

client alert

BANKING & FINANCE | TURKEY |

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FATCA - IGA SIGNED BETWEEN TURKEY AND THE UNITED STATES

Turkey and the U.S. have signed the Model 1 Intergovernmental Agreement (“IGA”) on 29 July 2015 to implement FATCA reporting requirements. The IGA must be ratified by the Turkish Parliament before its entry into force in Turkey. It will affect reporting processes of US banks and affiliated financial institutions in Turkey and withholding provisions of loan borrowing documents.

The provisions, commonly known as the Foreign Account Tax Compliance Act (FATCA), became law in the United States in March 2010. FATCA targets tax non-compliance by U.S. taxpayers with foreign accounts, and focuses on reporting:

- by U.S. taxpayers about certain foreign financial accounts and offshore assets;
- by foreign financial institutions about financial accounts held by U.S. taxpayers or foreign entities in which U.S. taxpayers own a substantial share.

The U.S. collaborates with other governments to develop two model intergovernmental agreements (IGAs) to implement FATCA. The U.S. Treasury Department and the Finance Ministry of Turkey both announced on their webpages that they had signed a Model 1 IGA on 29 July 2015. Accordingly, Turkey has agreed to report to the U.S. Internal Revenue Service (IRS) specific information about U.S. accounts held by the relevant foreign financial institutions (FFI) in Turkey, including subsidiaries of U.S. bank and financial institutions incorporated in Turkey. In order for the IGA to enter into force in Turkey, it must be ratified by the Turkish Parliament. We will give further information of developments with regard to such ratification.

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Once ratified, this Model 1 IGA will reduce withholding concerns for reporting FFIs in Turkey that serve as agents, lenders or participants to loans to U.S. or U.S.-connected borrowers. The exception will be for FFIs in Turkey that have failed to remedy significant non-compliance after notice and elapse of the applicable remedy period. FFIs in Turkey will provide to the "immediate payor" (the borrower or paying agent for the borrower) sufficient information to allow the payor to withhold under FATCA rules.

In compliance with Turkish bar regulations, opinions relating to Turkish law matters which are included in this client alert have been issued by Özdirekcan Dündar Şenocak Avukatlık Ortaklığı, a Turkish law firm acting as correspondent firm of Gide Loyrette Nouel in Turkey

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