

## New Regulation on Restructuring of Loan Debts

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August 2018

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On 15 August 2018, the Banking Regulation and Supervision Agency (the “**BRSA**”), the Turkish banking watchdog, issued the Regulation on the Restructuring of the Debts Owed to Financial Institutions<sup>1</sup> (“**Regulation**”). The Regulation aims to assist troubled Turkish borrowers experiencing difficulty in repaying their loan debts mainly due to the slide of the Turkish Lira. At the same time, it is expected to enable creditors to facilitate a more structured and uniform approach in respect of the non-performing loans in their portfolios.

The highlights of the Regulation are as follows:

- The Banks Association of Turkey will draft framework agreements (“**Framework Agreements**”) to set out the main provisions relating to the restructuring. Based on the Framework Agreements, creditors (*i.e.*, banks and the factoring companies) may execute individual restructuring agreements with the borrowers. The Framework Agreements will be approved by the BRSA. The borrowers will be able to benefit from the Regulation for a period of two years following this approval. The BRSA is authorized to extend this period.
- Borrowers must have a recoverable financial condition in order to benefit from the Regulation. In other words, they should be able to repay their debts after the restructuring. The criteria for this will be set out under the Framework Agreements.
- If two thirds of the creditors (in terms of debt size) transact with the debtor to restructure the debt, then all creditors of such borrower must be involved in the restructuring.
- Creditors can, among other things, extend the maturities, restructure the current debt, provide new loans, and in exchange obtain additional securities.
- Creditors cannot charge an interest rate below the market interest rate and provide additional financing to the borrowers who fall into the same risk group(s) as defined under the Banking Law<sup>2</sup>.

The Regulation is similar to the “Istanbul approach”<sup>3</sup>, which refers to Turkey’s implementation of similar measures to restructure non-performing loans in the 2001 financial crisis. Going forward, the Framework Agreement is expected to shed light on the implementation of the measures under the Regulation.

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<sup>1</sup> Published in the Official Gazette No. 30510 and dated 15 August 2018.

<sup>2</sup> Published in the Official Gazette No. 25983 and dated 1 November 2005.

<sup>3</sup> The term stems from the “London Approach”, which refers to the set of principles determined by the Bank of England due to the liquidity problems in the 1970s.