

## INCREASED MONITORING ON FEES CHARGED BY TURKISH BANKS

On 10 February 2020, the Central Bank of the Republic of Turkey (the "Central Bank") published the Communiqué on Fees Payable to the Banks by Commercial Clients (No. 2020/4) (the "Communiqué"). The Communiqué authorises the Central Bank to set forth limits and determine caps applicable to the fees chargeable by Turkish banks from their corporate and commercial clients, in a bid to ensure transparency and foreseeability of costs in the Turkish banking sector.

The Communiqué will enter into force as of 1 March 2020. In respect of the lending related transactions and services offered by Turkish banks, the Communiqué provides that:

- Turkish banks may no longer charge any fees under different names, other than those specifically listed in Annex 1 of the Communiqué or otherwise permitted to be charged under the applicable secondary legislation or separate instructions to be issued by the Central Bank. The Communiqué clarifies that Turkish banks are still allowed to freely determine the rates applicable to fees which are not explicitly capped under the Communiqué.
- **Arrangement fees:** The fees chargeable in respect of the arrangement of loans under the Communiqué are capped at 0.25% of the total credit limit. The Communiqué also clarifies that only a single arrangement fee may be charged by the Turkish banks in a single calendar year unless the available credit limits are increased within the same year or the customer makes a request to the same effect. In respect of arrangement fees in relation to the loans with a maturity shorter than one year, the rate of 0.25% will be decreased in proportion to the maturity of the loan.
- **Utilisation fees:** The fees chargeable in respect of utilisation of loans under the Communiqué are capped at 1% of the total utilised amount. The Communiqué also provides that utilisation fees may be charged upfront or in quarterly periods. In respect of the revolving loans, the utilisation fees must be charged in quarterly periods and will be capped at 0.25% of the then current outstanding loan balance.
- **Security agency fees:** The Communiqué provides that security agency fees will be capped at the actual amounts paid to third parties or, if the bank is providing these services internally, the actual costs reasonably incurred for services such as expert valuation, security establishment or amendments to the security.
- **Prepayment fees:** The Communiqué also allows Turkish banks to charge a prepayment fee in respect of loans prepaid by the borrower **unless** the interest is calculated subject to a floating rate (such as LIBOR or EURIBOR). In addition, the Communiqué provides that borrowers are entitled to prepay any amounts under their loans in full at any time, and in such case, Turkish banks are required to make a discount on the non-accrued interest and other costs. In any event, the prepayment fees chargeable by Turkish banks may not exceed:
  - 1% of the prepaid amount in respect of loans with a maturity shorter than 2 years; and
  - 2% of the prepaid amount in respect of loans with a maturity longer than 2 years.

Services provided by Turkish banks to financial institutions, or operations carried out by TürkExim Bank, offshore banking units or banks controlled by the Saving Deposits Insurance Fund of Turkey are exempt from the limits and caps introduced by the Communiqué. Further, fees in relation to the rediscount and advance credits to be made available from the funds of the Central Bank would also not be subject to this Communiqué.

The participation banks will also be subject to these requirements in line with their operations.

The Communiqué aims to provide a certain level of relief to the Turkish borrowers and allow prepayment and/or refinancing of existing loans without payment of excessive fees to the banks. All Turkish banks are required to come up with a fee tariff and publish the same online before 1 March 2020, in a bid to ensure foreseeability of additional borrowing costs in the Turkish lending market.

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