

NEW REGULATION ON SALE OF FROZEN RECEIVABLES OF STATE-OWNED BANKS TO ASSET MANAGEMENT COMPANIES

This Legal Alert aims to set forth the principles brought by the regulation issued by Banking Regulation and Supervision Agency concerning the sale of frozen receivables of state-owned banks and their financial subsidiaries to asset management companies.

On August 11, 2017, Banking Regulation and Supervision Agency (“BRSA”) issued a new regulation named as “Regulation on Selling of Receivables of State-owned Banks and Financial Subsidiaries of such Banks to Asset Management Companies (the “Regulation”)” that took effect on its publication date. This Regulation allowed the state-owned banks and their financial subsidiaries to sell their receivables to the asset management companies incorporated in Turkey.

As per the Regulation, the receivables that are capable to be sold to asset management companies shall carry the characteristics of frozen receivables that are already defined under the “Regulation on Procedures and Principles regarding Classification of Loans and Receivables and Reserve of Bank Provisions” as limited recourse loans, doubtful loans and loss-making loans and receivables. In fact, Regulation also classified the loans and receivables monitored in the accounts of “Receivables to be Liquidated” and “Receivables Having the Nature of Loss” pursuant to Article 16 of the Financial Leasing, Factoring and Financing Companies Law no. 6361, as frozen receivables again.

In its essence, the Regulation sets forth the characteristics of frozen receivables and the principles in relation to the sale of such receivables. BRSA, in this sense, obliges the respective bank or financial subsidiary to determine these principles through its board of directors' decision, to perform a cost and benefit analysis in consideration of factors such as efficiency, market conditions, payment potential, collateral standing and debtor's asset and to proceed in accordance with the principles of this analysis. Besides, BRSA obliges the state-owned banks and their subsidiaries, to comply with the regulations regarding internal systems while managing the sales process and therefore, the sales process shall contain information with respect to sales method, tender terms and characteristic of the receivables to be sold. The registration, disclosure and information phases of the sale shall also comply with the regulations regarding account and record keeping of the Banking Law no. 5411 and Financial Leasing, Factoring and Financing Companies Law no. 6361.

In general, with this new Regulation, the state-owned banks and their financial subsidiaries, may take advantage of selling their frozen receivables to asset management companies and improving their cash flow.

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