



# client alert

BANKING & FINANCE | TURKEY |

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## SNOWPLOUGH TURN TO SLOW DOWN SHARP SLIDE IN TURKISH LIRA

The recent plunge of the Turkish lira, combined with the worsening relations with the United States, has caused fear among global markets as well as in the Turkish business environment. The Turkish lira has lost more than 45% of its value this year and hit a record low of 7.24 against the US dollar on 13 August in Asia Pacific trading. In an effort to avert the crisis, the Banking Regulation and Supervision Authority (the "**BRSA**") has taken various measures over the last few days, further to the Central Bank's increase of liquidity in the Turkish banking sector. This Client Alert aims to briefly summarize the recent changes brought by the BRSA in August 2018 to mitigate the effects of the rising f/x rates and protect the Turkish banks and the private sector to the extent possible.

### MEASURES RELATING TO THE REFINANCING OF LOANS

On 15 August 2018, the BRSA introduced a new Regulation on Restructuring of Debts to the Financial Sector (the "**Restructuring Regulation**") in order to regulate refinancing mechanisms of loans granted by financial institutions in Turkey. This regulation concerns banks, financial leasing companies, factoring companies and financing companies in Turkey (hereinafter referred to as the "**Creditor Institutions**") as well as those indebted to such financial entities. It sets forth the framework for the restructuring of indebtedness between such parties. In this respect, new provisions introduced by the Restructuring Regulation may be summarized as follows:

- The Banks Association of Turkey will prepare framework agreements (the "**Framework Agreement(s)**") to be executed with each Creditor Institution. The Framework Agreements can also be prepared on a debtor-group basis by taking into consideration the debtors' size/scale and sector(s).
- In order to implement the Framework Agreements for financial restructuring, Creditor Institutions are now required to sign bilateral agreements with their respective debtors.
- The following measures can be taken within the scope of financial restructuring: (i) extension of the repayment terms of the loan debts; (ii) novation of the debtors' loans; (iii) granting of additional loans; (iv) discounting or waiving from any and all receivables relating to loans, including, but not limited to, principal, interests, default interests and profit shares.
- In addition to the foregoing, with respect to principal, interest, or profit share receivables, the following measures can be applied: (i) partially or wholly converting such receivables into shareholding; (ii) partially or wholly assigning such receivables in exchange of a consideration in cash or in kind; and (iii) partially or wholly liquidating, selling, or removing from the balance sheet in exchange for considerations in kind possessed by debtors or third persons.

- It is worth mentioning that in cases where Creditors Institutions that possess two-thirds of the receivables to be collected from a debtor enter into an agreement with such debtor for the refinancing of its debt, all relevant Creditor Institutions will be required to restructure the debts of said debtor.

In parallel with the foregoing, new provisions have been added to the Regulation on the Procedures and Principles for Determining Loan Qualifications by Banks and Provisions to be Set Aside as follows:

- It is now possible for banks that apply TFRS 9 (Turkish Financial Reporting Standard 9, which is almost similar to IFRS 9) to reclassify under the First Group (standard loans) their performing loans that are classified under the Second Group (loans under close monitoring), provided the following conditions are met: (i) the relevant loan must be monitored for at least three months; (ii) no late payment exceeding 30 days in the course of such monitoring, and (iii) financial difficulties causing such restructuring must be resolved within such three-month period.
- First Group loans whose debtors are not in financial difficulty shall not be considered restructured in the event of a modification of its contractual terms and/or the partial or full refinancing of same.

## **NEW APPROACH IN BANK SHAREHOLDING IN PRIVATE SECTOR COMPANIES**

By way of amendments made in the Regulation on Operations of Banks Subject to Permission and Indirect Shareholding, it is possible for banks to become shareholders of private sector companies either through (i) a jointly established entity by several banks or financial institutions for the purpose of risk management; or (ii) a partnership established by law or a Presidential Decree of which a party can be a shareholder to benefit from such partnership's services. The BRSA has also adopted an exception to the prior approval requirement for shareholding in the abovementioned entities subject to the following requirements: (i) the partnership must not result in any sole control or joint control of the bank; (ii) the total share capital must not exceed 0.3% of the bank's equity capital; and (iii) a detailed report on the field of activity of the abovementioned established entities must be submitted to the BRSA at least 30 days in advance.

With the adoption of this amendment, the BRSA is paving the way for banks to acquire shares in companies experiencing financial difficulties through a jointly established special purpose vehicle.

## **LIMITATIONS ON CONSUMER LOANS**

According to recent amendments made in the Regulation on Credit Operations of Banks, the Regulation on Principles for Establishment and Operations of Financial Leasing, Factoring and Financing Companies and the Regulation on Bank Cards and Credit Cards, credit periods for consumer loans may not exceed 36 months. Credit term for vehicle loans may not exceed 48 months and the maximum term for mobile and computer credits is set at 6 months. These limitations shall also apply for the refinancing of consumer loans. The abovementioned time limitation does not comprise loans granted to consumers for the purchase of real estate; the purchase of goods as the ancillary part of such real estates or the purchase of services, both within the scope of the renovation works of such real estates; educational financing; financing of public debts; and the loans granted for refinancing said loans.

As for restrictions on instalments with respect to credit card payments, no more than 12 instalments are allowed for the purchase of goods and services. The maximum number of instalments is 3 months for the purchase of electronic goods, 6 months for transportation and accommodation expenses, and 9 months for tax payments and health expenses. Furthermore, no instalment can be applied to credit card payments for telecommunication, cosmetics, fuel, food and alcohol expenses, and for the purchase of gift cards and gift cheques not related to a specific good or service.

## RESTRICTIONS ON BANK SWAP TRANSACTIONS

According to the official statement made by the BRSA on 15 August 2018, the total number of bank currency swaps and other similar transactions (spot + forward f/x) with foreign counterparts where, on the initial date of the transaction, local banks pay Turkish lira and receive foreign exchange, may not exceed 25% of the bank's equity capital. The BRSA further noted that unless current excess is eliminated, it will not be possible to execute further transactions and maturing transactions will not be renewed. The abovementioned ratio will be calculated on a daily solo and consolidated basis. By lowering the 50% limit imposed by the BRSA two days earlier, this measure aims to limit foreign investors' access to Turkish lira liquidity in the offshore swap market and makes it harder for them to borrow the currency from local lenders and short sell it.

## WHAT'S NEXT?

Even though such measures resemble a beginner-level skier's snowplough turn, a basic braking technique in downhill skiing, they will very likely prove insufficient to effectively reduce speed on the global market's steep slopes. Sooner or later, Turkish authorities are expected to implement more daunting structural legal reforms in order to control the velocity of Turkish economy.

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

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