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Banking & Finance

Draft Law on Restructuring of Debts owed to Financial Sector

Introduction

Following the entry into force of the Regulation on Restructuring of Debts owed to Financial Sector (the “**Regulation**”) on August 15, 2018, the Draft Law on Restructuring of Debts owed to Financial Sector (the “**Draft Law**”) has been prepared by the Banking Regulation and Supervision Agency (the “**BRSA**”) and shared by the Banks Association of Turkey (*Türkiye Bankalar Birliği*) (the “**BAT**”) with its members.

What’s New?

In furtherance of the existing provisions set out under the Regulation, the Draft Law is intended to bring certain significant provisions, as stated below, in the form of law. In this regard, you may refer to [Pekin & Pekin Legal Alert 8 / 2018](#) prepared by our Firm for further elaborations on such existing provisions under the Regulation.

In line with the Regulation, in the event that a financial restructuring agreement (the “**Restructuring Agreement**”) is executed by, at least, Turkish banks, financial leasing companies, factoring companies and financing companies (the “**Creditor Institutions**”) that have receivables equal to two thirds of the relevant debtor’s total credit debts, all Creditor Institutions having signed framework agreement (the “**Framework Agreement**”), within the scope of which the Restructuring Agreement is executed, will be obliged to restructure their receivables.

Parallel with the Regulation, upon the execution of the Restructuring Agreements, no enforcement proceedings can be initiated against the respective debtors and any such ongoing enforcement proceedings shall be suspended. Additionally, once the Restructuring Agreements are executed, judgments on interim injunctions and interim attachments shall become unenforceable, and periods of

limitation and prescription shall no longer run.

As distinct from the Regulation, the Draft Law contains certain provisions on tax exemptions and incentive certificates. Hence, the Framework Agreements, Restructuring Agreements, and other documents or transactions in connection therewith are exempt from stamp tax, charges (including court and execution charges), banking and insurance transaction tax, exchange expenditure tax, resource utilization support fund and any other funds. Furthermore, periods of incentive certificates and export commitments related to the debtors benefitting from the restructuring opportunity and periods of suretyships granted in favour of such debtors shall be considered to be extended for the periods of time determined under the respective Restructuring Agreements.

On a final note, the Draft Law stipulates that any disputes arising out of or in connection with the Framework Agreements shall be settled by an arbitration tribunal to be constituted according to the principles determined by the BAT.

Conclusion

According to public announcement made by the BAT, the Framework Agreement has been executed on September 19, 2018 by Turkish banks and other financial institutions having extended 90% of the total credits, and it has entered into force with immediate effect. Since the real sector in Turkey is currently in search of solutions for its financial problems, the Draft Law is expected to serve the purposes of enabling the real sector to meet their repayment obligations arising from credit transactions with Turkish banks and other financial institutions, as well as to contribute efficiently to employment in Turkey.

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