# MINISTRY OF TREASURY AND FINANCE OF TURKEY CIRCULATED A DRAFT COMMUNIQUE REGARDING THE BAN ON F/X CURRENCY CONTRACTS EXECUTED BETWEEN TURKISH RESIDENTS

**Following the recent Decree of the Presidency of the Republic of Turkey dated 13 September 2018, (Decree No: 85) that bans to use foreign currencies in contracts between Turkish residents, the Ministry of Treasury and Finance circulated a draft Communiqué on October 3, 2018, to receive opinions of relevant parties on implementation of the referred Decree and clarification of applicable exemptions.**

Pursuant to the Draft Communique and as provided by the Decree No:85, following contracts shall not be in or indexed to foreign currencies when executed between Turkish residents:

- Sale and rental of real estates;
- Sale and rental of movables (including vehicles);
- Employment contracts;
- Service contracts;
- Work contracts.

Under the Draft Communique, following contracts shall be exempt from prohibition of f/x currencies as referred to under Decree No:85, and thus, below contracts may be executed in or indexed to foreign currencies:

(1) Employment and service contracts executed by branches, representative offices, offices and liaison offices incorporated by non-residents of Turkey and by companies with 50% or more non-resident shareholders and by companies in free trade zones;

(2) Employment and service contracts relevant with services to be performed by Turkish residents abroad;

(3) Employment and service contracts executed by non-citizens of the Republic of Turkey;

(4) Service contracts relevant with export, transit trade, sale and deliveries in the form of export, and services and activities resulting foreign currency earnings;

(5) Work contracts relevant with construction of ships under Law no. 4490 and 491;

(6) Sale or Rental Contracts for sale or rental of movables (excluding sale or rental of vehicles);

(7) Financial Leasing and Leasing Contracts relevant with ships;

(8) Financial Leasing (leasing) Contracts concerning activities under Articles 17 and 17/A of Decree no. 32;

(9) Contracts executed by banks relevant with transactions under Law on Public Finance and Management of Debts (Law No:4749);

(10) Certain contracts executed by commercial airline companies, including companies performing support, maintenance and ground services to the same, and companies incorporated by the same;

(11) Certain contracts executed by public entities and public institutions.

The Draft Communique also provides following principles:

a. Indexing the values of contracts to precious metals and/or commodities traded in international markets in foreign currencies shall be treated as indexing to foreign currencies.

b. Negotiable instruments to be executed under the referred contracts shall also be subject to the prohibition of foreign currencies.

c. Branches, representative offices, offices and liaison offices incorporated by Turkish residents in foreign jurisdictions; investment funds held or managed by Turkish residents in foreign markets and corporations with shareholding of Turkish residents by 50% or more and corporations directly or indirectly held by Turkish residents in foreign jurisdictions shall also be treated as Turkish residents for the purpose of the Decree;

d. In conversion of the f/x values of respective contracts into Turkish Lira, in case the relevant parties cannot mutually agree, the banknote selling rate of Turkish Central Bank as of (i) 2nd January 2018, for contracts executed before then; or (ii) the date of the contracts for contracts executed after 2nd January 2018, shall be applicable. Further revisions of such contracts shall be subject to rate of monthly changes in CPI (Consumer Price Index) to be announced by Statistics Institution of Turkey.

It should be noted that the provisions defined above are based on a draft Communique and it was circulated to receive the opinions of relevant parties. Accordingly, the Draft Communique may be subject to certain revisions until it is officially issued and put in effect. However, in consideration of reactions of the market, we believe the exemptions referred to in the Draft Communique should not be less but should be expected to cover additional aspects in final version.


## CONTACT

Eryürekli Attorney Partnership

T: +90 212 365 9600

info@eryurekli.com