

## Banking & Finance

### Communiqué on Legal Reserves

The Communiqué (published in the Official Gazette dated November 16, 2005 and numbered 25995) has been amended by the: (i) Communiqué I (published in the Official Gazette dated October 6, 2011 and numbered 28076); (ii) Communiqué II (published in the Official Gazette dated October 7, 2011 and numbered 28077); (iii) Communiqué III (published in the Official Gazette dated October 28, 2011 and numbered 28098) (iv) Communiqué IV (published in the Official Gazette dated November 2, 2011 and numbered 28103); and (v) Communiqué V (published in the Official Gazette dated November 4, 2011 and numbered 28105) (collectively the "Communiqués")

whereby the legal reserve ratio regarding: (i) FX demand deposits, future deposits and FX private current accounts, deposits/participation accounts up to one month, up to three months, up to six months and up to one year maturities has been decreased to 11%; and (ii) FX deposits/participation accounts with a one year or longer maturity and cumulative FX deposits/participation accounts has been decreased to 9%.

The legal reserve ratio for other foreign currency liabilities of banks regarding (i) future transactions up to a one year maturity has been set at 11%, (ii) future transactions up to three years maturity has been set at 9% and (iii) future transactions with a maturity of more than three years has been set at 6%.

Additionally, the legal reserve ratio for accounts in Turkish lira has been set at (i) 11% for demand and future deposits and private current accounts and future/participation accounts with maturities of up to one month and three months and (ii) 8% for future/participation accounts with a maturity up to six months.

Furthermore, banks are required to set aside their mandatory reserves in their accounts kept by the Central Bank of the Republic of Turkey in Turkish lira for their Turkish lira liabilities and in US dollars and/or in Euro for their liabilities in foreign currency. However, pursuant to Article 6 of the Communiqué, banks may set aside 40% of their Turkish lira liabilities in foreign currency and 10% of their Turkish lira liabilities in gold.

### Council of Ministers Decree on Decree No. 32

Decree No. 32 has been amended by the Council of Ministers Decree (published in the Official Gazette dated November 17, 2011 and numbered 28115) whereby the definition of "precious metals" has been amended to mean gold, silver, platinum and palladium in any kind and form. Additionally, definitions of processed, unprocessed and non-standardly processed gold, silver, platinum and palladium have also been amended.

Pursuant to Article 7/a of Decree No.32, precious metals can be imported and exported in and out of Turkey freely in accordance with Foreign Trade Regulations. However, the import and export of precious metals which are not processed in accordance with the standards shall not be subject to such regulations and regulations of Central Bank of Republic of Turkey and other regulations pertaining to such metals shall be applicable. Additionally, the export of such metals shall only be performed by the intermediary institutions listed in the Precious Metals Exchange.

## Capital Markets

### New Communiqué Regarding Corporate Governance Principles

The CMB has been authorized by Decree Law No. 654 (published in the Official Gazette dated October 11, 2011 and numbered 28081) to determine and implement corporate governance principles in capital markets and publish communiqués.

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Accordingly, the CMB introduced Communiqué Serial/No IV/54 on the Determination and Implementation of Corporate Governance Principles (published in the Official Gazette dated October 11, 2011 and numbered 28081, 2.bis) which stipulates the obligation for ISE National-30 Index companies (excluding banks) to comply with some of the corporate governance principles. Meanwhile, the corporate governance principles of the CMB have been revised and attached in the annex of the Communiqué.

Furthermore, the CMB introduced a new communiqué on the same matter to increase the scope. On December, the Communiqué Serial/No IV/56 on Principles Regarding the Determination and Application of Corporate Governance Principles (published in the Official Gazette dated December 30, 2011 and numbered 28158) has entered into force. As a result, all listed companies are obliged to be in accordance with the corporate governance principles determined by the CMB. The communiqué stipulates various provisions including changes in the structure of boards of directors and the authorities of general assemblies, and the obligatory presence of an independent member of the board.

## FX Transactions

The CMB announced on September 27, 2011 that further to the entry into force of the Communiqué of the CMB Serial No. V/125 on Principles regarding Leveraged Sale and Purchase Transactions and Institutions to Realise these Transactions (published in the Official Gazette dated August 28, 2011 and numbered 28038), no intermediary institutions have been granted the license for leveraged transactions, though there have been a number of applications for obtainment. However, solicitation of local investors by foreign companies is against the relevant legislation and may be subject to sanctions. Local investors may open accounts and enter into transactions on their own initiative and outside the scope of the CMB legislation. Furthermore, the CMB has also announced minimum standards for framework agreements and IT infrastructure for institutions that can obtain the relevant licenses.

## Sukuk Issuances

During October 2011, two participation banks applied to the CMB for the registration of their lease (sukuk) certificates. The lease certificates, similar to ijara sukuk, were introduced to the CMB legislation in April 2010 but the required regulations on tax and other matters have very recently been completed. Accordingly, the total value of lease certificates registered by the CMB amounts to \$550 million. However, due to global market instability, the certificates have not been sold yet.

## Shareholder Benefits

The Central Registry Agency (Merkezi Kayit Kurumu ("MKK")) announced on August 10, 2011 that the Corporate Governance and Investor Relations Portal (e-Yönet Portalı) had come into force. With the use of such Portal, investors will be able to reach information on their investments online, will be able to receive such information via email and SMS, and e-general assemblies will be possible. Furthermore the MKK has also introduced the concept of "Shareholder Benefits" which would enable publicly listed companies to reward their public shareholders via certain discounts or promotions.

## Establishment of a New Deposit Taking Bank

On October 27, 2011, the BRSA announced with its decision (published in the Official Gazette dated October 28, 2011 and numbered 28098) that it had granted permission for the establishment of a new deposit taking bank with a minimum capital of TL equivalent of \$300 million to the Audi s.a.l – Audi Saradar Group based in Lebanon. The BRSA's permission for the establishment of a new bank is the first since the current Banking Law entered into force at the end of 2005. The permission for deposit taking is also the first since 2004.

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## Draft Communiqué Regarding the Extension of Repo Instruments

On December 16, 2011, the CMB announced a draft amendment to Communiqué Serial No.V/7 on Repo and Reverse Repos (published in the Official Gazette dated July 31, 1992 and numbered 21301), namely the treasury's external debt instruments such as Eurobonds and also some shares traded on the ISE can be subject to repo transactions. The shares which may be subject to repo transactions will be defined by the ISE board and announced to the public.

## Changes to ISE Management

The Decree Law No. 91 on Securities Exchanges (published in the Official Gazette dated October 6, 1986 and numbered 18183) has been amended by the Decree Law No. 662 (published in the Official Gazette dated November 2, 2011 and numbered 28103 bis.) Accordingly, the board of directors of the ISE will now constitute of seven members instead of the five applicable before the amendment. The president of the board is also the president of the ISE. The president and three members of the board shall be appointed by a joint decree of the relevant minister, prime minister and the president of the Republic further to the proposal of the minister in charge of the CMB.

## A New Classification for Investment Funds

The CMB has announced with its decision dated December 29, 2011 numbered 44/1174 the classification of investment funds criteria. This new approach has no effect on current descriptions and types of funds; however it regroups the current investment funds under nine different titles according to their investment strategies for the benefit of investors.

## Competition

### Turkey 2011 Progress Report

On October 12, 2011, the European Commission published the "Turkey 2011 Progress Report" (the "Report"). The Turkish Competition Policy has been included in the Report in the context of "[Turkey's] ability to assume the obligations of membership". According to the report, in the field of antitrust and merger control, Turkey made good progress by implementing legislation on mergers including guidelines on merger remedies; bringing about closer alignment with European Union merger rules. The report also commends Turkey's competition policy by indicating that the Competition Authority enforces antitrust rules effectively and with a satisfactory level of independence. According to the report, the Authority further strengthened its record in enforcing antitrust rules with a number of landmark cases, particularly in the banking and automotive sectors.

### Communiqué on the Increase of the Lower Limit for Administrative Fines

Communiqué on the Increase of the Lower Limit for Administrative Fines, as specified in paragraph 1, Article 16 of the Act on the Protection of Competition (the "Act") (published in the Official Gazette dated December 13, 2011 numbered 28141) (Communiqué No: 2012/1) (the "Communiqué") entered into force on January 1, 2012. Pursuant to the Communiqué, the lower limit for administrative fines regulated in Paragraph 1, Article 16 of the Act has been increased by approximately 10%

## Dispute Resolution

### Declaration of Assets & Imprisonment

Article 337(1) of the Execution and Bankruptcy Law ("EBL") which provides that, "Debtors who fail to come to the execution office for the declaration of their assets or to

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declare their assets in writing without a legitimate excuse shall be sentenced to 10 days of disciplinary imprisonment upon the request of the creditor" has been annulled by the Constitutional Court's decision dated 28 February 2008 and numbered 2006/71 E., 2008/69 E. Such decision of the Constitutional Court has been in effect since April 16, 2009.

Further to the decision of the Constitutional Court, the 16. Civil Chamber of Court of Appeals rendered its decision dated 21 June 2010 and numbered 2010/3945 E., 2010/4412 K. which provides that although Article 337(1) of the EBL has been annulled, since Article 76 of the EBL regulating that "The debtor failing to deliver a declaration of assets is compelled by the execution judge at the creditor's request by a one-time confinement until making the declaration. However this confinement may not exceed three months" is still in force, in the event the debtor receives the payment order including the notice for the declaration of assets in accordance with Article 168 of the EBL but still does not make a declaration of assets in due time or makes a false declaration, such debtor shall be sentenced to imprisonment from three months to one year upon the request of the creditor in accordance with Article 338 of the EBL.

## Tax

In October 2011, the Turkish Tax Administration started publishing tax rulings on its website. Below are a couple of the rulings shared with the taxpayers through the website.

### Tax Ruling No. 1

According to the Ruling of the Turkish Tax Administration dated July 8, 2011, commission paid by non-resident companies for brokerage services rendered to the liaison offices of such non-resident companies for the payment of miscellaneous expenses in Turkey shall be subject to VAT as such services have been provided in Turkey.

### Tax Ruling No. 2

A tax ruling dated April 19, 2011 regarding commission charges applicable to bank letters of guarantee in terms of VAT has been published by the Tax Revenue (the "Ruling"). According to the Ruling, VAT shall not be applicable over expenses and commission arising out of the bank letters of guarantee issued in favour of and delivered to suppliers.

## Energy & Climate Change

### Environmental Regulations: Licenses, Permissions

The Regulation on Permissions and Licenses required by the Environmental Law (published in the Official Gazette dated April 29, 2009 and numbered 27214) was amended on December 31, 2011. Such amendment covers the changes in the application forms and necessary documents to obtain temporary environmental licenses.

### Appointment of Certified Energy Directors

The Regulation Regarding the Increase in Effectiveness regarding the Usage of Energy (published in the Official Gazette dated October 27, 2011 and numbered 28097) has been issued by the Ministry of Energy and Natural Resources. This Regulation contains new provisions regarding the mandatory appointment of a certified energy director for companies that consume over a certain amount of energy in a year. The Regulation also states certain measurements regarding the efficient use of energy in public areas.

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## Amendments to Electricity Market Regulations

The Electricity Market Balancing and Settlement Regulation (published in the Official Gazette dated April 14, 2009 and numbered 27200) was amended through the Regulation on the Amendment of Electricity Market Balancing and Settlement Regulation (the "Amendment Regulation") (published in the Official Gazette dated November 3, 2011 and numbered 28104). In a nutshell, the Amendment Regulation introduces, inter alia, an amendment to the definitions of concepts such as electricity generation facilities, system marginal prices etc., electricity loads etc., the addition of entities with organized industrial zone certificates to the list of market participants, the setting out of the registration of market participants to the central settlement bank, the arrangement of the hours for the day-ahead in view of the daylight saving time, and the amendment of the procedures such as reconciliation instruction, calculation of the system marginal price and energy imbalance price etc.

## Automotives

The "Communiqué regarding the Determination of the Production Year of Motor Vehicles and Trailers" (SGM-2011/12) (published in the Official Gazette dated July 23, 2011 and No.28003) (the "New Communiqué") has become effective as of January 1, 2012 and abolished the "Communiqué regarding the Determination of the Model Year of Motor Vehicles and Trailers" (Communiqué No. SGM-2010/13) (published in the Official Gazette dated December 17, 2010 and No. 27788) (the "Abolished Communiqué"). The New Communiqué regulates the determination of the model year of vehicles imported into and of vehicles produced or assembled in Turkey and explicitly clarifies that the production year of a vehicle shall be its model year. In other words, with the New Communiqué, the broken year system, where the model year was determined based on the date of the conformity certificate, is abandoned and as of January 1, 2011, the model year of vehicles will be the same as their production year. Below is a chart illustrating the model year determination according to the Abolished Communiqué and the New Communiqué.

Date of the conformity certificate	Model Year	Legislation
Before August 1, 2010	2010	Abolished Communiqué
August 1, 2010 - June 31, 2011	2011	Abolished Communiqué
August 1, 2011 - December 31, 2011	2012	Abolished Communiqué
Date of production	Model Year	Legislation
January 1, 2012 - December 31, 2012	2012	New Communiqué
January 1, 2013 - December 31, 2013	2013	New Communiqué

## Telecommunications, Media & Technology

### Broadcasting Standards

The Regulation Regarding Procedure and Principles of Broadcasting Services (published in the Official Gazette dated November 2, 2011 and numbered 28103) has been enacted by the Radio and Television Supreme Council. The aim of this Regulation is to regulate the standards of broadcasting services provided by the media service suppliers. Such standards include advertisement conditions, protection of the youth from harmful programmes and mandatory programs for broadcasting, etc.

### Shareholdings in the Media

With a view to elaborate in detail regarding foreign and domestic shareholdings in more than one media service provider entity, the Regulation Regarding the Procedures and Essentials of Shareholding in More Than One Media Service Provider has been enacted by Radio and Television Supreme Authority (published in the Official Gazette dated December 16, 2011 and numbered 28144). In a nutshell, the Regulation sets out in

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detail the concepts of indirect and direct shareholding of foreign and domestic companies in the Turkish media service providers and determination of the annual total commercial communication revenue and total sector commercial communication revenues.

## Investment Payments

The Information and Communication Technologies Authority ("BTK") issued a decision on December 6, 2011 and numbered 2011/DK-08/627, resolving to obtain the opinion of the operator companies holding IMT-2000/UMTS licenses with respect to the issue of reporting separately the investment payments on IMT-2000/UMTS networks and investment payments on GSM networks. Furthermore, the BTK also regulates in its decision the forms of the investment payments and defines the "Main Supplier" as companies having a research and development centre in Turkey which shall undertake at least 40% of the hardware and software investments of IMT-2000/UMTS operator companies.

## Transportation, Logistics & Defence

### Sea Planes

The Regulation on Air Transportation Services by Sea Planes (published in the Official Gazette dated October 2, 2011 and numbered 28072) has been enacted by the Directorate General of Civil Aviation. This Regulation sets out the principles for transportation services conducted by sea planes.

### Airplane Passenger Rights

The Regulation on the Rights of Persons Travelling by Air Transportation (published in the Official Gazette dated December 3, 2011 and numbered 28131) covers the rights of airplane passengers during flights. This Regulation brings new provisions regarding the protection of airplane passengers through particular compensation regarding delays in flights or cancellations.

### Transfer of Operating Rights Obligation

The Regulation on Airport Construction, Operation and Certification (published in the Official Gazette dated May 14, 2002 and numbered 24755) has been amended on October 2, 2011. Pursuant to the amendment, if the operational rights of an airport has been transferred to another entity, such entity is obliged to obtain the relevant airport operational license within one year.

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