

REGULATIONS REGARDING REMOTE IDENTIFICATION AND ELECTRONIC CONTRACTS IN TURKISH CAPITAL MARKETS ARE PUBLISHED

Pursuant to the new communiqués published by the Capital Markets Board of Turkey, the procedures and principles regarding the remote identification methods to be used by investment institutions and the establishment of the contractual relation in the electronic environment are regulated.

Regulation on Remote Identification Methods to be Used by Banks and the Establishment of Contractual Relation in Electronic Environment examined in our Legal Alert dated April 2, 2021, has entered into force on May 1st, 2021. Following the said regulation, remote identification methods to be used by investment institutions and procedures and principles regarding the establishment of contractual relation in the electronic environment are regulated under the Communiqué No. III-42.1 on Remote Identification Methods to be Used by Intermediary Institutions and Portfolio Management Companies and Establishment of Contractual Relation in Electronic Environment and Communiqué No. III-45.1.b Amending the Communiqué No. III-45.1 on Documents and Book-Keeping System Regarding Investment Services and Activities and Ancillary Services published at Official Gazette dated February 8th, 2022 and numbered 31744 (“**Communiqués**”) which will enter into force on March 8th, 2022.

Please find the below provisions brought by the Communiqués:

- a) General principles regarding remote identification through online video calls between the personnel performing the identification and the person subject to the identification are regulated. Within this scope, investment institutions shall create workflow procedures regarding the documents, information and criteria to be used for remote identification, and take measures to

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minimize technological, operational and similar risks that may arise due to online communication.

- b) Remote identification procedures shall be carried out by special trained personnel in the areas with limited access exclusively allocated for this process.
- c) Processes for receiving the request for remote identification, risk assessments, special categories of personal data that can be used and general criteria to be applied during the online interview are determined. Within this framework, forms in compliance with the Financial Crimes Investigation Board regulations shall be used, questions to be asked by the personnel shall be determined, and the interview shall be held in real time and without interruption.
- d) During the remote identification process, an identity card with distinguishable security elements, a photograph and a signature shall be used. Additional security and verification processes shall be carried out regarding the identity and identification during the visual verification.
- e) In case of disruptions in the remote identification process or doubts that there are risks of fraud, forgery and similar issues, the process shall be terminated before the completion.
- f) During the remote identification process, investment institutions are responsible for minimizing the risk of false identification. Individuals that are identified remotely shall be monitored under a separate risk profile.
- g) Identity verification processes required for the establishment of distance contracts in the electronic environment, the data to be used in such transactions, the measures to be taken and the functions of the identity verification mechanism, and the conditions sought for the validity of distance or non-distance contracts established through electronic environment replacing the written form are determined.

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