

EXPANDING ROLE OF CENTRAL BANK OF TURKEY IN MONITORING FX POSITIONS

With the recent amendment, Central Bank of Turkey starts to monitor the foreign currency positions of metropolitan municipalities, municipalities, public economic enterprises and universities.

1. Recent Amendments

As previously announced in our legal alerts dated 28 February 2018 and 2 July 2018, Central Bank of Turkey (“**CBOT**”) published a “*Directive on Principles and Procedures Concerning the Monitoring of Transactions Affecting Foreign Currency Position by Central Bank of Turkey*” (“**Directive**”) on 17 February 2018 in the Official Gazette numbered 30335, whereby CBOT has undertaken the role of monitoring the foreign currency (“**FX**”) positions of the real persons and legal entities other than banks and financial institutions defined pursuant to Banking Code No. 5411, whose FX cash loan and FX indexed loan obtained from abroad and in Turkey are in aggregate equal to or more than USD 15 million as of the last business day of the respective accounting period, through a systemic risk data tracking system (“**System**”).

On 19 September 2018, CBOT published a new Directive in the Official Gazette numbered 30540 amending the Directive (“**Amendment Directive**”). With this Amendment Directive;

- CBOT is further liable from monitoring the FX positions of metropolitan municipalities, municipalities, enterprises and administrations affiliated to municipalities, enterprises whose 50% of the capital is owned or co-owned by metropolitan municipalities or municipalities, public economic enterprises and higher education institutions (such as universities) as well as the real persons and legal entities other than banks and financial institutions defined pursuant to Banking Code No. 5411 as formerly set out under the Directive and these entities are required to notify CBOT of their FX positions accompanied with their data forms and information required pursuant to the Directive,
- Although the Directive stipulates an independent audit obligation; metropolitan municipalities, municipalities, enterprises and administrations affiliated to municipalities and higher education institutions (such as universities) are exempted from this independent audit obligation,
- As regards to the notification to be made to CBOT, notification period for interim accounting terms expiring respectively on 31 March, 30 June and 30 September has been increased to two (2) months following each term,
- For the firms applying special accounting period, a new rule has been brought whereby the notification shall be made until the expiry of two (2) months following the interim accounting period and three (3) months following the annual accounting period,
- A minor wording change with respect to the audit term for the company's annual accounting period has been made, whereby auditor is required to complete its audit until the expiry of the first five (5) months of the following year,
- Powers of CBOT has been broadened concerning the operation of the System and electronic registry to the System is introduced as well as registry through electronic signature.

2. Assessment

With the Amendment Directive, the scope of monitoring capability of CBOT is broadened as well as its powers to gain CBOT a more extensive supervision capability on the real persons and entities in Turkey, as listed above, engaging into FX positions.

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