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# Turkish Competition Authority Imposed Fine on Five Insurance Companies

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On 23 January 2020, with its decision numbered 20-06/61-33, the Turkish Competition Authority (“TCA”) concluded its full-fledged investigation against eight insurance companies operating in the market for voluntary insurance for big projects with high-risk capacity (including project financing) and fined five of them due to the violation of Article 4 of the Law No. 4054 on the Protection of Competition (“**Competition Law**”). Accordingly, the TCA fined Allianz Sigorta A.Ş. (“**Allianz**”), Dubai Starr Sigorta A.Ş. (“**Dubai Starr**”), Eureko Sigorta (“**Eureko**”), HDI Sigorta A.Ş. (“**HDI**”) and Sompo Japan Sigorta A.Ş. (“**Sompo Japan**”) for information exchange in certain coinsurance businesses. As per the short decision published by the TCA on its website as of 28.01.2020, while the TCA imposed a fine at the rate of 0,3% of Allianz and Dubai Starr’s annual gross revenues generated at the end of the 2018 fiscal year, whereas HDI and Sompo Japan has been fined at the rate of 0,2%. Among these undertakings, the TCA imposed the highest rate of administrative fine to Eureko by 0,8% of its annual gross revenues generated at the end of the 2018 fiscal year. On the other hand, Aksigorta A.Ş. (“**Aksigorta**”), an Ageas subsidiary, Axa Sigorta A.Ş. (“**Axa**”) and Zurich Sigorta A.Ş. (“**Zurich**”) concluded the investigation without facing any fine. This decision constitutes the characteristics of being the second decision in the insurance sector in which a fine has been imposed on since the TCA was established.

The process culminating in administrative fines for five insurance companies was started with the application of Ministry of Treasury and Finance Insurance Auditing Board to the TCA in December 2017. During the preliminary investigation phase, the TCA carried out dawn raids at the premises of insurance companies and brokers and sent them request for information letters. As a result of its preliminary investigation, the TCA found evidences sufficient to initiate a full-fledged investigation and the investigation was started on 3 May 2018.

The investigation focused coinsurance practices among the insurance companies. During the investigation, the TCA classified the coinsurance contracts under two groups as open and closed coinsurance contracts. The closed coinsurance contracts have emerged in line with the needs of the Turkish market and this can be considered as a facultative reinsurance that thus the domestic insurance companies gave reinsurance support each other for projects with high-risk capacity. In this context, the TCA thoroughly assessed this coinsurance relationship among the insurance companies and the possibility that this relationship may violate the Competition Law through the information exchange. During the investigation, the TCA expressed that the respective coinsurance

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practices may contain information exchange in a certain extent because of their nature, however, within the scope of the competition rules, in order for protection of the competition, the boundaries of this communication should be determined. Following the publication of the reasoned decision by the TCA, we will be able to further assess how the TCA evaluates concerned communications among the insurance companies. Nevertheless, it should be emphasized that this decision is of utmost importance for the insurance companies in order to design their coinsurance practices in the future.

In the past, the insurance sector was fined by the TCA only one time. In 2006, the TCA has fined 11 insurance companies which were active in fire insurance market due to the reason that they have a protocol for determining a minimum price for fire insurance policies. Although it was 14 years ago, it should be noted that recently the insurance sector is under the TCA's radar in particular. In 2016, the TCA has initiated an investigation against all insurance companies (i.e. 33 undertakings) operating in traffic insurance market and an association in order to determine whether they violate Article 4 of the Competition Law. After the investigation process which lasted one and a half year, the TCA decided not to impose fine on the concerned insurance companies. Furthermore, the insurance sector has experienced two preliminary investigations regarding the traffic insurance and surveyor practices in last 3 years.

As can be observed from the foregoing developments, the TCA keeps its eye wide open on the insurance sector in Turkey lately and its decisions affects the practices of the insurance companies. In this context, it is believed that this decision will establish a guideline for the insurance companies in their coinsurance businesses.