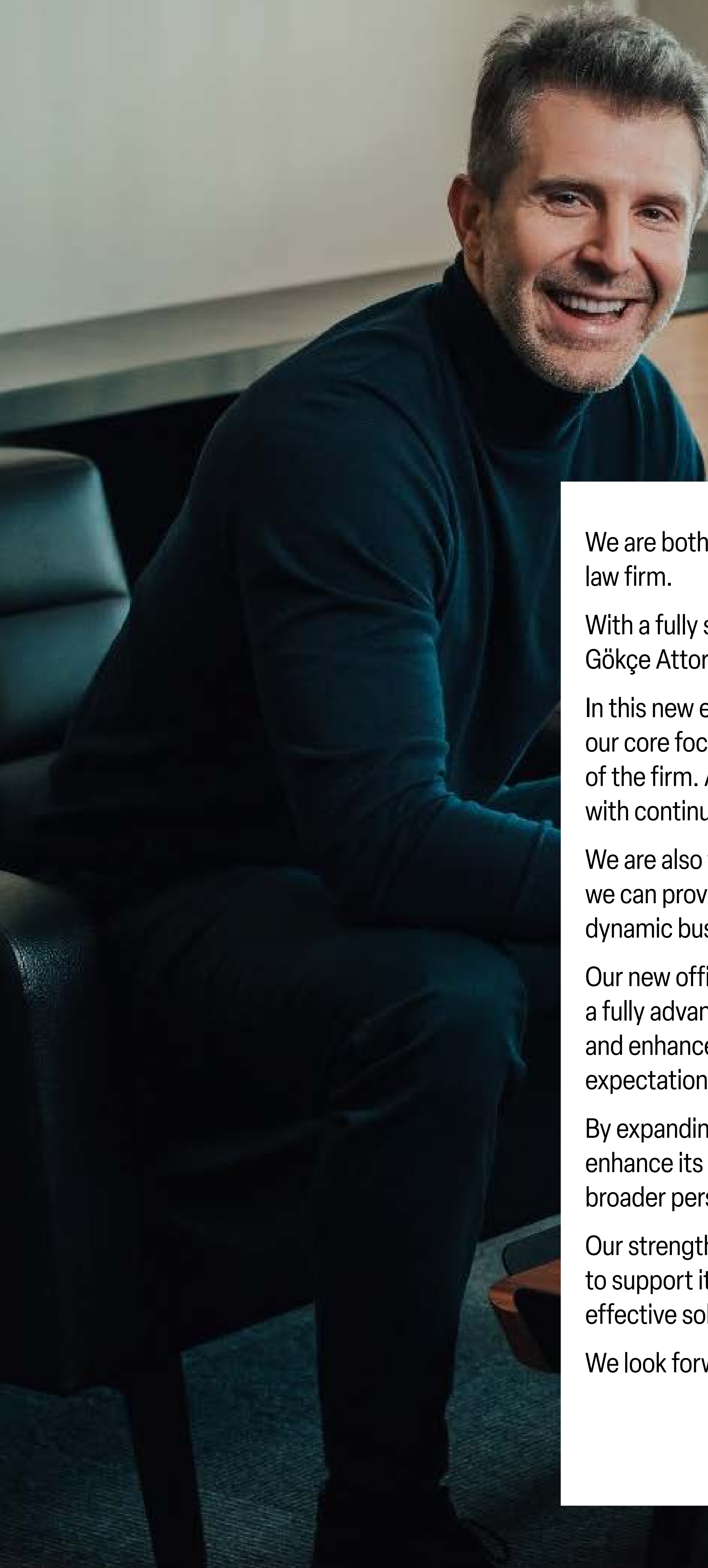
- Advertising Board Can Again Decide to Remove Content and Block Access

- 482 million TRY Fine to Google from the Competition Board

- Advertising Ban of X Lifted in Turkey

**REGULATION ON CRYPTO ASSETS  
COMES INTO EFFECT**

# “FROM THE EDITOR,”



We are both delighted and excited with news on the restructuring of our law firm.

With a fully strengthened team, we will soon be entering a new era as Gökçe Attorney Partnership at a new address.

In this new era, we will continue on our path to serve more efficiently within our core focus areas which have been our priority since the establishment of the firm. Additionally, we will expand our key international capabilities with continued collaborations and new opportunities.

We are also taking significant steps to enhance the quality of the services we can provide to our clients and meet the needs of the ever-evolving dynamic business world.

Our new offices will house a totally modern working environment with a fully advanced technological infrastructure that will both increase and enhance our team's productivity levels and also meet our clients' expectations at the highest level.

By expanding the scope of our international capabilities, we aim to further enhance its ongoing global effectiveness and provide services from a broader perspective, as required by today's business world.

Our strengthened team, with its experience and knowledge, will continue to support its clients and business partners with the most innovative and effective solutions.

We look forward to sharing many future successes with our clients.

*Görkem Gökçe*

## Updates in Suspicious Transaction Notifications for Payment and Electronic Money Institutions

The Financial Crimes Investigation Board (MASAK) announced on 5 June 2024 that the Suspicious Transaction Notification Guide (**Guideline**) and the Suspicious Transaction Notification Guide Form (**Form**), which regulate the procedures and principles regarding suspicious transaction notifications specific to the payment and electronic money institutions sector, have been updated.

Pursuant to Law No. 5549 on the Prevention of Laundering Proceeds of Crime, obligated parties are required to submit suspicious transaction reports to MASAK. In General Communiqué No. 13, MASAK is authorized to publish general and sector-specific suspicious transaction notification guidelines for obligated parties. In this context, as with the banking sector, the relevant details for payment and electronic money institutions have also been established.

MASAK updated the Guideline and the Form within the framework of opinions and suggestions received from representatives and industry associations, as well as the National Risk Assessment Report on Combating Money Laundering and Financing of Terrorism.

The Guideline regulates the principles and procedures for how suspicious transaction notifications will be made by payment and electronic money institutions operating under Law No. 6493 on Payment and Securities Settlement Systems, Payment Services, and Electronic Money Institutions.

We have compiled the main changes in the Guideline below:

- The form has been simplified to cover current financial technologies.
- Sector-specific transaction (e.g. POS transactions, card transactions) and account types (e.g. credit account, time deposit account, digital wallet) have been added.
- New types of suspicious transactions were included by taking into account the evolving and changing crime typologies, demonstrating that efforts are meticulously carried out to ensure that such guidelines are aligned with current developments.
- Terrorist organization information and financing the proliferation of weapons of mass destruction were added to the notification categories.
- Checkpoints were created to improve the quality of notifications in the description field for suspicious transactions.
- Reference value tables were updated, and coding was renewed.
- Sections on identification type and financial institution information intermediating the transaction have been added.
- New categories of suspicion were added (e.g. smuggling of cigarettes, alcohol and tobacco products, pyramid schemes (Ponzi schemes), abuse of non-governmental organizations, illegal aid and fundraising activities) and the selection of the suspicion category was made mandatory.

Suspicious transaction reports submitted electronically until 7 June 2024 were made under the previous version of the Guideline before it was updated.

However, after 7 June 2024, suspicious transaction notifications must be sent only in accordance with the principles and procedures set forth in the Guideline. With the update of the Guideline and the Form, the “MASAK ONLINE 1.0” system, which enables electronic notification, has also been redesigned using the latest technology. Accordingly, within the scope of the “MASAK ONLINE 2.0” project, access security was enhanced, and sector-specific, flexible structures were enabled. An XML guide was prepared and shared with sector representatives to enable obliged parties to make their notifications faster and easier.

You can reach the full version of the updated Guide [here](#) (only available in Turkish) and the full version of the Form [here](#) (only available in Turkish).

## Regulation on Crypto Assets Comes into Effect

The long-awaited regulation on crypto assets in Turkey was submitted to the Turkish Grand National Assembly (TBMM) on May 16, 2024, with the Law Proposal on Amendments to the Capital Markets Law. The proposal was accepted as is by the TBMM General Assembly on June 26, 2024.

The proposal was published in the Official Gazette on July 2, 2024, and entered into force with transitional provisions. Consequently, the first legislation containing comprehensive regulations on crypto assets has now been enacted in Turkish law.

The regulation defines crypto asset service providers (CASPs) and crypto asset platforms. Moreover, it regulates the buying, selling, and transfer transactions of crypto asset platforms for individuals residing in Turkey. Another notable and fundamental point is the requirement for CASPs to obtain permission from the Capital Markets Board (SPK) to be established and operate. Furthermore, the principles and procedures that CASPs must adhere to will be set out in secondary regulations to be issued by the SPK. These secondary regulations will delineate the operational boundaries for CASPs.

The amendment includes numerous transitional provisions. Notably, CASPs are required to apply to the SPK within one month to either submit a license application or declare their intention to liquidate. Secondary regulations regarding the amendment will be enacted within six months.

We examined these changes in our TFP May issue, which you can access [here](#). You can find the amendment that came into effect as is [here](#) (only available in Turkish).

## Amendment Regulating the Authority of the Advertisement Board to Take Decisions on “Removal of Content and/or Denying Access” is in Effect

The Law on the Amending the Turkish Commercial Code and Certain Laws (**Amendment Law**) has been published in the Official Gazette dated 29 May 2024, which includes the powers granted to the Advertising Board for advertisements

contrary to the legislation in the Law on the Protection of Consumers (TKHK). Before the relevant regulations, we find it useful to briefly mention the decision of the Constitutional Court (AYM) numbered 2022/70 E., 2023/152 K. (Annulment Decision) published in the Official Gazette on 27 October 2023 (only available in Turkish).

With the Annulment Decision; The article in the TKHK regulating the authority of the Advertising Board to “deny access to the content, and in cases where access to the content cannot be denied, to issue an access-denying decision for the entire website” in terms of advertisements that contrary to the legislation without any notification was annulled by the AYM because it out of proportion restricted the freedom of expression and the freedom to work and establish an enterprise. In this context, the AYM considered the lack of any notification or warning mechanism before the access-denying decisions to the entire website as disproportionate. Therefore, this authorization of the Advertising Board was annulled. The effective date of the relevant decision will be 27 July 2024, nine months after the publication of the decision. This period was interpreted as an opportunity to readjustment the annulled provisions to avoid a legal gap.

**In this context, the expected changes were made with the Amendment Law.**

Accordingly, following the AYM’s Annulment Decision, the Amendment Law set out a new structure. With the new regulation, the Advertising Board;

- will notify the relevant website to remove the contrary content before issuing an access-denying decision.
- if the content is not removed within 24 hours of the notification, an access-denying decision will be issued.
- it is also possible to issue an access-denying order without notification, exceptionally, if there is no possibility of notification to the addressee.

In addition, as a rule, these access-denying decisions can only be issued “limited to the content that is in contrary”. The Advertising Board can only issue an access-denying decision for the entire website in cases where access to the contrary content cannot be technically blocked or contravention cannot be eliminated by denying access to the content.

These regulations brought to the TKHK by the Amendment Law entered into force on 29 May 2024, the date of publication of the Amendment Law.

The Amendment Law is available [here](#) (only available in Turkish).

## 482 million TRY Fine to Google from the Competition Board!

The Competition Board (Board) announced that it decided to impose a daily administrative fine on Google for each day that it does not fulfill the measure recommendations in terms of hotel queries, totaling approximately TRY 482 million , and that the daily administrative fine was terminated as of 21 May 2024, when the measure recommendations were completed.

This decision is actually based on the Board’s decision dated 08 April 2021 and numbered 21-20/248-105 (Board Decision). As a matter of fact, Google had submitted its measure recommendations including new designs for local search services to the Board in order to eliminate the concerns stated in the Board Decision. Subsequently, the Board was decided to implement these measure recommendations and to monitor these for a period of 3 months on the meeting dated 21 March 2024.

In this monitoring, the Board determined that new designs for local search services submitted by Google were not implemented for “local search services for hotel inquiries” and the Board imposed an administrative fine for each day until the implementation of the new designs. Since Google completed the new design for hotel inquiries on 21 May 2024, the daily administrative fine was terminated as of this date. Thus, the sanction to Google for not implementing the new designs for hotel inquiries was a fine of approximately TRY 482 million in total.

**What kind of evaluations were made in the Board Decision that was the subject of this decision?**

In the Board Decision, Google’s “Local Unit” service, which allows users to conduct their searches limited to a certain geographical area, and “accommodation price comparison (Google Hotel Ads-GHA) service”, which is an advertisement in this local search service, were examined in line with the allegation that Google excluded its competitors by prioritizing its own services. In the examination, the Board found that Google had positioned its Local Unit and GHA service more advantageously (largely at the top of the ranking, in a larger area and in a visually more advantageous way) than its competitors on the general search results page.

The Board importantly emphasized that being on the first page of search results is vital for websites that are trying to gain traffic in general search results while also competing with Google’s own vertical services. Accordingly, the Board considered Google’s positioning of its services above its competitors in the search result rankings and in a wider area as a violation of Article 6 of Law No. 4054. Thus, a fine of 296,084,899.49 TRY was imposed against Google and emphasized that it should provide non-disadvantageous conditions to competing accommodation price comparison services on the search results page.

These examinations that Google has prioritized its own services to the exclusion of its competitors also reveal that the Board has conducted an examination centered on self-preferencing, which has been particularly prominent in the Board’s decisions in recent years.

The full text of the relevant decision announcement is available [here](#) (only available in Turkish).

## Advertising Ban of X (Formerly Twitter) Lifted in Turkey

A long-standing advertising ban on X (formerly known as Twitter) has been a topic of discussion.

The concept of social network provider had been regulated for the first time by the Law No. 5651 on the Regulation of Publications on the Internet and Combating Crimes Committed through These Publications (Law No. 5651), and certain obligations have been imposed on social network providers. Subsequently, the Information and Communication Technologies Authority (ICTA) had published its decision (Decision) on the Procedures and Principles on Social Network Providers.

Accordingly, pursuant to Law No. 5651 and the Decision, foreign social network providers with more than one million daily accesses from Turkey are obliged to designate at least one real or legal person as an authorized representative in Turkey. In case of breach of this obligation, sanctions such as administrative fines and advertisement bans are gradually imposed. As a matter of fact, the last type of sanction among the gradual sanctions is the reduction of the internet traffic bandwidth of the social network provider by fifty per cent in the event that a representative is not appointed within three months from the date of the advertisement ban decision.

A recent development on this matter occurred with X. As you may recall, the ICTA banned advertising on 19 July 2023 for the social network provider X, which did not fulfill its obligation to appoint and notify a representative. At this stage, X would have faced bandwidth throttling sanctions if it had not opened a representative office within the allotted time. Eventually, with the ICTA decision published in the Official Gazette dated 22 May 2024, the advertising ban on X, which opened a representative office in Istanbul and reported it, was lifted.

Compliance with this regulation is commercially and reputationally important for social network providers, considering the consequences and sanctions of non-compliance.

You can reach the relevant ICTA decision [here](#) (only available in Turkish).

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## About us

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, debt recovery, real property, and commercial litigation. Please visit our web site at [www.gokce.av.tr](http://www.gokce.av.tr) for further information on our legal staff and expertise.

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