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Banking & Finance

ADDITIONAL MEASURES TAKEN BY THE PRESIDENCY OF THE REPUBLIC OF TURKEY IN THE BANKING SECTOR REGARDING THE COVID-19 OUTBREAK

The Banking Regulation and Supervision Agency (the “**BRSA**”), the Central Bank of Republic of Turkey (the “**CBRT**”) and the Banks’ Association of Turkey (the “**BAT**”) have swiftly taken several measures after the declaration of the first confirmed COVID-19 case in Turkey on March 11, 2020 in order to mitigate the outbreak’s impact on the financial markets and soften expected disruptions in commercial activities that may be caused by COVID-19, as discussed in [our previous Legal Alert](#). Such measures are set forth by the regulators in order to provide flexibility to financial institutions (the “**FIs**”) to ensure (i) financial stability of the FIs and (ii) meet FIs customers’ needs such as facilitating cash flow of individuals and SMEs which are likely to be the most affected by this outbreak and ultimately to mitigate the macroeconomic effects and risks arising from COVID-19 in financial markets.

This legal alert will discuss the additional measures taken by the regulatory authorities.

What’s New?

- The Council of Ministries’ Decree No. 2004/7131 regarding the Provision of Financial Support on Favorable Terms by the KOSGEB for the Development of the SMEs has been amended by the Presidency Decree No. 2350 (*published in the Official Gazette dated April 3, 2020 and numbered 31088*) on April 3, 2020 with immediate effect. With the amendment, the scope of the Decree has been widened to cover “small and medium sized enterprises” instead of “small and medium sized industrial enterprises”. The loan financing expenses to be specified in the protocol to be executed between KOSGEB and the relevant bank are considered as non-refundable KOSGEB support. In addition, the upper limit of such loan interest support to be provided by KOSGEB for the interests of investment, working capital and export credits cannot exceed TRY 3,000,000 (previously set as TRY 300,000) per enterprise within the scope of each support program and the loans to be

extended by the KOSGEB shall now be returned within 60 months (previously set as 48 months). The amendment aims to provide support to SMEs by increasing the loan interest support amount per enterprise and by extending the period in which the loan to be extended by KOSGEB has to be returned.

- The Banks Association of Turkey has published a press release on its website dated April 14, 2020 regarding changes in banking transaction records related to crime revenues due to Covid-19 outbreak. The Financial Action Task Force (the “**FATF**”), which sets global standards in the fight against money laundering and financing of terrorism, has made a statement in order for the necessary steps to be taken against risks such as fraud, money laundering and terrorist financing, which arise as a result of the increasing financial transactions in the digital environment. Transactions to be carried out before banks will continue within the normal flow process, and there are no restrictions or suspension of such transactions. Within the scope of the FATF’s recommendation, the routine notifications to the Directorate of Financial Crimes Investigation Board of individual customers’ money transfers to abroad exceeding TRY 1 million or the equivalent in any other foreign currency will now be made one day before.
- On April 17, 2020, the CBRT published a press release regarding the additional measures to be taken against the economic and financial impacts of the COVID-19 outbreak to maintain market depth, strengthen the monetary policy transmission mechanism and support the Primary Dealership system. As per the press release, the maximum limit for the ratio of the Open Market Operations (OMO) portfolio nominal size to the CBRT analytical balance sheet total assets (previously set as 5% for 2020 in the Monetary and Exchange Rate Policy for 2020 text) has been revised as 10% and to further support the Primary Dealership system considering its contributions to the deepening of financial markets and to the effectiveness of the monetary policy transmission mechanism, the facility offered to Primary Dealer banks to sell Government Domestic Debt Securities (GDDS) to the CBRT has been revised. Within this scope, it has been decided that (i) the limits offered to Primary Dealer banks for outright sales of GDDS to the CBRT will be applied independent of the repo transaction limits and that Primary Dealer banks will be offered a GDDS selling limit that is equal to the repo transaction limits; (ii) the related purchases will also be carried out within the total maximum limit of 10% set for the OMO portfolio; (iii) the GDDS to be purchased and the amount of purchases will be determined by the CBRT; and (iv) purchases will be conducted via the quantity auction method.
- Pursuant to the BRSA decision dated April 18, 2020 and No. 9000, in order to minimize the negative impact of the COVID-19 outbreak on economy, markets, production and employment, and to ensure that the resources of banks are used in the most effective manner, to be effective from May 1, 2020, in the calculation of asset ratio (the “**AR**”), banks will use the below formula:
$$AR = [\text{Loans} + (\text{Securities} \times 0.75) + (\text{Central Bank Swaps} \times 0.5)] / [\text{TRY Deposit} + (\text{FX Deposit} \times 1.25)]$$

As per the BRSA decision, the terms in the formula have the meanings given below:

“**Loans**” mean the total amount of loans extended by banks to retail and commercial customers, excluding non-performing loans;

“**Securities**” mean the total amount of the private sector bonds and bills and all kinds of debt instruments, lease certificates and Eurobonds issued by the Turkish Treasury (except for securities and shares issued by foreign residents and which are purchased by banks);

“**Central Bank Swap**” means the total amount of Turkish Lira equivalent, which is converted at the

buying rate of the Central Bank, of the total value of the foreign currency given by banks to the Central Bank via swaps;

“**TRY Deposit**” means the total amount of all Turkish Lira deposit/participation funds except for bank deposits;

“**FX Deposit**” means the total amount of deposit/participation funds in foreign currency, including gold and precious metal accounts, held in banks.

Through the same decision, it has been stipulated that as of the end of every month, the monthly average AR cannot fall below 100% for deposit banks and 80% for participation banks and in the event that AR falls below the above-mentioned rates, administrative fines set forth under the Banking Law shall be applied to non-compliance amount.

- The Monetary Policy Committee (the “**Committee**”) has decided to reduce the policy rate (one-week repo auction rate) from 9.75 percent to 8.75 percent through its decision dated April 22, 2020 and No. 2020-23. The Committee assesses that maintaining a sustained disinflation process is a key factor for achieving lower sovereign risk, lower long-term interest rates, and stronger economic recovery. Keeping the disinflation process in track with the targeted path requires the continuation of a cautious monetary stance. It is also stated in the same decision that, monetary stance will be determined by considering the indicators of the underlying inflation trend to ensure the continuation of the disinflation process and the Central Bank will continue to use all available instruments in pursuit of the price stability and financial stability objectives.

Conclusion

It should be noted, in a nutshell, that the Turkish regulatory authorities have taken swift and effective measure to maintain a strong monetary, credit and financial system against the expected effects of the COVID-19 in financial markets and to facilitate cash flow of the SMEs which are likely to be the most affected by this outbreak.

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