

5 December 2022

**INFORMATION NOTE ON THE DRAFT REGULATION AMENDING THE REGULATION ON BANK CARDS AND CREDIT CARDS**

Banking Regulation and Supervision Agency (“**BRSA**”) has published the Draft Regulation Amending the Regulation on Bank Cards and Credit Cards (“**Draft Regulation**”) on its website on 28 October 2022 to receive opinions from market players. In the Draft Regulation, the term “card scheme” is introduced and various obligations are foreseen for foreign card scheme institutions.

Opinions regarding the Draft Regulation can be e-mailed to [duzenleme@bddk.org.tr](mailto:duzenleme@bddk.org.tr). The Draft Regulation will enter into force three months after being published in the Official Gazette.

**I. WHAT IS NEW?**

**1. Card Scheme**

One of the fundamental changes envisaged in the Draft Regulation is the term “**card scheme**”. All kinds of applications and regulations that enable the implementation of card payment transactions and the structure of card system organizations are addressed under the concept of the card scheme. Accordingly, it can be argued that since the term is defined under the Draft Regulation as “*body of rules, practices, guidelines, and standards that enable card-based payments, also covering the organizational structure, management and executive bodies responsible for the operation of a card system operator independent from the infrastructure and payment systems of such card system operator*” there will be potential changes to the functions of the commerce and service sectors due to the monitoring of card-based payment transactions.

**2. New Obligations**

The Draft Regulation also stipulates certain amendments to Article 21 of the Regulation, which regulates issuing of cards and the respective obligations in connection therewith. According to paragraph 6, the card issuers **cannot issue the cards if the cards are identified in the card scheme of an organisation who does not have an operating license in Turkey**, when the cards to be issued to the clients for domestic use.

Identifying card schemes of card system institutions that have not received an operating permit in Turkey on a card to be used domestically will only be possible **if the card scheme of a card system institution that has an operating license in Turkey is also identified on the card**.

In cases where the card will bear the logo of a card scheme brand, then such card must also bear the logo of all defined card scheme brands.

The card issuers will be obliged to provide the customer with options for the card scheme that will be used for the card during the card application and to comply with the choice of the customer. In addition, they will be obliged to inform the customer clearly and objectively regarding the features, charges, customer’s rights and security measures of all card scheme options, including the domestic and international use of the card.

Additionally, without prejudice to Article 6, the customer cannot be forced to choose more than one card scheme brand at the same time. In case the customer prefers to use more than one card scheme at the same time, it will also be ensured that he/she can determine which scheme will be linked to the card as primary scheme. In the event that the customer requests to change the primary card scheme, the card issuer will be obliged to fulfil such request by within fifteen days at the latest.

Another amendment that may affect the market is that the transaction approval requests that may directed from POS devices allocated to workplaces located abroad can be made conditional. Accordingly, in cases where the institutions located abroad are operating activities aiming the persons residing in Turkey, the card issuers will only be able to approve such transaction approval requests **only if such request is directed through a POS of an institution that has obtained an operating license to execute the member workplace agreements in Turkey**. In this case, foreign companies will be prevented from collecting payments in return of the services provided in Turkey through POS devices located abroad and it will be possible to

collect these payments only if they are directed through an institution that has obtained an operating license for the execution of member workplace agreements in Turkey.

Establishing a business in Turkey by businesses located abroad, creating a Turkish website, carrying out promotional and marketing activities directly and/or through persons or institutions residing in Turkey regarding the goods and services offered will be **considered as "activities aiming the persons residing in Turkey"**. The identification and supervision of these activities will be carried out according to the procedures and principles to be determined by the Banking Regulation and Supervision Board (the "**Board**"), and the Board will decide whether the transactions listed in the Draft Regulation or other similar ones will be considered as activities aiming the persons residing in Turkey. Therefore, **if foreign companies providing services in Turkey** will continue their activities listed by the Board as activities aiming the persons residing in Turkey, in order the collect payments for their services, they will be obliged to work with an institution that has obtained an operating license for the execution of member workplace agreements in Turkey.

On the other hand, according to the amendments envisaged by the Draft Regulation, the card holder will be offered the right to change the card scheme specific to that particular transaction. Institutions that execute member workplace agreements will be obliged to identify the card schemes of card system operators that have obtained operating license in Turkey on their POS devices. If all the card schemes of more than one card system operators are identified on the accepted card and POS, the relevant institution shall determine the priority card scheme preferred by the card holder; if the card holder prefers otherwise, the card holder will be obliged to use other card schemes in accordance with this preference. In this case, the creation and use of card schemes of many card system operators will be shaped according to the preferences of card holders.

Finally, with the provisional article envisaged to be added to the Regulation, the cards existing prior to the entry into force of the Draft Regulation will continue to be used without being affected by these changes and such changes will only be applied to cards that will be renewed after the effective date.

## II. CONCLUSION

With the entry into force of the Draft Regulation as is, broadcasting platforms especially on-demand broadcasting platforms, game and game sale platforms, e-commerce websites and/or applications and software services based on a service (SaaS), and online service providers will be obliged to receive payments in return of their services provided to the persons residing in Turkey through a POS provided by locally established banks or a payment service providers. **It may not be possible for the aforementioned online service providers to collect payments they will receive from the cards of their customers in Turkey through POS devices abroad** and these payments **may be rejected**, therefore, these service providers may need to work **with an institution that has obtained an operating license for the execution of member workplace agreements in Turkey** in order to collect their payments.

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*Should you have any queries on the above, please do not hesitate to contact us.*

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