

NEW SYSTEM FOR MONITORING FOREIGN CURRENCY POSITIONS OF TURKISH COMPANIES

This Legal Alert seeks to provide information regarding the new data tracking system introduced by Central Bank of Turkey for monitoring the transactions of companies affecting their foreign currency position.

On February 17, 2018, Central Bank of Turkey (“CBOT”) published “*Directive on Principles and Procedures Concerning the Monitoring of Transactions Affecting Foreign Currency Position by Central Bank of Turkey*” (“**Directive**”) in the Official Gazette numbered 30335, taking effect as from the date it is published.

New data tracking system and the set of rules introduced with the Directive are as stated below:

- CBOT introduced a new system titled Systemic Risk Data Tracking System (the “**System**”), which will be operated by a third-party service provider, for monitoring the foreign currency transactions of the companies, to be designated by CBOT in its own discretion, save for banks and financial institutions (“**Company**” or “**Companies**”),
- System will be used by CBOT, Companies and auditors,

- A Company whose foreign currency cash loan and foreign currency indexed loan obtained from abroad and in Turkey are in aggregate equal to or more than USD 15 million¹ as of the last business day of the respective accounting period, is obliged to;
 - ✓ notify CBOT through the System by completing the data forms² uploaded to the System (www.tcmbveri.gov.tr) with the financial data prepared in accordance with financial reporting standards, as from the next accounting period and in accordance with principles and rules stated in the explanation form³ regarding the System,
 - ✓ enter into an audit agreement with the independent auditor within 60 (sixty) days as of the date of its notification requirement,
 - ✓ submit the information of the independent auditor to the System that will audit Company data uploaded to the System and upload a sample of the audit agreement entered into with that independent auditor.
- The data submitted by the Company to the System is audited by the independent auditor and cross-checked for consistency between the full year statements and interim statements and completed until 31 May of the following year. Given this;
 - ✓ if the data to be audited cannot be examined, the auditor shall quit the audit and submit a report covering the reasons to the System.
 - ✓ if the data is found accurate and complete, the auditor submits its audit report and approval to the System.
 - ✓ if the auditor determines errors in the data, apart from the insignificant ones, the auditor request corrections from the Company through the System which shall be corrected

¹ The calculation of the aggregate of foreign currency cash loans and foreign-currency indexed loans will be based on the financial tables of the last accounting period of the Company prepared in accordance with Turkish Accounting Standards, if not existing, the balance sheet prepared in accordance with tax legislation

² Data form refers to the forms prescribed by CBOT that the companies, as per the Directive, are obliged to complete and submit to CBOT in the System.

³ Explanation form sets out the rules for serving data forms in the System.

within 5 (five) business days and submitted into the System. However, if such errors are not corrected by the Company, auditor will not provide an approval and submit a negative opinion.

- If the Company that is obliged to notify CBOT subject to the above criteria, no longer meets that criteria, such Company's notification requirement will cease to have effect as of the following annual accounting period,
- Company management is responsible and liable for submitting accurate and complete information to CBOT,
- The System notifications shall be made in accordance with financial reporting standards until the end of the first month following the interim accounting periods expiring respectively on 31 March, 30 June and 30 September of the respective year and until the end of the third month following the expiring on annual accounting period on 31 December.
- CBOT performs cross-checks on the data submitted to the System and in case of need, CBOT may directly audit the Company,
- In case the data submission is not performed or performed deficiently or incorrectly or the defaults causing the negative opinion are not corrected, criminal procedures may be initiated by CBOT.

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