

The award winning Pekin & Pekin Banking & Finance practice team not only provides compliance support and legal advice to banks and financial institutions on an ongoing basis but also focuses on more complex cases, giving clients direct practical and innovative advice.

To discuss how these developments affect your business interests please contact either:

Ahmed Pekin
Senior Partner,
Dispute Resolution & Arbitration,
Banking & Finance
Email: apekin@pekin-pekin.com

Eda Beltan
Senior Partner,
Banking & Finance
Email: ebeltan@pekin-pekin.com

Banking & Finance

THE BANKING REGULATION AND SUPERVISION AGENCY DECISION ON THE CALCULATION OF ASSET RATIO BY BANK

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 Alerts [No. 3/2020](#) and [No. 2/2020](#). 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 recent decision of the BRSA which provides further clarification on the calculation of asset ratio (the “**AR**”) by banks.

What’s New?

- As discussed [in our previous legal alert](#), 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 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 dated April 30, 2020 and No. 9003, in addition to the explanations set forth under the previous decision, it has been stipulated that:

The AR shall be calculated on a solo basis and development and investment banks and banks under the control of the Savings Deposit Insurance Fund of Turkey are exempt from calculating the AR.

As of March 31, 2020, banks whose total TRY deposits and FX deposits (except for bank deposits) are below TRY 5 billion, pursuant to data that such banks reported to the BRSA, shall be granted with additional time to ensure compliance with the previous decision of the BRSA until December 31, 2020.

For the conversion of all FX items in the AR formula into TRY, the Central Bank of Republic of Turkey's (the "**CBRT**") exchange buying rate as at the date of the AR calculation shall be used.

The items stated in the AR formula do not include rediscount or accrual balances related to such items.

Funds deposited by domestic and/or foreign banks will not be included in the "TRY Deposit" and "FX Deposit" set forth under the AR formula and FX borrowing transactions from headquarters or branches located abroad will not be included in the AR calculation.

The mandatory reserves that are required to be held with the CBRT and voluntarily held liquidity in cash balance of banks for cash needs of their clients cannot be deducted from the denominator and also cannot be added to the numerator items in the AR formula.

Loans secured with cash pledges and deposits pledged as collateral will be included in calculation of the AR formula.

"**Loans**" item in the AR formula shall not include non-performing loans, non-cash loans, loans extended to banks, loans extended to factoring and financing companies that are subject to the Law No. 6361 and loans extended to residents abroad. However, this item shall include loans extended to financial leasing companies and financial leasing receivables of participation banks.

The numerator item of the AR formula will not include receivables from Turkish and/or foreign banks and reverse repo transactions.

"**Securities**" item in the AR formula shall not include domestic or foreign shares, investment fund units, securities issued by banks and securities issued by factoring and financing companies. However, such item will include securities issued by financial leasing companies and private sector lease certificates. In calculation of such, the balance sheet value of the assets under this item shall be taken into account.

"**Central Bank Swap**" item in the AR formula shall include swap transactions conducted with the CBRT wherein banks provide gold and receive TRY, FX swap transactions conducted in FX Swap Market in Borsa İstanbul A.Ş. wherein banks provide FX and receive TRY and the counterparty is the CBRT and gold and FX deposit transactions conducted with the CBRT. However, such item will not include swap transactions conducted with the CBRT in which banks provide gold and receive FX. While calculating this item, swap transactions shall be taken into account as of the maturity date instead of the transaction date. Finally, money market transactions (except for gold and FX deposit transactions conducted with the CBRT) shall not be included in the numerator item of the AR formula.

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 and the BRSA, while taking effective measures against such effects, has further clarified the calculation of the AR by banks as discussed above.

This legal newsletter has been prepared for informational purposes only; it has not been prepared for advertising purposes or with the intention of creating an attorney-client relationship. It does not seek to provide information on all legal developments in Turkey with the quarter specified. None of the information contained in this legal newsletter shall constitute legal advice or anything akin thereto. To unsubscribe, email the editor: newsletter@pekin.pekin.com

© PEKIN & PEKIN 2018

t: +90 212 313 35 00 f: +90 212 313 35 35 e: postmaster@pekin-pekin.com

www.pekin-pekin.com