

Turkey Announces Further Details and Exemptions for Currency Controls on Foreign Currency Contracts

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Turkey has announced further details, exemptions and clarifications for recently introduced rules restricting foreign currency or foreign currency indexed payment obligations in contracts between parties residing in Turkey. These entered into force on 13 September 2018 by amending Decree Number 32 on Protection of Value of Turkish Currency (more).

Restricted Contract Types

The following contract types executed by and between parties residing in Turkey cannot have foreign currency or foreign currency indexed contract prices or other payment obligations:

- Real estate sales agreements for properties located in Turkey (including residential and workplace sales, as well as real estate located in free zones).
- Real estate rental agreements for property located in Turkey (including residential and workplace sales, as well as real estate located in free zones).
- Labor agreements (except for those which will be performed abroad).
- Service agreements including consultancy, brokerage, and transport agreements, except for the agreements relating to:
 - A non-Turkish citizen.
 - Exports, transit trade, export sales and deliveries and activities that result in earning of foreign exchange.
 - Activities to be carried out abroad by persons residing in Turkey.
 - Electronic communication services which either:
 - Start abroad and end in Turkey, or
 - Start in Turkey and end abroad.
- Work/construction agreements (excluding construction, repair and maintenance of ships defined in Law Number 491 Amending the Decree Law and the Turkish International Ship Registry Law Number 4490 on 16 December 1999).
- Sales or rental of vehicles and construction vehicles, excluding agreements made before 13 September 2018.

Exemptions from the Restrictions

The following contract types executed between parties residing in Turkey are not included in the scope of the foreign currency limitations. Thus, these contract types can be made in a foreign currency or be indexed to a foreign currency:

- Movable asset sales agreements (excluding vehicle sales and heavy machinery sales agreements).
- Movable asset rental agreements (excluding vehicle rent and heavy machinery rental agreements).

- Sales agreements for software produced abroad in the context of information technologies and license and service agreements relating to hardware and software.
- The following lease agreements:
 - Financial leasing agreements regarding ships defined in Law Number 491 Amending the Decree Law and the Turkish International Ship Registry Law Number 4490 on 16 December 1999.
 - Financing leasing agreements permitted under Articles 17 and 17/A of Decree Number 32.
- Labor agreements for non-Turkish citizens residing in Turkey.
- Agreements executed by state institutions and organizations and the Turkish Armed Forces Foundation (except sale or rental of real estate).
- All agreements made by contractors of state-owned institutions, provided these relate to performance of a tender, agreement or international agreement awarded by the state based on a foreign currency or indexed to a foreign currency (except sale or rental of real estate or labor agreements with third parties).
- All agreements entered by banks for transactions carried out under the Law on the Regulation of Public Finance and Debt Management number 4749 dated 28 March 2002 carried out by the Ministry of Treasury and Finance.
- Capital market instruments (including foreign capital market instruments, warehouse certificates and foreign investment fund shares) and export, purchase and sale of capital market instruments (without prejudice to the foreign exchange rules of Decree Number 32 on The Protection of The Value of Turkish Currency).
- Labor and service agreements entered into by:
 - Branches, representation offices, offices, or liaison offices in Turkey for persons residing outside Turkey.
 - Companies held by persons residing outside Turkey with at least 50% direct or indirect shareholding.
 - Companies located in free zones within the scope of their activities in the free zone.
- All agreements (except sale or rental of real estate and labor agreements) entered into by the following parties:
 - Commercial airline operators located in Turkey engaged in passenger, freight or mail carriage.
 - Companies providing technical maintenance services for air transport vehicles, engines and related parts.
 - Persons authorized for ground handling services in airports within the scope of civil aviation legislation (including businesses and companies incorporated by the said institutions and their partners with direct or indirect ownership of at least 50%).

Notable Provisions

- Negotiable instruments issued within the scope of agreements within the scope of foreign currency restrictions are also prohibited from being issued in foreign currencies.
- The price of agreements within the scope of the foreign currency restrictions cannot be indexed to precious metals or commodities. The price of these are determined in international markets based on foreign currencies. Precious metals and commodities are considered as a "foreign currency indexed agreement".
- Indirect currency indexing is prohibited.
- The following entities abroad will be regarded as "residing" in Turkey:
 - Branches, representation offices, offices, liaison offices, operated or managed funds of persons residing in Turkey.
 - Companies with at least 50% shareholding by persons residing in Turkey.
 - Direct or indirectly held companies of persons residing in Turkey.

Determining the Turkish Lira Prices

- Foreign currency or foreign currency indexed prices for contracts which fall within the scope of the restrictions must be re-determined in Turkish Lira by their parties upon mutual agreement by 13 October 2018.
- If the parties fail to mutually agree, the foreign currency or foreign currency indexed prices will be re-determined as follows:
 - The Turkish Lira equivalent of the foreign currency price will be determined based on the indicative effective selling rate announced by the Central Bank applicable on 2 January 2018.
 - The Turkish Lira amount will increase on a monthly basis starting from 2 January 2018 until the redetermination date, based on the monthly change ratio in the consumer price index (TÜFE) determined by the Turkish Statistical Institute.
- For residential and workplace rental agreements entered before 13 September 2018:
 - Foreign currency or foreign currency indexed prices must be determined in Turkish Lira in accordance with the above rules for a period of two years as of 13 September 2018.
 - If the parties cannot mutually agree:
 - The rent determined in accordance with the above will increase based on the monthly rate of change of the consumer price index (TÜFE) determined by the Turkey Statistical Institute as of the determination date and until the end of the rental year which the determination was made. The rental fee will apply for one year, starting from the end of the next rental year which the determination was made.
 - The rental fee for the following rental year will be determined by increasing the rent of the previous year based on the monthly rate of change of the consumer price index (TÜFE). The new price will apply until the end of the foregoing two-year period.
- Provisions regarding re-determination will not apply for collected or defaulted receivables.

The Communiqué Amending the Communiqué regarding Decree Number 32 on The Protection of The Value of Turkish Currency was announced in Official Gazette number 30557 on 6 October 2018, entering into force on the same date. Please see this [link](#) for the full text (only available in Turkish).

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