

COVID-19: Measures for Banking Sector

Introduction

As is widely known, the Coronavirus outbreak (**Covid-19**) which arose in late 2019 has become a global threat to human health in a short space of time. In efforts to avoid and/or mitigate risks associated with the Covid-19, the government as well as the regulatory bodies in Turkey have put various measures, aiming to prevent and mitigate social and economic consequences caused by the pandemic, in place. This information note discusses significant measures taken in order for the Turkish banking sector and financial markets not to be affected from the Covid-19.

What does the Omnibus Law bring about?

The Law on Amendment of Certain Laws (Law No. 7226) (**Omnibus Law**), which was published in the Official Gazette on March 26, 2020, has introduced, *inter alia*, amendments to the Law on Regulation of Public Finance and Debt Management (Law No. 4749) (**Law on Public Finance**) and the Law on Exclusion of the Records regarding Bad Cheques, Protested Bills, Loan and Credit Card Debts (Law No. 5834) (**Law on Bad Cheques and Credit Debts**).

- As per Provisional Article 20 of the Law on Public Finance, the Minister of Treasury and Finance of the Republic of Turkey has been authorized to transfer cash funds in an amount up to TRY 25 billion to guarantor institutions that provide credit guarantees to Turkish companies in order to improve financing opportunities and contribute to the effective functioning of the credit system. According to the Omnibus Law, the aforesaid article has been amended in a way that the scope of the credit guarantee has been expanded to cover individuals, legal entities and commercial enterprises, and that the maximum amount of cash funds to be transferred has been increased from TRY 25 billion to TRY 50 billion.
- In accordance with the newly added provisional article of the Law on Bad Cheques and Credit Debts, records on bad cheques, protested bills, loans and credit card debts kept with the Risk Center of the Banks Association of Turkey (*Türkiye Bankalar Birliği Risk Merkezi*) and pertaining to (i) individuals and legal entities having defaulted in (re)payment obligations of cash and non-cash loans and (ii) all individuals and credit customers (irrespective of whether they are engaged in commercial activities or not) will be disregarded by Turkish credit agencies and financial institutions within the scope of their respective financial transactions provided that the relevant debts are repaid in full or restructured until the date of December 31, 2020. Furthermore, transactions of restructuring or extension of new loans to be conducted under the aforementioned provision will not give rise to legal or criminal liability of the respective agencies/institutions.

Measures Taken by way of the Presidential Decrees

- Pursuant to the Presidential Decree numbered 2283 which was published in the Official Gazette on March 25, 2020 to take effect as of April 01, 2020, repayment of low-interest loans obtained by tradesmen and craftsmen, whose commercial activities have been adversely affected due to the Covid-19, from T. Halk Bankası A.Ş. to be made between April 01, 2020 and June 30, 2020 may be postponed for three months without interest upon their respective requests; and no enforcement proceedings can be initiated against such debtors until the end of the postponement period.
- The Presidential Decree numbered 2325 which was published in the Official Gazette dated March 30, 2020 with immediate effect has introduced, *inter alia*, the following legislative changes to the Decree on Treasury Support to Credit Guarantee Institutions:

- Türkiye Kalkınma ve Yatırım Bankası A.Ş. (*Development and Investment Bank of Turkey*) has been included among the lenders to be supported by the credit guarantee institutions, and consumer loans have also been included among the loans eligible for such support.
 - The condition to have no overdue tax debt or no SGK (*Social Security Institution*) liability will not be required for those, in favor of whom credit guarantee institutions will provide suretyship, until December 31, 2020; and new limits of suretyship have been imposed on beneficiaries. In this respect, the maximum amount for individual beneficiaries has been set as TRY 100,000 whereas the respective amount has been increased from TRY 25 million to TRY 35 million for SME beneficiaries (however, this limit will be applied as TRY 50 million until December 31, 2020). Additionally, the maximum amount of suretyship for non-SME legal entity beneficiaries has been increased from TRY 200 million to TRY 250 million (however, this limit will be applied as TRY 350 million until December 31, 2020).
 - In addition to limits applied on the basis of the beneficiary of suretyship, the total balance amount for support of credit guarantee institutions has been increased from TRY 250 billion to TRY 500 billion, and the maximum amount of cash funds that can be transferred by the Ministry of Treasury and Finance of the Republic of Turkey has been increased from TRY 25 billion to TRY 50 billion. Lastly, in the event of restructuring of loans obtained with support of credit guarantee institutions, the grace period is to be applied as maximum of 24 additional months instead of 12 additional months.
- The Presidential Decree numbered 2350 which was published in the Official Gazette dated April 3, 2020 with immediate effect has made, *inter alia*, the following changes in the Decree on Provision of Financing Support with Favorable Terms by KOSGEB (*Small and Medium Industry Development Organization*) for Development and Support of Small and Medium Sized Industrial Enterprises:
 - KOSGEB has become an institution which supports not only small and medium industrial enterprises, but also all small and medium sized enterprises (*SMEs*).
 - The upper limit per year for each enterprise within the scope of support programs has been increased from TRY 300,000 to TRY 3 million.
 - Term of loans to be supported by KOSGEB will not exceed 60 months instead of 48 months.

Measures regarding Credit Card Transactions Taken by the BRSA and the CBRT

- Amendments which the Banking Regulation and Supervision Agency (**BRSA**) has made to the Regulation on Bank Cards and Credit Cards were published in the Official Gazette on March 28, 2020 with immediate effect. Prior to the latest amendments, the minimum payment amount for credit cards was 30% of debt incurred in the relevant period and 40% of debt incurred in the relevant period for the first year following the issuance of the respective credit cards. Pursuant to the amendments, the minimum payment amount for credit cards will be determined as between 20% and 40% of the debt incurred in the relevant period by the BRSA considering the opinion of both the Ministry of Treasury and Finance of the Republic of Turkey and the Central Bank of the Republic of Turkey (**CBRT**).
- According to the BRSA decision dated March 30, 2020, the minimum payment amount for credit cards was fixed as 20% of the debt incurred in the relevant period. The BRSA has further allowed banks to grant grace periods, during which they will not request their card holders to make repayment of any amount including the minimum payment amounts, until December 31, 2020.

- Amendments which the CBRT has made to the Communiqué on Maximum Interest Rates Applicable to Credit Card Transactions (Communiqué No. 2016/8) were published in the Official Gazette dated March 28, 2020 to enter into force on April 01, 2020. As per the recent amendments, the maximum interest rates applicable to credit card transactions have been decreased; and accordingly, the monthly maximum rate of contractual interests applicable to Turkish Lira transactions has been decreased from 1.40% to 1.25% whereas the monthly maximum rate of default interests applicable to Turkish Lira transactions has been decreased from 1.70% to 1.55%. Furthermore, the monthly maximum rate of contractual interests applicable to foreign exchange transactions has been determined as 1% instead of 1.12%, and the monthly maximum rate of default interests applicable to foreign exchange transactions has been determined as 1.30% instead of 1.42%.

Measures Taken by the BRSA in relation to Classification of Loans and Provisions to Be Set Aside Therefore

- As per the decision numbered 8948 and dated March 17, 2020 taken by the BRSA, the followings have been resolved with respect to any and all receivables of Turkish banks to be effective until December 31, 2020:
 - Default period for the classification of loans as non-performing loans has been increased from 90 to 180 days, and provisions for loans which continue to be classified in the 2nd Group despite the 90 day-default will continue to be set aside according to their own risk models used by the banks in order to calculate the expected loan loss under TFRS 9 (*Turkish Financial Reporting Standards 9*); and
 - Banks will no longer be required to classify the loans in the 3rd Group which have been classified as performing loans *via* restructuring and where the principal and/or interest payments have been past due for more than 30 days within the one-year monitoring period or restructured once again within the same monitoring period.
- Under the BRSA decision numbered 8950 dated March 19, 2020, the followings have been resolved with respect to receivables of Turkish banks, including those which have yet to be monitored under the bad debt account as of March 19, 2020, to be effective for companies setting aside the expected loan loss under TFRS 9 until December 31, 2020:
 - The 90-day default period for setting aside special provisions is to be applied as 180 days for factoring and financing companies, and 240 days for financial leasing companies;
 - The 90-day default period applicable to financing companies for setting aside general provisions in relation to consumer loans other than housing loans is to be fixed as 180 days; and
 - Financial institutions will continue to set aside provisions for receivables, which have not been transferred to the bad debt account in spite of the 90-day default, according to their respective risk models.
- Pursuant to the decision numbered 8970 and dated March 27, 2020 taken by the BRSA, the 30-day default period set out for transition from the 1st Group to the 2nd Group under the classification of loans will be applied as 90 days, to take effect as of March 17, 2020 until December 31, 2020, and provisions to be set aside for loans which continue to be classified in the 1st Group in spite of the 30-day default will continue to be set aside according to the banks' risk models to calculate the expected credit loss under TFRS 9.

Measures regarding Housing, Consumer and Vehicle Loans Taken by the BRSA

- Under the BRSA decision numbered 8949 and dated March 19, 2020, the LTV ratio has been increased from 80% to 90% with respect to mortgage loans (except for vehicle loans) to acquire houses, the value of which is equal to or below TRY 500,000.

- In accordance with the BRSA decision numbered 8971 and dated March 27, 2020, the principal and interest payments of consumer and vehicle loans may be postponed until the date of December 31, 2020 and the relevant postponement period will be disregarded for the purpose of calculating term limits in the range of 48 to 60 months.

Other Measures Taken by the BRSA

- Pursuant to the press release of the BRSA dated March 23, 2020, calculation of the capital adequacy ratio of Turkish banks has been facilitated. Accordingly, the followings have been resolved to be effective until December 31, 2020:
 - According to the provisions of the Regulation on Calculation and Evaluation of Banks' Capital Adequacy, Turkish banks will be able to use the buying exchange rate of December 31, 2019 (i.e. 5.9400) for the purpose of calculating the amount subject to credit risk for the calculation of the valuated amounts as per the Turkish Accounting Standards and the relevant special reserves to set aside among those related to their cash and non-cash assets, excluding the assets in foreign currency measured in historical cost;
 - Banks may calculate amount of own funds to be used for capital adequacy ratio under the Regulation on Banks' Own Funds, by disregarding the negative net valuation differences pertaining the securities (if any) these banks held in their "securities, fair value difference of which is reflected on other comprehensive income" portfolio before March 23, 2020; on the other hand, the provisions of the Regulation on Banks' Own Funds will continue to be applicable with respect to securities, fair value difference of which is reflected on other comprehensive income, acquired after March 23, 2020; and
 - Banks may calculate their respective net foreign currency positions by disregarding decrease in the value of securities they held in their portfolio before March 23, 2020; however, the portfolios acquired after March 23, 2020 will not be subject to this exception. In such a case, amount of own funds may be calculated as per the calculation method set out in the above paragraph.
- As per the BRSA decision numbered 8967 and dated March 26, 2020, the following measures have been taken to be effective until December 31, 2020:
 - As regards to liquidity coverage ratio, deposit and participation banks will be exempt from Article 32 of the Regulation on Calculation of Liquidity Coverage Ratio of Banks (**LCR Regulation**) which in turn means that if total and foreign exchange liquidity coverage ratios of a bank are/are expected to be less than the minimum ratio specified under Article 4 of the LCR Regulation, it will no longer be required to notify the BRSA of the reasons for the relevant shortfall and counter measures intended to be taken. In parallel, deposit and participation banks (i) will not need to resolve the shortfall regarding the unconsolidated total and foreign exchange liquidity coverage ratios within two weeks and (ii) may fall below the relevant ratio for six times (including shortfall resolved), even for two times in a row, in the same calendar year. That being sad, deposit and participation banks in Turkey will continue to report on a weekly and monthly basis to the BRSA under Article 31 of the LCR Regulation.
 - Development and investment banks will be exempt from the 1st, 2nd and 3rd paragraphs of Article 15 of the Regulation on Calculation and Evaluation of Liquidity Adequacy of Banks (**LA Regulation**); meaning that, such banks will no longer be required to (i) notify the BRSA of the reasons for shortfall and (ii) resolve the shortfall regarding weekly ratios within two weeks if they are not in compliance with the minimum liquidity adequacy ratios. Additionally, development and investment banks will continue to regularly report to the BRSA under Article 14(2) of the LA Regulation.

- According to the BRSA decision numbered 8976 and dated April 2, 2020, based on the grounds that number of personnel involved in the operational processes of Turkish banks has been limited as part of measures taken against the Covid-19, (i) the deadlines of the year-end and interim financial reports, independent audit reports and activity reports for banks, financial institutions other than banks (financial leasing, factoring and financing companies), independent audit institutions, rating agencies and asset management companies, and (ii) the deadlines of certain reporting requirements set out under the following pieces of legislation have been extended for an additional period of 60 days, to be applicable until December 31, 2020: the Regulation on Banks' Credit Transactions; the Regulation on Banks' Accounting Practices and Documents Retention; the Regulation on Principles and Procedures regarding Preparation and Publishing Annual Activity Reports by Banks; the Regulation on Banks' Internal Systems and Internal Capital Adequacy Evaluation Process; the Regulation on Banks' Independent Audit; the Regulation on Procedures and Principles regarding Notification of Executives' Appointments, Oaths and Property Declarations, and Keeping Minute Books; the Regulation on Principles regarding Authorization and Operations of Rating Agencies; the Regulation on Principles regarding Incorporation and Operations of Asset Management Companies; the Regulation on Principles regarding Incorporation and Operations of Financial Leasing, Factoring and Financing Companies. Last but not least, borrowers having failed to provide the relevant banks with conditions precedent documents prior to the respective loan allocation date will be able to complete such outstanding documents within six months following the loan allocation date and deliver financial statements, analysis tables and corporate governance principles compliance report to the banks until December 31, 2020.

TBA's Advisory Decision on Working Hours

Under its advisory decision on working hours of banks, the Banks Association of Turkey (*Türkiye Bankalar Birliği*) (**TBA**) has advised Turkish banks to determine the working and customer acceptance hours as between 12:00 and 17:00 for the branches and service units rendering direct services to customers and further indicated that Turkish banks may, at their own discretion, be flexible in determining their respective working and customer acceptance hours. Moreover, the TBA has resolved that Turkish banks may take necessary measures so as to prevent close contact and crowd in their branches and service units, as well as temporarily close their branches under high risks and foot traffic and continue to provide digital banking services without any disruption.

Conclusion

In a nutshell, a number of crucial preventive measures has been put in place in a short space of time with a view to mitigating the possible impacts of the Covid-19 on the Turkish banking sector and financial markets. As a matter of course, the relevant measures aim to support the real sector in addition to the financial sector in Turkey. As such, market participants should keep a close watch on steps, which the government and the regulatory bodies are to take in the upcoming days in relation to the banking sector, and should refrain from taking any action that may be in violation of the applicable legislation.

Kind regards,

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