



# Update Turkey Desk

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## **The new law introduces a brand new system for pledge over movable assets under Turkish law**

The Turkish Parliament adopted on October 20, 2016, the new Law No. 6570 on Pledge over Movable Assets in Commercial Transactions (the “**Law on Pledge over Movable Assets**”). The new law will be effective as of January 1, 2017.

With the new Law on Pledge over Movable Assets, the previous and impractical collateralization practice of pledge over movable assets under Turkish law is redefined. Until the Law on Pledge over Movable Assets, Turkish law required the transfer of possession of movable assets for the validity of a pledge over such assets, except for commercial enterprise pledges and pledges over certain movable assets subject to the registration in special public registers. The new law abolishes the long-established practice of commercial enterprise pledge in the Turkish lending market and introduces a more practical, but a brand new system of collateralization practice with movable assets. Under the new law, non-possessory pledges will be permitted and the problem of lack of publicity of the old regime will be replaced with the registration of pledges in the movable asset registry, which is also expected to be established until the effective date of the new law (January 1, 2017).

Under the new law, individual movable assets will be able to become subject of a pledge without having to pledge the entire commercial enterprise. A pledge will be validly perfected by registration with the movable assets registry system (except for movable assets with their own public registries), details on the functioning of which are expected to

## **The New Law on Pledge over Movable Assets Published**

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## **Significant changes for lending and collateralization practices**

## **Perfection before the newly introduced movable assets registry system**

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be announced soon. The registration with the new register will serve publicity function against third parties. A movable asset pledge agreement may be executed in writing before the movable assets registry office or in electronic form with registered electronic signatures. Pledge agreements and all transactions before the official registry will be exempt from any tax, charges or other fees.

A movable pledge agreement under the new law will be possible between banks, financial institutions and merchants, tradesmen, farmers, producers, organizations, self-employed individuals or legal entities, or between merchants and/or tradesmen.

Movable assets that fall within the scope of the new law are exclusively listed and include receivables, commercial enterprises, intellectual property, trade names, raw materials, rental income, tenancy rights, any kind of proceeds, stocks and inventories, machinery and vehicles. As it can be seen from this list, creating pledge over an entire commercial enterprise will still be possible under the new law despite the abrogation of the previous commercial enterprise pledge law which has been popularly used in the Turkish lending market.

Under the new Law on Pledge over Movable Assets, a first-degree pledgee will be entitled to ownership on the pledged assets, which is a significant exception to the principle of *Lex Commissoria* under Turkish civil law. Furthermore, by making pledging of receivables possible within its scope, the new law introduces a new and more secure option to the collateralization practice by way of assignment of receivables.

The Law on Pledge over Movable Assets introduces a practical new system to the commercial practice in Turkey. Besides facilitating an easier access to financing for small and medium size enterprises, the new law should also ease commodity financing. Businesses are expected to diversify their borrowing requirements much easier and lenders will have a more secure and practical lending and collateralization environment thanks to the establishment of the new movable assets registry.

Should you have any questions about the impacts of the new law on your business, please do not hesitate to contact us.

### **Movable assets under the new law**

### **Exception to *Lex Commissoria* and introduction of a new collateral system over receivables**



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