

CAPITAL MARKETS BOARD ADOPTS NEW RULES IMPROVING THE COLLATERAL CONTROLS FOR LEVERAGED TRANSACTIONS TO THE BENEFIT OF INVESTORS

This legal alert aims to set forth the amendment of Capital Markets Board of Turkey (“CMB”) dated October 20, 2017 on the Communiqué on Principles Regarding Investment Services, Activities and Ancillary Services numbered III-37.1

CMB has adopted a new Communiqué Amending Communiqué No. III-37.1 published in the Official Gazette numbered 30216 and dated October 20, 2017 (“**Amendment Communiqué**”) that sets forth new rules which focuses primarily on collateral control, monitoring and reporting requirements of intermediary institutions engaging into leveraged transactions.

The Amendment Communiqué, which will enter into force in December 25, 2017, clearly defined Istanbul Settlement and Custody Bank (“**Takasbank**”) as the central settlement agency whereto the collaterals for leveraged transactions will be posted, and also, such collaterals will be monitored and reported through the same agency by intermediary institution.

Further, the Amendment Communiqué introduced the terms *gross worth* and *net worth* as the notions that will identify either the collateral deficit or excess due to the open or closed positions of each investor. *Gross worth* covers (i) the deposited and withdrawn collaterals and (ii) the balance of the closed positions of the investor in relation to the leveraged transactions. Likewise, *net worth* covers (i) the deposited and withdrawn collaterals and (ii) the balance of all the positions, both open and closed, of the investor.

With the Amendment Communiqué, it is clearly stated that;

- a. the collaterals posted by the investors for leveraged transactions are required to be deposited and reported to Takasbank by the intermediary institution on the next business day at latest within Takasbank trading hours,
- b. investors may monitor the gross worth and net worth amounts through Takasbank system,
- c. the gross worth and net worth amounts shall be updated by the intermediary institution on a daily basis,
- d. the collaterals posted to Takasbank shall be updated by intermediary institution licensed with “Dealing on Own Account” on a daily basis due to the profit and loss of each investor,
- e. in the course of reporting;
 - i. the amount of collateral corresponding to the net worth of investor shall be deposited to the sub-account opened in the name of each investor in Takasbank,
 - ii. the amount of collaterals corresponding to the gross worth exceeding the net worth of investors shall be deposited to the *leveraged transactions collateral reserves account* opened in the name of the intermediary institution in Takasbank,

on the next business day at latest, on a daily basis within Takasbank trading hours.

- f. the amount to be deposited to the leveraged transactions collateral reserves account, shall not be less than 50% of the difference between gross worth and net worth of all the customers. If the amount is less than the afore-mentioned, additional collateral shall be deposited by intermediary institution or if the amount exceeds this limit, the exceeding collateral can be withdrawn.

According to Provisional Article 7 of the Amendment Communiqué; the reporting terms pursuant to paragraphs 7 and 8 of the amended Article 27/A will take effect on January 2, 2018 and the deposit of the collaterals, completion of the deficit amounts and withdrawal of the exceeding amounts will be exercised

on the following day. This date, in case the operational issues are not completed yet, can be postponed to January 8, 2018 by Takasbank by placing an announcement to Takasbank member entities.

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