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NEWSLETTER

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Due to the weakening of Turkish Lira in earlier August, a number of amendments have been foreseen under the banking legislation as well as a new regulation for restructuring of debts to financial sector.

Regulation Amending the Regulation on Procedures and Principles for Classification of Loans and Provisions to be Set Aside

The Regulation on Procedures and Principles for Classification of Loans and Provisions to be Set Aside (“**Classification of Loans and Provisions Regulation**”) has been amended with a regulation (“**Amendment Regulation**”) published by the Banking Regulation and Supervision Agency (“**BRSA**”) in the Official Gazette numbered 30510 and dated August 15, 2018.

Classification of Loans and Provisions Regulation defines the restructuring of a loan as privileges granted to a debtor who faces or would probably face financial difficulties to repay a loan. The Amendment Regulation has deleted certain specific circumstances to be deemed as privileges or indicate the presence of restructuring in that respect. The deletion of such circumstances corresponds to the circular of the BRSA (“**Circular**”) published on March 2, 2018, as the Circular had listed specific circumstances in which debtors would be deemed as given privilege to or as in financial difficulty. The Circular had further highlighted that such circumstances were to be taken into consideration case-by-case by the banks in practice. Therefore, with the deletion of the specific circumstances by the Amendment Regulation, Classification of Loans and Provisions Regulation is left with merely a framework for the evaluation of the presence of privileges and structuring, leaving room for the banks’ discretion.

The circumstances listed for privileges that were taken out from the Classification of Loans and Provisions Regulation are:

- presence of changes favoring the debtor between the agreements before and after restructuring, or
- presence of provisions in the new restructuring agreement that are better favoring the debtor when compared to other debtors.

Conditions where debts were deemed as restructured were:

- Although not being monitored as NPL, any delay exceeding thirty days in the partial or full repayment during the three month period prior to restructuring or in the absence of restructuring, probability of such a delay,
- Use of a newly extended loan for the repayment of another loan which was delayed for a period up to thirty days within the three month period following the refinancing.
- Application of a privilege provision in the loan agreement with respect to a loan which was delayed for a period up to thirty days, or if not applicable, which probably would be delayed in that manner.

The Amendment Regulation adds two new rules regarding restructuring and classification of loans, which are as follows:

- The banks that apply TFRS 9 may reclassify the restructured loans under Group I, which had been classified under Group II despite being performing loans, following the minimum three month long monitoring period, on the condition of meeting the requirements as listed under the Amendment Regulation.
- The changes in the agreements or the refinancing of the loans that are monitored under Group I where the debtors are not in a financial difficulty are not considered as restructuring and they may still be monitored under Group I.

The changes with the Amendment Regulation have entered into force on the day they were published in the Official Gazette (i.e. August 15, 2018).

BRSA’s Amendments on Card Installment Periods and Maturity Periods for Loans

Under the Official Gazette numbered 30510 and dated August 15, 2018, BRSA published amendment regulations to limit the installment periods of bank card and credit card transactions, and the maturity periods of certain consumer loans. Draft regulations involving similar provisions had been published on the website of the BRSA on August 3, 2018, yet the amendments entered into force contain certain significant changes to the draft regulations. Detailed explanations on the amendments are as follows:

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- **Amendments to Regulation on Bank Cards and Credit Cards**

Pursuant to Article 26 of the Regulation on Bank Cards and Credit Cards, the general rule for the periods of instalment (including the periods of postponements and instalments against certain amounts) for the purchase of goods and services and cash withdrawals is that it may not exceed 12 months.

BRSA has imposed stricter limitations to the periods of instalment for certain goods and services. Jewelry expenditures, which could be purchased with instalments not exceeding 4 months, are now among the goods that may not be purchased with instalments. Instalments up to 3 months will be allowed for electronic appliances, which had been 6 months before the amendment. Payments made to clubs and associations, expenditures relating to airlines, travel agencies, transportation and accommodation will be allowed an instalment period of 6 months, which used to be 9 months. With respect to corporate credit cards, the instalment period (including the period for the postponement of payments and the debts split into instalments for a fee) for the purchase of goods and services and cash withdrawals are not permitted to exceed 9 (nine) months.

- **Amendments to Regulation on the Loan Transactions of Banks and Regulation on Financial Leasing, Factoring and Financing Companies**

BRSA has amended the third paragraph of Article 12/A of the Regulation on the Loan Transactions of Banks and the second paragraph of Article 11/A of the Regulation on Financial Leasing, Factoring and Financing Companies in a way that reduces the maturity of consumer loans. The maturity of consumer loans (other than loans to consumers for housing finance and complementary goods and services in relation to home renovation/improvement, the financial leases for homes leased to consumers, other loans for the purpose of purchasing real estate and for student loans and any refinancing of the same) are not permitted to exceed 36 months, which had been 48 months before the amendment. Additional limits have been put on maturity of vehicle loans and loans secured with vehicles, and loans granted for purchasing cell phones, tablets and computers which are 48 months and 6 months respectively. The same limits will be applied to the restructuring of such loans.

Additional provisional article has been added to both of the regulations which limits the maturity of the restructured loans granted before the amendment up to 48 months, if such restructuring has been requested within one year following the amendment. If the restructuring involves extension of additional loans, then the maturity of the additional loan may not exceed 36 months.

Regulation on Restructuring of Debts to Financial Sector

BRSA has published the Regulation on Restructuring of Debts to Financial Sector in the Official Gazette numbered 30510 and dated August 15, 2018. It draws the outline of the restructuring system and the measures to be determined within the framework agreement approved by the BRSA (“**Framework Agreement**”) and the financial restructuring agreements regarding the debts of the debtors to the banks, financial leasing, factoring and financing companies operating in Turkey (“**Restructuring Agreements**”), and aims to enable the debtors to repay their debts and therefore maintain their contributions to employment.

The Framework Agreement to be drafted by the Banks Association of Turkey, will take into consideration the opinions of the Participation Banks Association of Turkey and Association of Financial Leasing, Factoring and Financing Companies; and, will be approved by the Banking Regulation and Supervision Board (“**BRSB**”). Restructuring Agreements can be executed between the debtors and the relevant creditor institutions within the two-year period following the approval of the Framework Agreement by the BRSA. The Framework Agreement will determine the scope of the debts to be restructured, the qualifications of the debtors, minimum debt amounts to be restructured, the content of the Restructuring Agreements and the procedure for the determination of a debtor’s eligibility for restructuring. Such eligibility is defined as the capacity of a debtor to repay its debts as a result of the restructuring process and a repayment schedule.

Further, various measures may be foreseen under the Framework Agreement such as the extension of the loan terms, novation of loans, providing additional loans, reduction of or withdrawal from any receivables under the loan transactions such as the principal amount or interest, the conversion thereof into participations in whole or in part, assignment or transfer of such receivables against considerations in cash or in kind or subject to collection, liquidating the loans fully or partly against assets in kind of debtors or third persons, or execution of protocols by acting together with other banks or creditors.

The minimum content of the Framework Agreements are itemized under Article 7 as, the conditions and principles regarding the restructuring process, the qualifications of the debtors, the obligations of the contracting parties, breaches, fundamental elements and the minimum framework of the rights and obligations of the Restructuring Agreements.

The Framework Agreements will be implemented by Restructuring Agreements to be executed by each debtor and the creditor institutions. In case the same agreement with debtor is signed by the creditor institutions whose receivables correspond to the two thirds (2/3) of the total debt amount, then all creditor institutions will be obliged to restructure the debts of the debtor.

The Regulation on Restructuring the Debts to Financial Sector has entered into force on the day it was published (i.e. August 15, 2018).

BRSA's Restrictions on SWAP Transactions

BRSA published three consecutive announcements regarding limitations to SWAP transactions in order to stabilize the Turkish currency. The total amount of the SWAP and SWAP-like transactions (spot and forward FX transactions) in Turkish Lira against foreign exchange conducted with foreign counterparties by Turkish banks may not exceed %25 of the capital of the banks calculated most recently. The percentage that was announced initially had been 50% on August 13, 2018, and it was reduced to %25 on August 15, 2018.

The announcement further adds that no additional transaction will be allowed unless the present exceeding amounts are eliminated. The ratio will be calculated on a daily and consolidated basis.

Additional announcement has been published on August 17, 2018, as regards to the inclusion of the forward, option and other related derivative transactions to the scope of the restriction mentioned above.

Amendments on the Communiqué regarding Reserve Requirements

To support effective functioning of financial markets and flexibility of the banks in their liquidity management and as part of the updates of the Central Bank in the Communiqué regarding Reserve Requirements to adjust the reserve requirements for different currencies and different tenors from time to time in order to encourage or discourage certain types of lending, the Communiqué Amending the Communiqué regarding Reserve Requirements has been published in the Official Gazette dated August 14, 2018 numbered 30509.

A detailed list of the former and updated ratios of reserve requirements in Turkish Lira and foreign exchange, except for the ones having been held as of August 28, 2015, respectively are as follows:

Deposits/Participation funds (Excluding deposits/participation funds of foreign banks)	Former Reserve Requirement Ratios	New Reserve Requirement Ratios
a) Drawing, callable, up to 1-month maturity and up to (and including) 3-month maturity	10.5%	8%
b) Up to (and including) 6-month maturity	7.5%	5%
c) Up to 1-year maturity	5.5%	3%
d) Exceeding and including 1-year maturity	4%	1.5%
Funds of borrowers	10.5%	8%
Other Liabilities (Including deposits/participation funds of foreign banks)		
a) Up to (and including) 1-year maturity	10.5%	8%
b) Up to (and including) 3-year maturity	7%	4.5%
c) Exceeding 5-year maturity	4%	% 1.5

Deposits/Participation funds (Excluding deposits/participation funds of foreign banks)	Former Reserve Requirement Ratios	New Reserve Requirement Ratios
a) Drawing, callable, up to 1-month maturity and up to (and including) 3-month maturity	12%	12%
b) Up to (and including) 6-months maturity	8%	8%
c) Up to 1-year maturity	12%	12%
Other Liabilities (Including deposits/participation funds of foreign banks)		
a) Up to (and including) 1-year maturity	24%	20%
b) Up to (and including) 2-year maturity	19%	15%
ç) Up to (and including) 3-year maturity	14%	10%
ç) Up to (and including) 5-year maturity	6%	6%
d) Exceeding 5-year maturity	4%	4%

As stated before, an exception to the requirements mentioned above for the foreign exchange requirements excluding deposits/participation funds having been held as of August 28, 2015 which are as follows:

	Former Reserve Requirement Ratios	New Reserve Requirement Ratios
a) Up to (and including) 1-year maturity	19%	15%
b) Up to (and including) 2-year maturity	13%	9%
c) Up to (and including) 3-year maturity	7%	7%
d) Up to (and including) 5-year maturity	6%	6%
e) Exceeding 5-year maturity	5%	5%

The Communiqué Amending Communiqué regarding Reserve Requirements has entered into force on the date it was published, having effect from the date July 27, 2018.

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Yours faithfully,
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