

client alert

INSURANCE | TURKEY |

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HIGH-RISK INSURANCE POOL FOR MTPL IN TURKEY

On 11 July 2017, the following amendments to the Turkish insurance legislation were published in the Official Gazette upon adoption by the Undersecretariat of the Treasury (the "**Treasury**"):

- Regulation amending the Regulation on the Implementation Principles of the Motor Third Party Liability Insurance ("**MTPL**") Tariffs ("**MTPL Amendment Regulation**"); and
- Regulation amending the Regulation on the Capital Adequacy Calculation and Assessment of the Insurance, Reinsurance and Private Pension Companies ("**Capital Adequacy Amendment Regulation**").

Pursuant to this legislation, a long-discussed High-Risk Insurance Pool has been established for MTPL, as mentioned in our [Client Alert regarding recent changes on MTPL, which was published in August 2016](#).

Accordingly, the relevant changes have also been reflected in the Capital Adequacy Amendment Regulation, together with a few changes on equity capital adequacy provisions. Please find below a brief explanation of the notable changes brought by these amendments.

AMENDMENTS TO THE REGULATION ON THE IMPLEMENTATION PRINCIPLES OF THE MOTOR THIRD PARTY LIABILITY INSURANCE TARIFFS

The MTPL Amendment Regulation sets out a number of new provision on the MTPL principles implementation regarding motor vehicle operators and persons carrying out professional activities in relation to motor vehicles:

- Pursuant to the amendments made to Article 4/6 on the principles for determining insurance premiums, the determination of MTPL premium amounts for motor vehicle operators will no longer be subject to the proposal of the Insurance Association of Turkey, and will be directly set by the Treasury.
- Under Article 4/6 on motor vehicle operators, a High-Risk Insurance Pool has been established for motor vehicles subject to a high frequency risk or at a high risk level (*i.e. all vehicles in 1st, 2nd and 3rd grades, and taxis, minibuses, buses, trucks and tow trucks in all grades*). The principles set out for this High-Risk Insurance Pool will be applied starting from **12 April 2017**.

- When calculating the minimum premium amounts, the Treasury will, among other things, take into account the upper premium limits determined by the Treasury under Annex 1 of the MTPL Amendment Regulation of May 2017. The calculation will be made in accordance with Annex 4 (i.e. for vehicles subject to the High-Risk Insurance Pool) whereby discounts of 10%, 20% and 30% will be applied in grades 5, 6 and 7 respectively.
- All accounts in relation to the High-Risk Insurance Pool must be managed by the Turkish Motor Insurers' Bureau, under the Insurance Association of Turkey.
- The commission payable to insurance intermediaries is 8% of the amount of the premium (excluding taxes and contribution amounts but including social security contribution amount) and covers operating costs. For insurance companies the commission amounts to 5%.
- Annual calculations of the premium and paid damage sharing in the High-Risk Insurance Pool will be made in two stages:
 - 50% of the premiums and paid damages will be shared equally between all the insurance companies; and
 - 50% will be shared in accordance with the MTPL premium shares of the insurance companies over last three years.
- Any disputes between the High-Risk Insurance Pool and the insurance companies will be resolved by the Turkish Motor Insurers' Bureau, with the Treasury's assent.
- The Treasury is entitled to apply administrative measures against insurance companies that have previously been warned about a refusal to issue insurance policies within the scope of the High-Risk Insurance Pool.
- In addition to these amendments, a maximum limit has been set for the payment of loss of value, corresponding to 15% of the coverage limit regarding motor vehicle operators and persons carrying out professional activities in relation with motor vehicles for the years 2017 and 2018. This provision will only apply to policies issued after the date when the MTPL Amendment Regulation was published (11 July 2017).

AMENDMENTS TO THE REGULATION ON THE CAPITAL ADEQUACY CALCULATION AND ASSESSMENT OF THE INSURANCE, REINSURANCE AND PRIVATE PENSION COMPANIES

The main amendments to the Regulation on the Capital Adequacy Calculation and Assessment of the Insurance, Reinsurance and Private Pension Companies are as follows:

- Risk calculation on an excessive premium increase has been removed from the risk items taken into account for the equity capital adequacy calculation;
- Premiums transferred to the High-Risk Insurance Pool must not be taken into account when calculating the underwriting risk; and

At the request of an insurance company, the Treasury is entitled to extend certain time limits applicable to protective measures to be taken by the insurance company in the event of a decrease in the equity capital / required equity capital ratio below 100%.

The provisions of the Capital Adequacy Amendment Regulation are valid starting from 11 July 2017.

In compliance with Turkish bar regulations, opinions relating to Turkish law matters 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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