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REGULATION ISSUED PROHIBITING THE USE OF CRYPTO ASSETS FOR PAYMENTS

“Regulation on Non-Use of Crypto Assets in Payments” is published in the Official Gazette of Turkish Republic Central Bank no. 31456 on 16.04.2021.

The Republic of Turkey Central Bank made the following statement regarding the enforcement of the Regulation prohibiting the use of crypto assets for payments in an announcement published in its web site on 16.04.2021.

“Crypto assets hold serious risks for related parties as they are not subject to any regulation and control mechanism, they don’t respond to any central authority, their market value is highly instable and they have the tendency to be used for illegal activities due to their anonymous nature, their transactions are irrevocable in case wallets are stolen or they are unduly used without the knowledge of their holders.”

We have lately observed various attempts towards the use of these assets for payments. It has been assessed that the use of these assets for payments might possibly create irrevocable damage for related parties due to above reasons and existing methods and tools in this area hold certain elements that might evoke lack of trust.

In this respect, “Regulation on Non-Use of Crypto Assets in Payments” is enforced by virtue of the Central Bank of Turkish Republic Law no. 1211 and Law no. 6493 on Payment and Securities Settlement Systems, Payment Services and Electronic Money Institutions.”

In this respect, the regulation prohibits the use of crypto assets in payments, provision of services for the use of crypto-assets directly or indirectly as payment or for the use of issuance of electronic money. The regulation further specifies terms and conditions prohibiting payment and electronic money institutions from intermediating for platforms that offer trading, custody, transfer or issuance services regarding crypto-assets or for transfer for funds from such platforms.

1-Definitions

Definitions included in the regulation and Law no. 6493 on Payment and Securities Settlement Systems, Payment Services and Electronic money Institutions are listed below.

Electronic money

Electronic money is monetary value which is issued by an institution in exchange of accepted funds, kept electronically, used to realize payment transactions specified in this law and accepted, as a means of payment, by real and legal persons other than the electronic money issuing institution.

Electronic money establishment

A legal person authorized to issue electronic money under Law no. 6493.

Electronic money issuing institutions

Persons other than banks acting in accordance with the Banking Law, the General Directorate of Post and Telegraph Organization and e-money institutions which are allowed to issue electronic money within the framework of this Law are prohibited to engage in e-money activities.

Payment instrument

Private tools as cards, mobile phones, keywords etc. used to order a payment by the user of payment services in accordance with the agreement between the payment service provider and its user.

Payment services

Payment services include;

- All transactions required to operate a payment account including services authorizing withdrawal of money from and depositing money to the payment account,*
- Direct indebtedness including transfer of fund pertaining to the payment service user in the account of the service provider, not excepting one-off transactions, payments on card or a similar instrument and money transfer including direct debit mandate,*
- Issuance or acceptance of the payment instrument,*
- remittance,*

- Payment transaction in which approval of the payment is issued via an IT or electronic communication device and payment between the service user and the service provider is made to an intermediary IT or electronic communication operator,
- services intermediating invoice payment,
- Making an order of payment, with the demand of the service user, on a payment account in another payment service provider,
- transfer of consolidated information regarding one or more payment account, with the consent of the service provider, to online platforms,
- other transactions and services reaching the level specified by the Bank with respect to overall magnitude and impact in the domain of payments.

Payment service providers

- Banks acting within the scope of the Banking Law
- Electronic monetary institutions
- Payment institutions
- The General Directorate of Post and Telegraph Organization

Payment institutions

Payment institution willing to be active in payment services can be operative upon receiving a permission from the Central Bank.

2-Definition of crypto assets

It is noteworthy to state that discussions continue, both in our country and in the world, on whether crypto assets are money, commodity/virtual commodity, security, financial instrument/asset or immaterial asset. Nevertheless, it can aptly be stated that the crypto money definition in the regulation finalized these discussions in a certain sense.

The definition of crypto asset in the regulation is as follows:

*“They constitute **intangible financial assets** which are virtually created via distributed ledger technologies or a similar technology and distributed via digital networks, yet which are not deemed token money, deposit money, electronic money, payment tool, security or another capital market tool.”*

According to this Regulation, crypto assets will no longer be evaluated as money, commodity, security or financial asset; they will rather be deemed as intangible assets.

3- The use of crypto money in payments

Crypto money will not be used for payment either directly or indirectly. Furthermore, no services will be provided towards direct or indirect use of crypto assets for payment.

4- Non-use of crypto assets in payment service delivery and electronic money issuance

Payment service providers will not develop business models based on direct or indirect use of crypto money in payment service procurement and electronic money issuance, they won't provide services regarding such business models.

Payment and electronic money institutions will not intermediate platforms providing crypto money sales and purchases, retention or issuance or fund transfer in such platforms.

5- Enforcement

Terms of the Regulation will be effectuated on 30.04.2021.

6- Taxing crypto assets

This definition of crypto assets by the Central Bank created the need for new regulations regarding taxation of crypto assets in the forthcoming period. The ministry is expected to direct this implementation via an official statement.

With respect,

**DENGE İSTANBUL YEMİNLİ
MALİ MÜŞAVİRLİK A.Ş.**

ANNEX

Regulation on the Non-Use of Crypto Money in Payments

(*) Explanations in our communique are intended for informative purposes only. We recommend you to receive insights and support from an expert counselor before making any definitive transactions in case of reservation. Our consultancy holds no responsibility for damage that might arise from transactions deemed to be solely based on the statements in our communique.

(**) For insights, criticism and questions regarding our communique, please kindly contact experts whose contact details are included below.

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