

LEGISLATIVE AMENDMENTS TO TURKISH FINANCIAL MARKETS

Certain amendments were made on multiple laws concerning Turkish financial markets with the Law No. 7222, including provisions for compliance with certain principles of the Basel Committee on Banking Supervision and Financial Stability Board.

On 25 February 2020, Law No. 7222 Amending Banking Law and Certain Other Laws (“**Amendment Law**”) was published in the Official Gazette and brought several amendments to laws governing Turkish financial markets including the Banking Law No. 5411 (“**Banking Law**”), Law on Bank Cards and Credit Cards No. 5464 and Financial Leasing and Factoring Law No. 6361.

With the Amendment Law, the following amendments concerning the Banking Law, Law on Bank Cards and Credit Cards No. 5464 and Financial Leasing and Factoring Law No. 6361 have entered into force:

1) Precaution Plans

A precaution plan was envisaged to be prepared by systemically important banks as to determine the measures to be adopted in case of financial failure or insolvency. However, in case the bank will not be able to obtain positive results in accordance with the precaution plan, Banking Regulation and Supervision Agency (“**BRSA**”) remains entitled to adopt administrative measures as provided in the Banking Law.

2) Risk Groups

The risk groups which trigger specific conditions for the utilization of loans have been rearranged and (i) executives and (ii) relevant executives’ spouses and children have been included to definition of risk groups stated in Article 49/2 of the Banking Law. In addition to this, new risk groups have been established regarding the Treasury, Turkish Wealth Fund, other public authorities and their subsidiaries.

3) Investment and Development Banks and Participation Banks

The scope of credits in connection with the Banking Law has been extended to cover certain financing options provided by the investment and development banks. Further to this, BRSA becomes authorized body to determine the scope of credits provided by the investment and development banks and participation banks in relation to the application of Banking Law.

The scope of funds collected by investment and development banks which are not deemed as deposits, has been rearranged and (i) funds collected from credit customers, (ii) subsidiaries and (iii) their shareholders have been included to definition of these funds.

Non-interest bearing operations of investment and development banks and participation banks have been explicitly placed under BRSA's regulatory authority.

Participation banks' investments to other companies' shares are limited to 50% (fifty percent) of the total collected participation funds.

4) Authorities of Central Bank of the Republic of Turkey

Ceilings for interest rates applicable to credits and deposit, commissions and fees to be collected by banks were left to the sole authority Central Bank of the Republic of Turkey ("CBRT"), instead of president of the Republic of Turkey.

CBRT's obligation to periodically announce the maximum interest rates applicable to bank cards and credit cards has been abrogated.

5) Protection of Personal Data

Personal data including the data belonging to legal entities, obtained after the establishment of customer relation were deemed as client secrets and now required additional conditions in order to be transferred. So that both the provisions of the Banking Law and the Personal Data Protection Law No. 6698 are applicable to relations between the banks and their clients after these amendments; however, specific regulations regarding personal data under the Banking Law shall be prevailed.

6) Manipulation and Misleading Transactions

With the current amendment, (i) creating artificial supply, (ii) artificial demand, (iii) foreign exchange movements and (iv) spreading incorrect or misleading information have been included to the definitions of manipulation and misleading transactions and in case of any of the aforementioned occurs, there will be sanctioned with administrative fines.

7) Administrative Measures

The administrative power of BRSA with respect to adopting prohibitions on signatory powers of employees of banks has been extended. Now, signatory powers of persons whose actions are considered as a threat to the banking system can also be lifted by BRSA and the measure can be adopted in case a complaint is filed to the public prosecution office.

Administrative and judicial powers are envisaged in order to restrict access to websites of persons conducting unauthorized banking activities.

Administrative fines have been re-calculated and amended to comply with the new obligations set forth in the Amendment Law.

8) Required Capital of Factoring Companies

The required share capital of factoring companies has been increased to TRY 50.000.000 (fifty million Turkish Liras). With this amendment, factoring companies should meet the newly adopted share capital requirement within one year as of the date of Amendment Law's publication.

9) Turkish Wealth Fund

Exemptions from credit limitations applicable to certain risk groups, have been provided to Turkish Wealth Fund Management Inc. and Turkish Wealth Fund.

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