

### Banking & Finance

#### Classification of Loans and Other Receivables

The Regulation regarding the Classification of Loans and Other Receivables by Banks and Reserves to be set aside in consideration of Loans and Other Receivables (the "Regulation regarding Reserves") (published in the Official Gazette dated November 11, 2006 and numbered 26333) classifies loans in five groups:

- standard loans and other receivables
- loans and other receivables which are closely monitored
- loans and other receivables with limited collection probability
- loans and other receivables, the collection of which are precarious, and
- Loans and other receivables which may be referred to as a loss.

The Amendment to the Regulation regarding Reserves (published in the Official Gazette dated May 28, 2011 and numbered 27947) states that agreements pertaining to loans and other receivables classified under (1) may be amended provided that the conditions provided with regard to the monitored loan and debt receivables of the banks for such group are kept. Additionally, if such an amendment intends to extend the first payment scheme, general loan cover shall be reserved which shall not be less than five times the rate determined with regard to Article 7 (in other words, one percent of the standard quality cash loans and two per thousand of the sum of the letters of guarantee, bills of guarantee and warranties and other non-cash loans) and information shall be given in relation to the loans and other receivables with specified qualifications in the financial reports.

The Amendment to the Regulation regarding Reserves also states that the general reserve rate for all standard qualified non-cash loans shall apply at three per thousand for banks if the total amount of letters of guarantee, acceptance credits, letters of credit commitments, endorsements, purchasing guarantees of security issuance, factoring guarantees, other guarantees and warranties and the sum of unsecured prefinancing credits extended by such banks exceeds ten times their equity as calculated within the framework of principles and procedures determined by the Regulation on the Equity of Banks. Nevertheless, the Banking Regulation and Supervision Board, in consideration of the standard rate of capital adequacy, may impose on the banks the reserving of general cover at the same or a higher rate.

#### Regulation regarding Corporate Management Principles of Banks

The Amendment to the Regulation on the Corporate Governance Principles of Banks, issued by the Banking Regulation and Supervision Agency (the "BRSA") was published in the Official Gazette dated June 9, 2011 and numbered 27959. Such amendment has changed Principle 6 provided under the Annex of the Regulation and implemented new wording on the compliance of the wages policy with the ethical values, strategic targets and internal balances of banks. The main points of the amendment are: (i) a salary policy shall be formed and revised at least once every year, and, (ii) the criteria for performance payments shall be included in the banks' yearly activity report.

#### Financial Leasing and Reserves for Factoring and Financing Companies

The Amendment to the Communiqué regarding Financial Leasing and Reserves to be set aside by Factoring and Financing Companies (published in the Official Gazette date June 18, 2011 and numbered 27968) states that factoring and financing companies shall cover a loan reserve in the amount of four per cent (4%) of the loans extended under consumer credits, excluding vehicle and housing loans. Also, such rate shall be increased to eight per cent (8%) in the case of default on the repayment of the principal and/or interest pertaining to such loans if such default exceeds 30 days but is less than 90 days.

Additionally, a provisional clause has been implemented in the Communiqué imposing measures on the receivables of factoring and financing companies arising from transactions entered into with real or legal entities resident in Libya.

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### Capital Markets

#### Short-term Bonds and Bills Funds

As announced in our newsletter Q4/2010, the Communiqué on Principles regarding Investment Funds (**Serial: VII, No: 10**) of the Capital Markets Board (the "CMB") was amended on 1 April 2011 and a new fund entitled "short-term bonds and bills fund" introduced. Further to the amendment, it is stipulated that at least 51% of the said fund portfolio shall be invested in public or private debt instruments. The average term period for the funds shall be between 45 and 90 days.

#### Salary Principles for Brokerage Firms

Further to the CMB principle decision dated 14 April 2011 and numbered 12/383, published in the CMB Weekly Bulletin numbered 2011/17, important principles have been established regarding the salaries of brokerage firm personnel. The CMB has concluded that the application of these principles is subject to the "apply or explain" approach. The said decision provides significant principles regarding the salaries of upper level management and qualified employees.

#### Amendment on Scope of Derivatives Licenses

Further to an amendment to the Communiqué regarding Principles for Intermediation Activities and Intermediation Firms (**Serial: V, No: 46**) on 6 May 2011, the scope of the licence for the intermediation for purchases and sales of derivative instruments has been amended. Accordingly, the previous version of the Communiqué stated that the license owner was only capable of intermediating in transactions involving derivative instruments not traded in local markets. According to the amendment, such a license can be used for the purchase and sale of derivative instruments that are not based on Istanbul Stock Exchange (the "ISE") indexes or securities traded on the ISE.

#### Amendment to Statutory Reserve Ratios

Communiqué No. 2005/1 regarding Statutory Reserves (the "**Communiqué**") was amended on 22 April 2011 to be effective as of 13 May 2011. The amendment to Article 5 of the Communiqué increases statutory reserve ratios depending on the type of account held with the Central Bank of the Republic of Turkey.

#### ISE Dividend Indexes

The ISE announced on 22 June 2011 that the calculation of two new indexes, the ISE Dividend Index and the ISE Dividend 25 Index, will start as of 1 July 2011. The ISE Dividend Index shall be constituted of companies that fulfil the following conditions: i) according to their last three annual financial statements they have made a profit, ii) they have distributed cash dividends for such periods and iii) have made a profit in the 12-month period preceding the date of the last financial statement. The ISE Dividend 25 Index will constitute 25 companies with the highest free float market value selected among the companies ranking in the first two-thirds of the ISE Dividend Index companies with the highest dividend yield as of the review date.

### Competition

#### Draft guideline on commitments for M&A competition clearances

The Communiqué regarding Mergers and Acquisitions Calling for the Authorization of the Competition Board (**Communiqué No. 2010/4**) (published in the Official Gazette dated October 7, 2010 and No. 27722) grants parties to a merger or acquisition transaction, for which Competition Board clearance is required, the right to make commitments to the Competition Board if clearances are granted subject to the fulfilment of certain conditions and/or obligations.

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In this regard and based on Communiqué No. 2010/4, a Draft Guideline (the “Guideline”) regarding commitments to be provided to the Competition Board concerning mergers and acquisitions has been launched. The Guideline intends to provide guidance on commitments regarding particular concentrations in breach of different aspects of competition that the Competition Board may deem present under certain circumstances.

The Guideline sets out the principles applicable to commitments the Competition Board may accept, the main types of acceptable commitments, specific requirements commitments must meet and requirements for the implementation of commitments. The Guideline declares that the proposed commitment must be based on legal and economic principles; it is expected to eliminate concerns arising from concentration and maintain the competitive structure of the market.

## Employment & Labour Law

### Work Permit Changes

The following amendments were made on April 28, 2011 to the Regulation Regarding the Implementation of the Law Regarding Work Permits for Foreigners (No. 25214) (*published in the Official Gazette dated August 29, 2003*).

Work permit applications are required to be made by a petition electronically to the authority determined in the Regulation Regarding Work Permits for Foreigners.

The Foreign Personnel Application Form and documents should be filled in line with the instructions in the attachment of the Regulation Regarding Work Permits for Foreigners.

For applications made abroad, an application shall be made by the foreigner to the Turkish diplomatic representatives of Turkey in the foreigner's country of origin or permanent residence (Article 6). Turkish diplomatic representatives of Turkey and the Ministry shall lead the application process electronically.

Only foreigners holding a valid residence permit at least for a period of six months at the time of the application, or their employers, may make an application for a work permit directly to the Ministry in Turkey and moreover the required documents for the application process shall be provided to the Ministry within six days following the electronic application.

Work permit extension applications are to be made electronically by a petition to the Ministry, in accordance with the principles explained under the Article 5 (Article 8).

Foreigners, who apply for the work permit extension, may work in the same workplace and same occupation, for a maximum of 45 days as of the date the work permit expires. The employment relationship within this period shall be considered as a legal employment relationship and the obligations of the foreigner, relevant authorities and the employer shall continue.

As per the recent changes the requirement to employ five Turkish employees per foreign employee shall be fulfilled by the employers wishing to employ foreigners. In other words, during the evaluation of the work permit application process, the Ministry will require the employer/company to evidence that five Turkish employees are registered on the payroll of the company. The Ministry published a new announcement regulating the possible exceptions to this on April 20, 2011.

Further to the evaluation criteria, determined in accordance with the Article 13 of the Regulation Regarding Work Permits for Foreigners (No. 25214) (*published in the Official Gazette dated August 29, 2003*) applicable as of August 2, 2010, the requirements the applicant companies and foreigners must meet are as follows:

1. The employment of minimum five personnel, who are citizens of Turkey, in the applicant company, is mandatory. In the event that the applicant foreigner is a partner of the company, the minimum five personnel condition is required only for the last six

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months of a one-year work permit assigned by the Ministry. In the event of a work permit request for more than one foreigner in the same company, the requirement of minimum five personnel of Turkish citizenship shall be met for each subsequent foreign applicant, respectively.

2. The paid-up capital of the company has to be minimum TRY100,000 or the gross sales of the company have to be minimum TRY800,000 or the previous year's exports of the company has to be minimum USD250,000.

3. The share of the applicant foreign partner has to be minimum 20%, provided that the share of capital held by the foreign partner is minimum TRY40,000.

4. The monthly salary of the foreign applicant declared by the company has to be in accordance with the foreigner applicant's competence and duties. Therefore, by taking the subsistence wage in force as of the application date into consideration, the salary to be paid to the foreigner should be minimum:

6.5 times the subsistence wage for senior staff, pilots, and engineers and architects who requested prior authorization,

4 times the subsistence wage for unit or branch managers and engineers and architects.

5. The evaluation criteria foreigners must meet in order to obtain a work permit, stated in clauses 1 and 2 above, will not be applied in the event that there is a bilateral or multi-lateral agreement to which Turkey is a party and the foreigner is employed by state institutions and organisations for the purpose of the purchase of goods and services by contract or tender procedure.

6. The evaluation criteria that foreigners must meet in order to obtain a work permit, stated in clauses 1 and 2 above, will not be applied upon the approval of General Directorate in the event that advanced technology is needed or there are no Turkish experts with the same qualifications.

7. In the event that the company has a Featured Foreign Direct Investment clause, the criteria stated in clause 1 above for foreigner applicants who are not key personnel, shall be applied taking the number of Turkish personnel who are employed by the company nationwide into consideration.

## Dispute Resolution

### Prohibition on Shareholders becoming Indebted to the Company

A new provision is regulated in Article 358 of the new Turkish Commercial Code No. 6102 (the "TCC") (the effective date of which is 1 July 2012, subject to certain exceptions), which provides that shareholders may not become indebted to the company with the exception of debts arising from subscription.

The main purpose of such provision is to prevent shareholders from using the company's case arbitrarily for work and transactions or for personal expenses and to prevent withdrawal of money from the company.

Whoever acts in violation of this provision shall be punished by imprisonment of not less than three hundred days (Art. 562/5(c) of the TCC). Board of Directors members who are actively or passively involved in such actions are in violation of the Code under Article 553.

Indeed, companies are also compelled to consider this point in other regulations. For instance, if the company lends money to its shareholders:

A corporate tax penalty may be applied as the lending may be considered to be a distribution of disguised profit through transfer pricing;

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The money which was lent may be subject to withholding tax at 15% as it may be considered to be a distribution of dividends to shareholders;

If half of the dividend exceeds TRY23,000, it should be officially declared; and

VAT of 18% may be applied.

## Tax

### Lease Certificates

The Decree of the Council of Ministers numbered 2011/1854 and dated April 26, 2011, entered into force upon being published in the Official Gazette dated June 29, 2011 and numbered 27979 (the "Decree"). Pursuant to the Decree, new regulations have been enacted regarding lease certificates issued abroad by asset lease companies resident in Turkey and lease certificates issued by asset lease companies within the scope of the Communiqué on Principles regarding Lease Certificates and Asset Lease Companies (Serial No. III/43) issued by the CMB. In this regard, the provisions regarding withholding tax rates under Article 94 and Provisional Article 67 of the Income Tax Law (Law No. 193), Article 15 and Article 30 of the Corporate Tax Law (Law No. 5520) and the banking and insurance transactions tax rates under Law regarding Expenditure Taxes (Law No. 6802) have been reduced (to zero percent in some cases) in relation to gains derived from the aforementioned securities.

## Energy & Natural Resources

### Mining Regulatory Changes

The Amending Regulation of the Regulation on Opening Businesses and Operating Licences was published in the Official Gazette dated July 3, 2011 and numbered 27983, outlining amendments in relation to the legislation on mining activities.

### Electricity

(1) The Electricity Market Licensing Regulation (published in the Official Gazette dated 4 August 2002 and numbered 24836) was amended on 5 April 2011. The amendment includes amendments on the rights and obligations of legal entities holding production and/or autoproduction licenses. Such amendments also cover changes with respect to the demerger of the generation companies and its circumstances. In addition, the regulation includes changes in license application conditions, new regulations for necessary changes to licenses, progress reports for legal persons and legal entities already with licenses, and a provision referring to the Environmental Impact Assessment Regulation.

(2) The Electricity Market Side Services Regulation Draft (published in the Official Gazette dated 27 December 2008 and numbered 27093) was prepared on 8 June 2011 by the Energy Market Regulatory Authority ("EMRA"). While making some changes to the provisions of the regulation, this draft regulation also introduces some new provisions on the issue of billing. In this regulation, the criteria for the legal entities that will provide side services. The provision on the payment notifications is replaced with a new provision.

### Natural Gas

The Natural Gas Market Licensing Regulation (published in the Official Gazette dated September 7 September 2002 and numbered 248694) was amended on 9 April 2011. The regulation includes changes about the license application conditions. The regulation also includes changes about the time periods in relation to the obligation of submitting the necessary changes on the license and the address changes of the licensee for the legal persons and legal entities that already have a license.

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The election of the legal entities that have License application for having natural gas storage at the same place Draft regulation was prepared on 13 June 2011 by EMRA. The purpose of this regulation is to determine the criteria of the license application for the legal entities that already have a natural gas storage license application, to regulate the procedure and principles of the license competition. The Draft is prepared based on the Natural Gas Market Law issued on 18 April 2001 with the issue number of 4646 and the Amendment made on this same Law on the 13 February 2011 with the issue number of 6111.

### Oil

The Oil Market License Draft Regulation (published in the Official Gazette dated 17 June 2004 and numbered 25495) was prepared on 8 June 2011 by Energy Market Regulatory Authority. Draft regulation was prepared on 13 June 2011 by Energy Market Regulatory Authority. The purpose of this regulation is to regulate the procedure and principles of the license applications and of the amendments on the licenses.

### Solar

The Solar Energy-Based Electricity Generation Plants (published in the Official Gazette dated 19 June 2011 and numbered 27969) has been enacted by the Ministry of Energy and Natural Resources. The aim of this Regulation is to determine the standards and the testing procedure of the system which will be used in the solar-energy based electricity generation plants and to regulate the amount of the solar-energy produced in these types of generation plants. This regulation is prepared upon the Law on the Use of Renewable Energy Sources for Electricity Generation which was published in the Official Gazette dated 10 May 2005 and numbered 5346.

### Wind

The Competition Regulation on the License Applications of the Establishment of Wind Energy Production Facilities (published in the Official Gazette dated September 22 September 2010 and numbered 27707) was amended on 9 April 2011. Amendments mainly focus on the procedures of the offers on the Contribution of Wind Power Plant. There will be new procedures which will be applied for the determination of the projects that will be able to use the Wind Power Plant connection capacity of the substation.

## Insurance

### New provisions governing insurance and reinsurance employees

The Regulation on the Establishment and Operational Principles of Insurance and Reinsurance Companies (published in the Official Gazette dated September 24 August 2007 and numbered 26623) was amended on 12 April 2011. This Regulation contains new provisions concerning the qualifications necessary for employees, administrators and managers, and the use of their powers.

## Transportation, Logistics & Defence

### Changes to maritime regulations

The Regulation on Vessel Agencies (published in the Official Gazette dated 2 June 2011 and numbered 27952) has been enacted by the Ministry of Transportation (Undersecretariat of Maritime Affairs). The aim of this Regulation is to provide a orderly and efficient working environment for the vessel agencies that corresponds to the national and international maritime rules, to develop a professional high standard education an discipline for effective service, to encourage activities of vessel agencies with solid and consistent financial structure, by specifying the qualification standards and serving principles to issue their permits. The Regulation came in the force its issue date on the Official Gazette.

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## Telecommunications, Media & Technology

The Regulation on the Administrative and Financial Conditions that Media Service Provider Organizations and Platform and Infrastructure Operators are required to comply (published in the Official Gazette dated 15 June 2011 and numbered 27965) has been enacted by the Radio and Television Supreme Council. The aim of this regulation is to define the Administrative and Financial Conditions, broadcast license, authorized broadcast transmission and to determine the principles and procedures of the transfer of shares concerning the Media Service Provider Organizations and Platform and Infrastructure Operators.

### Satellite broadcasting licenses changes

The Satellite Broadcast Regulation (published in the Official Gazette dated 15 June 2011 and numbered 27965) has been enacted by the Radio and Television Supreme Council. This Regulation covers procedures and principles of issuing licenses of satellite broadcasting for media service providers, to issue broadcast transmission authority to platform and infrastructure operators and to determine the obligations of these enterprise.

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