

# YAZICILEGAL

## NEWSLETTER

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### Communiqué regarding Safety Stamps in Electronic Commerce

The Communiqué regarding Safety Stamps in Electronic Commerce (*Elektronik Ticarete Güven Damgası Hakkında Tebliğ*) (the “**Communiqué**”) was published in the Official Gazette numbered 30088 and dated 6 June 2017 and came into force on the date of publication. The Communiqué regulates the safety and quality standards which service providers and intermediary service providers must comply with and the supply, suspension and cancellation of safety stamps.

The safety stamp is an electronic stamp given to service providers and intermediary service providers who must comply with minimum safety and service quality standards set out in the Communiqué in order to increase the safety and service standards of online shopping and develop e-commerce. Institutions authorized by the Ministry of Customs and Trade (the “**Ministry**”) supplying these safety stamps and carrying out necessary activities within this scope are defined as Safety Stamp Providers (“**SSP**”) under the Communiqué.

The conditions that must be complied with in order to obtain a safety stamp are listed in the Communiqué as follows:

- Each transaction that contains personal data or payment information must be executed with a SSL certificate (*secure socket layer*) or EV SSL certificate (*extended validation certificate*);
- Penetration tests must be completed by the companies which contain characteristics set out in the Communiqué;
- Precautions must be taken to prevent children from getting adversely affected from the e-commerce environment;
- Information on stocks, content, product features, shipment and delivery of the goods subject to e-commerce must be provided and service providers must be acting according to the undertakings given in this regard;
- A system must be provided where consumers can request information on their orders and submit their complaints with customer services. The complaints

and requests be administered effectively and must be resolved efficiently;

- In case of natural persons, themselves and their representatives or in case of legal entities their directors and representatives should not have been imprisoned for a year or more than a year for an intentionally committed crime or for any crime specified in the Communiqué; and
- In case of a previous bankruptcy the service provider should have restored its reputation.

The application for getting safety stamps will be made to the SSP either by the service provider or the intermediary service provider. A safety stamp will be provided to the service provider upon completion of the relevant conditions set forth in the Communiqué. Where an applicant has not complied with the conditions listed, 30 days will be given to complete the deficiencies. This time period can be extended for 15 days for one time only. If an applicant complies with the conditions within the given period, then a safety stamp will be provided. Otherwise the application will be rejected. In the event that an applicant has more than one e-commerce platform, an application should be made for each platform separately. The safety stamp will be located on the main page of the service provider’s e-commerce platform.

An applicant who has a safety stamp but who has not complied with the conditions set out in the Communiqué will be given 15 days to comply with the conditions. If the applicant does not comply with the conditions within the given time period, then their safety stamp will be suspended and this will be published on their e-commerce platform. The suspension will be removed upon compliance with the conditions within 30 days.

The safety stamp will be cancelled and removed from the service provider’s e-commerce platform if:

- the service provider requests a cancellation,
- the service provider ends its e-commerce or intermediary activities,
- the service provider has not complied with the conditions set out in the Communiqué within 30 days after suspension,
- the service provider acts contrary to the conditions in the Communiqué and where it is not possible to remove contradictions by providing with a compliance period and repetition of the acts despite two written warnings from the SSP,

- the applicant carries out any activity which results in the 3<sup>rd</sup> suspension of the safety stamp in one calendar year
- insufficient information or misleading documents in relation to the conditions set out in the Communiqué are determined, and
- The service provider goes bankrupt.

According to the Banking Law numbered 5411 and the Law on Payment and Security Settlement Systems, Payment Services and Electronic Money Institutions numbered 6493; institutions who obtained an activity report are not within the scope of this Communiqué.

#### Central Registry Agency's New Implementation Regarding Pledge/Security Transaction

The Central Registry Agency announced that publicly held companies' pledged shares may be transferred without releasing the pledge according to the general letter numbered 793 published on Central Securities Agency's web site on 17 April 2017.

According to the previous implementation, the pledge on a publicly held company's shares must be released and transferred to the investors account in order to transfer the shares, while the new implementation which has been effective as of 15 May 2017, enables to transfer the pledged shares by altering the pledger's/investor's account information without releasing the pledge and changing the pledgee's account. The Central Registry Agency also enables users to proceed with previous implementation.

#### Further Legislative Highlights

**The Regulation Amending the Regulation on Natural Gas Market Distribution and Customer Services** (the "**Regulation**") has been published in the Official Gazette numbered 30091 and dated 9 June 2017 and came into force on the date of publication. The most significant amendments directed to the distribution licensees under the regulation are as follows:

- (i) The provision allowing US Dollar cheque, cash or letter of guarantee to be provided as a security have been removed. In this regard, Turkish Lira deposit or cash instead of blocked check issued in US Dollars and Turkish Lira denominated bank or participation bank letter of guarantee instead of US dollar deposit or cash will be provided as security. Also, according to the Regulation, letter of guarantees should specifically be issued by banks or participation banks.
- (ii) If the obligations in the letter of guarantee have not been fulfilled due to distribution license holder's (a) bankruptcy being finalized, or (b) its license being cancelled as a result of implementation of the penalties regulated by the Natural Gas Market Law numbered 4646, then the letter of guarantee will not be returned

and be recorded as revenue on behalf of the Energy Market Regulatory Authority.

**The Communiqué (2017/2) on the Amendment to the Communiqué on Brandization of Turkish Products Abroad, Establishment of the Image of Turkish Products and Support of TURQUALITY (2006/4)** (the "**Communiqué**") has been published in the Official Gazette dated 1 June 2017 and numbered 30083 and came into force on the date of publication.

In the Communiqué there are two groups of support programmes which can be provided to companies; brand support programme and Turquality support programme. In accordance with the amendments on the Communiqué, supports regarding advertising costs in target markets and expenses related to patent, utility model, industrial design and registration abroad of companies which will be provided under the above mentioned support programmes will be Turkish Lira denominated.

According to the Communiqué, for the companies to benefit from the specified supports regarding their brands in the scope of Turquality support programme or brand support programme, the location of the firm, its vision, its corporate strategies, organizations and technologic competencies should be examined by consulting firms authorized by the Ministry of Economy (the "**Ministry**") and companies will need to obtain a progress road map which contains a strategic business plan designed by these consulting firms to improve the aforementioned aspects to international practice standards.

Where the Ministry determines that the majority of the activities in the road map are not carried out, the support provided is not used effectively or no improvement has been recorded with regards to branding by the company, these companies may be excluded from the scope of the support, the support rate may be limited or their support applications can be restricted.

The support payments which will be provided to companies in the scope of the Communiqué will start after the Ministry approves the progress road map. After the approval, companies within the brand support programme will be able to benefit from the support for 4 years while companies within the Turquality support programme can benefit for 5 years.

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Yours faithfully,  
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