

### COLLECTION OF CONSUMER FINANCE LOANS IN MOBILE PHONE SALES BY MOBILE PAYMENT METHOD

Consumer financing institutions operate as per the Regulation on the Establishment and Operational Principles of Financial Leasing, Factoring and Financing Companies (the “**Consumer Financing Regulation**”) and provide financial convenience to consumers in purchasing goods or services. Furthermore, payment institutions operate as per the Regulation on Payment Services and Electronic Money Issuance and Payment Service Providers (the “**Payment Services Regulation**”) and provide various payment services to consumers. Today, consumer finance institutions collaborate with payment institutions in the collection process of loans extended to customers. In this article, we will discuss the legal issues that arise during the cooperation.

#### 1. Cooperation Model of Consumer Financing Institutions and Payment Institutions in Mobile Phone Sales

This cooperation basically takes place between seller, consumer/buyer, consumer financing institution and payment institution. Consumer who wishes to purchase a mobile phone finances the price of the mobile phone with a loan obtained from consumer financing institution. consumer financing institution provides consumer with a loan in the amount of the device’s purchase price and pays the loan amount directly to the seller. As a result, seller receives the device purchase price directly from consumer financing institution. The consumer repays the loan debt to consumer financing institution by adding the loan installments to the electronic communication invoice through a licensed payment institution within the scope of Payment Services Regulation (mobile payment).

In this transaction model, since seller, payment institution and consumer financing institution are generally affiliated to the same group of companies, the said group generates sales revenue due to device sales, interest income arising from the utilized loans and service fee and commission income due to mobile payment service.

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## 2. Legal Issues that arise from Cooperation of the Consumer Financing Institutions and Payment Institutions in Mobile Phone Sales

According to Consumer Financing Regulation and the Banking Regulation and Supervision Agency (BRSA)'s Board Decision dated 5 January 2023 and numbered 10479 (the "**BRSA Decision**"), the term of the loans for the purchase of mobile phones with a price up to TRY 12,000 cannot exceed 12 months, and the term of the loans extended for the purchase of mobile phones above TRY 12,000 cannot exceed 3 months.

Payment Services Regulation, which entered into force on 1 December 2021, established a transaction limit of TRY 500 per transaction and TRY 1,250 per month for mobile payment transactions. The Central Bank of the Republic of Turkey (CBRT) is authorized to increase these limits up to three times. According to such TRY 500 transaction limit, monthly installment of the consumer financing loans can be no more than TRY 500 if they are reflected on the electronic communication invoice and paid via mobile payment. As per the BRSA Decision, it is no longer possible to collect mobile phone purchase prices exceeding TRY 12,000, which can be divided into a maximum of 3 installments via mobile payment. For mobile phones priced less than TRY 12,000, a maximum loan amount of TRY 6,000 (12x500) can be collected within 12 months. Since mobile phone prices are currently well above these limits, mobile phone sales will be extremely limited with this business model.

## 3. Conclusion

When the BRSA's consumer loan term limitations based on mobile phone prices and the CBRT's regulations regarding the limits on mobile payment transactions are interpreted in a consolidated manner, it is estimated that mobile phone sales, which are carried out with the business model of consumer financing institutions and payment institutions, will be adversely affected to a large extent by the said regulations.

## CONTACT

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