

## CLIENT ALERT

INSURANCE | TURKEY

APRIL 2020

### COVID-19: RECENT DEVELOPMENTS IN THE TURKISH INSURANCE SECTOR

Amid the COVID-19 coronavirus outbreak, the Turkish Ministry of Treasury and Finance (the "**Ministry**") and the Insurance General Directorate have stipulated several measures of precaution and certain facilities for Turkish insurance companies, as well as new arrangements on commercial credit insurance for SMEs.

Furthermore, certain statements have been made by the Insurance Association of Turkey and a number of insurance companies regarding coverage of treatment costs of the private and complementary health insurance policies for COVID-19 patients. Recent developments in the insurance sector are as follows.

#### MEASURES AND RECOMMENDATIONS FOR THE INSURANCE SECTOR

In a Sector Announcement on the Measures Taken Regarding the COVID-19 Outbreak (2020/4) dated 23 March 2020, the Ministry announced the following main measures to minimise the spread of the virus and to ensure the continuation of insurance services provided to the community:

- **Remote operation of expertise**

Unless otherwise specified, and for a temporary period, and except for the claim files which concern public safety or which are on suspicion of misconduct or which by nature absolutely require actual appraisal, the Ministry stated that claim assessment or risk examination operations can be performed electronically, by means of document, audio, image and video transfer, without the need for any actual expertise, provided that the fact that no actual expertise has been conducted is clearly stated in the expertise report.

- **Procedures on applications to the Insurance Arbitration Commission**

It has been stated by the Ministry that the Decree to Suspend Enforcement and Bankruptcy Proceedings No. 2279, which entered into force on 22 March 2020, shall also be applicable for disputes before the Insurance Arbitration Commission and petitions for objection and annotations can be presented electronically and sent electronically.

In addition, in order to protect the rights of the parties, the enforcement of the arbitral awards and the notification of the awards to the parties have been postponed until 20 April 2020. In this way, parties can exercise their rights of objection/appeal which are subject to specific deadlines.

Moreover, it is recommended by the Ministry that other applications, except for those which may be subject to a period of prescription or statute of limitation, be postponed until 20 April 2020 and that both the applicant and the insurance company lawyers accept to align with the consent requests of the arbitrators regarding the time extensions.

- **Renewal of the traffic insurance policies**

Taking into account the possible delays in compulsory traffic insurance or renewal due to the outbreak, it has been decided by the Ministry

- not to apply additional premiums within the scope of Article 7 and Article 9 of the Regulation on Tariff Implementation Principles for Motor Vehicles Compulsory Financial Liability Insurance;
- not to adversely affect the insurers' right to use their no-claim bonus within the scope of the Circular No. 2019/19 on Implementation Principles for Motor Vehicles Compulsory Financial Liability Insurance

until 30 April 2020 and that the necessary information processing infrastructure shall be established by the Insurance Information and Monitoring Center to facilitate the above.

- **Exemption on sending invoice originals for health insurance compensation claims**

The Ministry stated that claim applicants having granted approval to non-contracted health services providers on the sharing of information about their compensation payments with the Insurance Information and Monitoring Center and the insurance companies would not be required to send invoice originals to the insurance companies.

Accordingly, it has been decided by the Ministry that the approvals given by using text message, call center or telephone, e-mail, internet, structure to be established via E-Government (*E-Devlet* in Turkish) and all kinds of similar tools or media shall be accepted as an approval, provided that it is recorded by the insurance company.

- **Letters delivered by the companies to the Insurance E-Application System**

Within the scope of applications transmitted through the Insurance E-Application System to the relevant insurance and pension companies and other institutions operating in the insurance market, the latter have been authorized, in cases where they are not able to upload signed response documents into the system within fifteen days due to circumstances such as remote working measures, etc., to submit their answers to said applications without signature until the next announcement to be made by the Ministry in this respect, provided that the response documents bear the letterhead of the relevant institution.

- **Recommendation on facilitating payment of insurance premiums**

For the continuity of insurance services, the Ministry has strongly recommended that, in the event of possible delays in the premium payments to be made in relation to the insurance policies, insurance companies grant an additional period of one month to their customers in order to ensure they fulfil their payment obligations and do not cancel the policies immediately.

- **Assessment of indemnity payments**

The Ministry reminds insurance companies that they should carefully assess any claim rejections in branches where a specific time period has been set forth in the legislation regarding indemnity payments, by taking into consideration the fact that courts examine such issues on a case-by-case basis.

## **POSTPONEMENT OF SUBMISSION OF FINANCIAL STATEMENTS FOR INSURANCE, REINSURANCE AND PENSION COMPANIES**

Taking into consideration the fact that companies may need to restructure their work schedule to prevent the spread of the epidemic, it has been decided by the Insurance General Directorate (the "IGD") to postpone the companies' obligation regarding the submission of their financial statements dated 31 March 2020 within one month according to Article 14 of the Regulation on the Submission of Financial Statements of Insurance and Reinsurance Companies and Pension Companies. Accordingly, the following revised deadlines have been announced with the Circular on the Submission of Financial Statements (2020/06) published by the IGD on 19 March 2020:

- 15 May 2020 for insurance and pension companies;
- 15 June 2020 for reinsurance companies, and
- A period of one month to be determined by the previously announced dates regarding the uploads related to other data dated 31 March 2020 to the Insurance Monitoring System (IMS)

The IGD further specified that the above deadlines could be subject to further adjustments to the extent required in light of future developments regarding the epidemic.

## **COVERAGE OF DIAGNOSTIC TESTING AND TREATMENT COSTS OF COVID-19 PATIENTS**

In a press release published on its website on 31 March 2020, the Insurance Association of Turkey stated that, regarding all insured who apply to health institutions in compliance with the special conditions of their policy, insurance companies do undertake all the diagnostic testing expenses until confirmation of the COVID-19 diagnosis as well as treatment costs until the test results are obtained. Treatment costs incurred after the diagnosis of COVID-19 may be paid depending on the coverage of the relevant policy.

However, in practice many insurance companies have announced that, regarding individual and corporate health insurance policy holders benefiting from private and complementary health insurances, the different fees and treatment costs limited to the treatment of COVID-19 in all private hospitals designated as pandemic hospitals by the Turkish Ministry of Health will be covered during the epidemic as *ex gratia* payments in the scope of existing policies.

## **NEW ARRANGEMENTS REGARDING STATE-SPONSORED COMMERCIAL CREDIT INSURANCE FOR SMES**

- **Amendment to the Communiqué on State-Sponsored Commercial Credit Insurance Tariff and Instruction for Small and Medium-Sized Enterprises**

In accordance with the Communiqué on Amending the State-Sponsored Commercial Credit Insurance Tariff and Instruction for Small and Medium-Sized Enterprises published in the Official Gazette dated 25 March 2020 and numbered 31079, the scope of State sponsoring has been extended so as to cover all SMEs. Accordingly, in addition to micro- and small-sized enterprises meeting the required conditions, medium-sized enterprises will also benefit from credit insurance opportunities.

In this context, enterprises willing to benefit from this opportunity must have an annual net sales revenue for the previous fiscal year lower than TRY 125 million. However, said credit insurance will not provide guarantee for sales made to a real persons who do not carry the title of merchant.

The Communiqué also specifies that in the event the policy can be issued within ten days from the date the proposal is submitted, no inquiry fee will be charged regarding the risk assessment to be made in relation to the buyer to be covered by the credit insurance.

A maximum coverage limit of TRY 750,000 will be made available to enterprises applying for credit insurance and the upper limit of such coverage will be determined depending on the turnover realized by said enterprise from forward sales. Such upper limit can be increased by taking into consideration the requested guarantee limit and risk assessment criteria requested.

It has been decided that medium-sized enterprises with annual net sales revenue of up to TRY 40 million in the previous financial year will be offered credit insurance starting from 25 March 2020 and that medium-sized enterprises with annual net sales revenue above TRY 40 million but not exceeding TRY 125 million in the previous financial year will be offered credit insurance starting from 1 April.

- **Transactions regarding the determination of credit limit provided to buyers**

In accordance with the Circular on the Determination of the Credit Limit Provided to Acceptors Under the State-Sponsored Commercial Credit Insurance for Small and Medium-Sized Enterprises issued by the Ministry on 1 April 2020, the procedures and principles for determining the credit limits provided to buyers in this context have been arranged and it has been decided that the following criteria will be taken into account:

- The turnover obtained from forward sales;
- Credit limit requested by the enterprise claiming credit insurance for buyers;
- The buyers' financial information;
- The risk score of the buyers determined by the Unusual Risks Management Center ("Center") assigned within the framework of Article 33/A of Insurance Law No. 5684;
- Other information and documents deemed appropriate by the Ministry.

Moreover, the Ministry specified that, in case the credit limit requested by the enterprise for a buyer is higher than the maximum credit limit provided for such buyer, the credit limit provided for said buyer may be increased up to eight times following the risk assessment to be made by the Center taking into account the criteria mentioned above.

- **State-committed reinsurance support**

In accordance with the "Decree on State Sponsored Commercial Credit Insurance System on State-Committed Reinsurance Support" published in the Official Gazette dated 30 March 2020 and numbered 31084, the following State reinsurance support has been committed regarding insurance contracts concluded between 1 April 2020 and 1 April 2021 for which the risk could not be transferred through reinsurance and retrocession;

- At least 75% for the share constituting 50% of the covered risk undertaken by the Center;
- At least 110% for the share constituting the remaining 50% of the risk.



*In compliance with Turkish bar regulations, opinions relating to Turkish law matters that are included in this client alert have been issued by Özdirekcan Dündar Şenocak Avukatlık Ortaklığı, a Turkish law firm acting as correspondent firm of Gide Loyrette Nouel in Turkey.*

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