

Published by the Banks Association of Turkey:

**REGULATION ON RISK CENTER OF  
THE BANKS ASSOCIATION OF TURKEY**

*(Published in the edition 28260 of the Official Gazette on April 10<sup>th</sup>, 2012)*

**FIRST PART  
Purpose, Scope, Grounds and Definitions**

**Purpose and Scope:**

**ARTICLE 1 – (1)** The purpose of this Regulation is to set down the principles and procedures relating to foundation, activities and operations of the Risk Center of the Banks Association of Turkey, and composition, meeting and decision making of management of the Risk Center of the Banks Association of Turkey, and scope, format and contents of and sharing of information provided to the Risk Center of the Banks Association of Turkey, and scope and contents of information to be shared, and charging thereof, and determination of subscription fees payable by the members.

**Grounds:**

**ARTICLE 2 – (1)** This Regulation is prepared and issued in reliance upon the provisions of Supplementary Article 1 of the Banking Law no. 5411 dated 19/10/2005.

**Definitions:**

**ARTICLE 3 – (1)** For the purposes and in the context of this Regulation:

- (a) “Minimum Notification Limit” refers to the lower limit of information to be gathered and shared; and
- (b) “Financial Institution” refers to the institutions, other than the crediting institutions, which are founded for insurance, personal retirement or capital market activities or at least one of the fields of activity specified in the Law, as well as development and investment banks and financial holding companies; and
- (c) “Law” refers to the Banking Law no. 5411 dated 19/10/2005; and
- (d) “Source Institution” refers to private law legal entities and public administrations and entities and professional organizations considered as public entities and their upper organizations, other than members, from which the Risk Center demands information in line with its foundation purposes; and
- (e) “Board” refers to the Banking Regulation and Supervision Board; and
- (f) “Authority” refers to the Banking Regulation and Supervision Authority; and

- (g) “Crediting Institution” refers to deposit banks and participation banks; and
- (h) “Central Bank” refers to the Turkish Central Bank; and
- (i) “Customer” refers to all natural persons and legal entities about which information is gathered in accordance with the foundation purposes of the Risk Center; and
- (j) **(Revised by the Regulation no. 2013-28730 dated 06/08/2013)<sup>(1)</sup>** “The Risk Center” refers to the Risk Center of the Banks Association of Turkey, not having a separate legal personality, established as a part of the Banks Association of Turkey, in order to gather risk information about customers of crediting institutions and other financial institutions to be deemed fit by the Board, and to share such information with the said institutions and with natural persons or legal entities themselves or subject to prior consent thereof, with natural persons or legal entities, as stipulated in Supplementary Article 1 of the Law; and
- (k) “The Risk Center Unit” refers to the unit established by the Banks Association of Turkey to implement the decisions taken by the Risk Center Management; and
- (l) “The Risk Center Management” refers to the management of the Risk Center of the Banks Association of Turkey established to manage and direct the duties and activities of the Risk Center; and
- (m) “Member” refers to the crediting institutions and each financial institution found eligible by the Board for membership of the Risk Center of the Banks Association of Turkey.

## **SECOND PART**

### **Risk Center Management**

#### **Composition of Risk Center Management:**

**ARTICLE 4 – (1)** The Risk Center Management is composed of nine members, including one member to be appointed by each of the Authority and the Central Bank from among its own members.

**(2)** Seven members, other than the members to be appointed by the Authority and the Central Bank from its own members, of the Risk Center Management will be elected by the Board of Directors of the Banks Association of Turkey. Five of these members are elected by the Banks Association of Turkey from among the candidate or candidates to be nominated by the banks being members of the Banks Association of Turkey, and one of them is elected by the Banks Association of Turkey from among the candidate or candidates to be nominated by the Participation Banks Association of Turkey, and one of them is elected by the Banks Association of Turkey from among at least one candidate to be nominated by each of the professional unions, central unions or associations of other financial institutions deemed eligible by the Board for membership of the Risk Center. Candidates are required to be notified within thirty days following receipt of notification from the Risk Center, and if no candidate is notified by the end of this time period, the Board of Directors of the Banks Association of Turkey makes direct election from the relevant professional group. Said five members to be elected from among the banks, being members of the Banks Association of Turkey, are required to be working in different banks.

(3) Except for the Authority and Central Bank members, the Risk Center Management members are required to satisfy the conditions and qualifications set forth in sub-paragraphs (a), (b), (c) and (d) of first paragraph of article 8 of the Law, and the conditions and qualifications sought for in the deputy general managers as stipulated in second paragraph of article 25 thereof.

(4) Term of office of members is three years. Any member whose term of office is over may be re-elected.

(5) If and when a member loses his membership qualifications, or dies, or is interdicted, or resigns from membership, or his signature authorization is removed by the Board, or his relationship with his institution, also including the Authority and the Central Bank, ceases to exist, or his institution's operating license is cancelled, or he fails to attend a total of three members in a calendar year without a valid excuse, or he attends a meeting, but fails to sign in a timely manner the decisions of the Risk Center Management, or he fails to notify in writing the reasons of his dissenting vote in a timely manner, his membership terminates.

(6) If and when a member's membership terminates, the relevant articles of this Regulation are applied. If no candidate is nominated within thirty days following receipt of a notification from the Risk Center, the Board of Directors of the Banks Association of Turkey makes direct elections from the relevant professional group. Term of office of this member is also three years.

(7) A President and a Vice President are elected from among members by votes of at least five members to the Risk Center Management. If the election cannot be made in the first two tours, the candidate who takes the highest votes in the third tour to be organized with two candidates taking the highest votes in the second tour will be deemed to have been elected.

(8) If and when the President or Vice President cannot attend a meeting, that meeting will be managed by a person to be elected by the members from among themselves.

#### **Risk Center Management Meeting, Meeting and Decision Quorums and Implementation of Decisions:**

**ARTICLE 5 – (1)** The Risk Center Management meets at least once a month upon call of Risk Center Management President. Meeting agenda created by also taking into consideration the applications filed to the Risk Center Unit for inclusion of certain topics in the meeting agenda is notified to members in writing no later than seven days prior to the meeting. However, in emergencies, The Risk Center Management President may call the Risk Center Management for an immediate meeting, irrespective of the notice period of seven days. No decision about topics not included in the agenda may be taken in the meeting.

(2) Meeting quorum requires presence of at least six members. Decisions are taken by affirmative vote of at least five members. Every member has one vote in management. Use of dissenting vote or non-use of any vote is considered as negative vote.

(3) Decisions taken by the Risk Center Management are recorded in the Risk Center decisions book in chronological order and are serially numbered. Each decision is signed by members within no later than one month following the date of decision.

(4) Decisions taken by the Risk Center Management are implemented by the Risk Center Unit within the frame of the principles to be determined by the Board of Directors of the Banks Association of Turkey.

(5) Remunerations payable to members of the Risk Center Management are also determined by the Board of Directors of the Banks Association of Turkey.

#### **Duties and Powers of Risk Center Management:**

**ARTICLE 6 – (1)** The Risk Center Management’s duties and powers are:

- (a) To ensure that risk information about customers of its members are gathered and shared;
- (b) **(Revised by the Regulation no. 2013-28730 dated 06/08/2013)**<sup>(1)</sup> If and when natural persons or legal entities file a written and reasoned demand for disclosure and provision of risk information to them or it is proven that they have consented to disclosure and provision of such risk information to a natural person or legal entity other than crediting institutions and financial institutions deemed fit and eligible by the Board, to disclose and give the said information against a certain fee to be paid by the demanding party;
- (c) To request its members to give all kinds of information about their customers in line with its foundation purposes;
- (d) To identify and define the failure in timely provision of information requested from the members, or late or incomplete delivery thereof, or delivery of information with control errors or other notification errors, and to determine principles and procedures relating to duration and scope of stoppage of flow of information to the relevant member as a sanction applicable against such failures, and to implement said sanctions, and if required, to report the sanctioned members to the Authority, and to inform the Board of Directors of the Banks Association of Turkey thereabout;
- (e) If and when deemed necessary, to request independent audit firms to conduct an audit on information systems of the members, in the sole cost of the relevant member;
- (f) To stop the flow of information to a member which fails to take actions and measures for confidentiality of information and documents received from the Risk Center;
- (g) To request information from private law legal entities and public administrations and entities and professional organizations considered as public entities and their upper organizations in line with its foundation purposes;
- (h) To sign agreements for exchange of information with private law legal entities and public administrations and entities and professional organizations considered as public entities and their upper organizations in line with its foundation purposes, subject to prior assent of the Board;

- (i) To transmit all kinds of information gathered as above to the Authority and the Central Bank in the predetermined format and within the predetermined duration;
  - (j) To determine amounts of subscriptions, commissions, additional commissions and fees to be collected;
  - (k) Where the exchange of information is performed through companies founded by at least five banks pursuant to forth paragraph of article 73 of the Law, to express its opinions to the Board of Directors of the Banks Association of Turkey about selection of the relevant companies and agreements to be signed with those companies, and to follow up the implementation of the signed agreements;
  - (l) To incorporate working groups for taking suggestions and opinions as a result of investigations, researches and assessments on any topics deemed necessary, and to formulate the working procedures and principles of such working groups;
  - (m) To issue circulars for implementation of the topics and subjects it is authorized to regulate as per this Regulation;
  - (n) To present to the Board of Directors of the Banks Association of Turkey its proposals for amendments and changes in this Regulation and other regulations pertaining to the Risk Center;
  - (o) In addition to the methods of application set forth in this Regulation, to determine and formulate the procedures and principles and methods of taking applications and collecting the fees via internet, automatic teller machine, call center and similar other alternative distribution channels; and
  - (p) To determine according to the method of application the principles and procedures of information as to receipt of the customer's consent and as to content of such consent.
  - (q) **(Revised by the Regulation no. 2013-28730 dated 06/08/2013)**<sup>(2)</sup> To determine and set down the procedures and principles relating to other methods of delivery, including the delivery through members, in addition to the methods of delivery of the risk center report as specified in the Regulation on Procedures and Principles of Delivery of Information of Customers of Members of Risk Center of the Bankers Association of Turkey Held by Risk Center Either to Themselves or to Persons or Entities Designated and Approved by Them, published in the Official Gazette edition 28260 on 10/04/2012.
- (2) The Risk Center Management is responsible towards the Board of Directors of the Banks Association of Turkey for its activities and operations.
- (3) Actions and measures deemed fit by the Board and the Central Bank will be taken and implemented urgently by the Risk Center Management.

### **Representation:**

**ARTICLE 7 – (1)** The Risk Center Management is represented by joint signatures of at least two members of it, at least one of them being the President or the Vice President.

(2) The Risk Center is represented by the Banks Association of Turkey in and towards official authorities and governmental bodies, courts and third parties.

#### **Establishment of Internal Control and Internal Audit Systems:**

**ARTICLE 8 – (1)** The Banks Association of Turkey establishes an effective internal control and internal audit system in its own organization for the purpose of ensuring that the Risk Center activities and operations are carried out correctly, safely and continuously. Where the activities and operations are carried out through companies founded by at least five banks pursuant to the fourth paragraph of article 73 of the Law, the Banks Association of Turkey will not be obliged to establish this system in its own organization, and will ensure that this internal control and internal audit system is established in the said companies. Internal audit services may also be outsourced. However, in the case of internal audit services which may lead to the learning of secrets of banks or bank customers within the scope of article 73 of the Law, the companies will be required to perform this service through personnel employed in their own organizations.

### **THIRD PART Sharing of Information**

#### **Scope, Format and Contents of Information To Be Provided by Members to the Risk Center:**

**ARTICLE 9 – (1)** The following information will be provided to the Risk Center:

- (a) Amount of limits, available as of the date of notification, of receivables arising out of cash and non-cash loans, funds and activities allocated to natural persons or legal entities the credit limit of whom is equal to or above the minimum notification limit to be determined by the Risk Center Management, by customers; and
- (b) Total number and amount of receivables arising out of credit risks, cash and non-cash loans, funds and activities made by or through the members available to their customers, and the interests and profit shares relating thereto, and total number and amount of receivables arising out of cash and non-cash loans, funds and activities opened during the relevant notification period and settled before the due dates thereof, and the information of delays in repayment of them as will be determined by the Risk Center Management, by customers or accounts; and
- (c) Credits and other receivables classified as frozen debts pursuant to provisions of subparagraphs (c), (d) and (e) of first paragraph of article 4 of the Regulation on Procedures and Principles of Determination of Characteristics of Credits and Other Types of Receivables by Banks and of Reserves To Be Set Aside For Them, published in the Official Gazette edition 26333 on 1/11/2006, by customers;
- (d) Receivables posted to the account of Receivables To Be Liquidated and Receivables Written Off in accordance with provisions of the Communiqué on Procedures and Principles of Reserves To Be Set Aside For Receivables of Financial Leasing,

Factoring and Financing Companies, published in the Official Gazette edition 26588 on 20/7/2007, and similar receivables of other financial institutions to be deemed fit and eligible by the Board, by customers;

- (e) Identity data of natural person customers who owe debts to be liquidated towards the members, and other information to be determined by the Risk Center Management;
  - (f) Non-payment protests above the minimum notification limit to be determined by the Risk Center Management, by promissory notes, and protested promissory notes below this limit, by number and amount thereof in a single item;
  - (g) Information about cheques paid or registered as dishonored cheque, and account holder thereof;
  - (h) Other information to be determined by the Board in line with foundation purposes of the Risk Center; and
  - (i) Other information to be determined by the Risk Center Management in line with foundation purposes of the Risk Center, with prior assents of the Board and the Central Bank.
- (2) The Risk Center Management is authorized to determine whether a minimum notification limit will be applied or not, or what will be the amount thereof.

#### **Sharing of Information Held By the Risk Center With Members:**

**ARTICLE 10 – (1)** Credit limit and credit risk information will be combined separately for each customer, and will be collectively reported as of the notification period to the members who give information about these customers.

(2) **(Revised by the Regulation no. 2012-28502 dated 19/12/2012)<sup>(1)</sup>** Members who make credit limit and credit risk notifications on customer basis may individually receive the credit limit and credit risk information, and the information referred to in sub-paragraphs (c) and (d) of first paragraph of article 9, and information about paid checks, on inquiry basis, about members who have customers or who do not have customers.

(3) **(Revised by the Regulation no. 2012-28502 dated 19/12/2012)<sup>(1)</sup>** The dishonored check information and the non-payment protests are periodically shared with members.

(4) Identity data of natural person customers who owe debts to be liquidated towards the members are shared with members who make credit limit and credit risk notifications separately for their customers.

(5) The Risk Center Management shares with its members both the information received from private law legal entities and public administrations and entities and professional organizations considered as public entities and their upper organizations, and the information obtained as per the agreements signed for exchange of information, by taking into account the information needed by its members in order to measure the risks to be exposed, and to regularly analyze and monitor the financial situation of their counterparties.

(6) The Risk Center may produce and share various different products, information sets or reports in accordance with its foundation purposes by making use of the data gathered therein.

(7) The Risk Center Management is authorized to determine other information to be shared, and members with whom such information will be shared, in line with the foundation purposes of the Risk Center, with prior assents of the Board and the Central Bank.

#### **Demand of Information by the Risk Center From Source Institutions:**

**ARTICLE 11 – (1)** The Risk Center is authorized to demand information from private law legal entities and public administrations and entities and professional organizations considered as public entities and their upper organizations in line with foundation purposes of the Risk Center, without prejudice to the law provisions pertaining to privacy of private life and family life.

#### **Agreements of the Risk Center on Exchange of Information:**

**ARTICLE 12 – (1)** The Risk Center is authorized to enter into agreements for exchange of information with private law legal entities and public administrations and entities and professional organizations considered as public entities and their upper organizations in line with foundation purposes of the Risk Center, with prior assent of the Board. Pursuant to and under said agreements, only the risk information held by the Risk Center and approved by the customer are shared with the said private law legal entities and public administrations and entities and professional organizations considered as public entities and their upper organizations. Accordingly, the approval received from the customer and regulated separately from all and any agreements shows and states the private law legal entities and public administrations and entities and professional organizations considered as public entities and their upper organizations the information of whom will be shared, and the scope of information to be shared, and the duration of sharing.

#### **Principles of Application of Natural Persons or Legal Entities to the Risk Center:**

**ARTICLE 13 – (1)** Natural persons or legal entities apply to the Risk Center in writing for provision and delivery of their own information to themselves or to third parties.

(2) **(Revised by the Regulation no. 2013-28730 dated 06/08/2013)**<sup>(1)</sup> Principles and procedures relating to application and approval process for provision and delivery of information relating to natural persons or legal entities to themselves or with their prior consent, to natural persons or legal entities designated by them, will be regulated by a separate Regulation.

#### **Information of Authority and Central Bank:**

**ARTICLE 14 – (1)** The Risk Center provides all kinds of gathered information to the Authority and the Central Bank in the requested format and within the time period specified.

#### **Information To Be Made Public:**

**ARTICLE 15 – (1)** The Risk Center periodically makes public the statistical data and information pertaining to consolidated credit limit and credit risk, protested promissory notes,



paid cheques and dishonored cheques, and other statistical data and information deemed fit by the Risk Center Management.

### **Exchange of Information Through Companies:**

**ARTICLE 16 – (1)** If and when the Risk Center carries out the exchange of all kinds of information through companies founded pursuant to forth paragraph of article 73 of the Law:

- (a) Exchange of information made by companies cannot be subcontracted to another service provider.
  - (b) Companies will establish an internal control and internal audit system in their own organization. Internal audit service may be outsourced. However, in the case of internal audit services which may lead to the learning of secrets of banks or bank customers within the scope of article 73 of the Law, the companies will be obliged to perform this service through personnel employed in their own organizations.
  - (c) Companies are prohibited to use, disseminate, disclose or transfer the Risk Center database in their own interests or in interests of third parties. Ownership, copyrights and other rights and interests of all kinds of software, models, reports and similar other products produced and developed by making use of information held in the Risk Center belong to the Risk Center.
  - (d) Companies establish the process of collection, storage and sharing of information of the Risk Center separately from their own processes, and take all kinds of actions and measures for the purpose of this separation.
- (2) The Risk Center is authorized to perform audits in companies, providing that such audits are kept limited only by the activities carried out under agreements.
- (3) If and when the Risk Center wishes to perform the exchange of all kinds of information through companies founded pursuant to forth paragraph of article 73 of the Law, then the Board's assent is taken about selection of the said companies.

## **FORTH PART**

### **Liabilities**

#### **Liabilities of the Risk Center Members:**

**ARTICLE 17 – (1)** Each of the members is liable:

- (a) To give truly, completely and in a timely manner all kinds of information and documents which are requested by the Risk Center pursuant to and under this Regulation;
- (b) To enter into a confidentiality agreement with the Risk Center and to take all kinds of actions and measures for confidentiality of all and any information and documents received from the Risk Center;

- (c) To use the information obtained from the Risk Center only in its own internal deals and transactions, and not to share the same with any natural person or legal entity, including, but not limited to, other members;
- (d) To establish and maintain in good operating order the infrastructure required for performance of its obligations and liabilities;
- (e) If demanded by the Risk Center, to cause independent audit firms to conduct an audit on information system in its sole cost and account;
- (f) To appoint and name to the Risk Center at least one responsible officer authorized to represent it for the sake of coordination with the Risk Center;
- (g) To monitor the conditions of eligibility of its personnel appointed as a member of the Risk Center Management, and to report any changes therein; and
- (h) To pay on or before due dates the subscriptions, commissions, and in the case of failure in timely provision of information requested from the members, or late or incomplete delivery thereof, or delivery of information with control errors or other notification errors, to pay the additional commissions.

#### **Liability of Risk Center:**

**ARTICLE 18 – (1)** The probable objections and complaints of natural persons or legal entities with regard to their information shared by the Risk Center will be addressed to the member or the source institution providing the information being the subject matter of such objection or complaint. The Risk Center will assume no liability towards its members, source institutions or third parties due to such information provided.

(2) The Risk Center is not obliged to check or inquire the accuracy of information given to it, and will in no case be a party to any disputes which may arise out of such information. Provided, however, that the Risk Center will be liable towards its members, source institutions or third parties due to the damages and losses caused by its own fault.

(3) The Risk Center is under obligation to take all kinds of actions and measures to keep in strict confidence all and any information and documents obtained hereunder.

#### **Confidentiality:**

**ARTICLE 19 – (1)** All transactions and records of the Risk Center are confidential. Data and information obtained from the Risk Center may be used only in and for the receiving member's own internal deals and transactions, and cannot be shared with any natural person or legal entity, including, but not limited to, other members.

(2) Any person who discloses the secrets and confidential information held with the Risk Center to third parties, other than the legally authorized persons or entities, or uses, disseminates, gives, discloses, transmits or acquires the same unlawfully in his own interests or in interests of others shall be subject to the provisions of article 159 of the Law.

**FIFTH PART**  
**Subscriptions, Commissions, Additional Commissions and Fees**

**Subscriptions, Commissions, Additional Commissions and Fees To Be Charged by the Risk Center:**

**ARTICLE 20 – (1)** In order to finance its operating expenses, the Risk Center is authorized to demand subscriptions, commissions and additional commissions from its members, and charge fees on natural persons or legal entities requesting a Risk Center Report.

(2) It is essential that the Risk Center should obtain an income adequate for financing its expenses. Income and expenses of the Risk Center are accounted and followed up separately from income and expenses of the Banks Association of Turkey, and if and to the extent the income of the Risk Center is in excess of its expenses as of the end of a fiscal year, the amount in excess will be carried forward to next year's budget of the Risk Center.

**Subscriptions:**

**ARTICLE 21 – (1)** A member is under obligation to pay a yearly subscription to be fixed and determined by the Risk Center Management. The Risk Center Management is authorized to charge different amounts of subscription on different members by taking into consideration the relevant member's total assets, fields of business, information exchange volume, share in its sector, and similar other criteria.

(2) Amount of subscriptions is determined and notified to members by the Risk Center Management in March every year. It is essential for members to deposit their subscriptions in the Risk Center by the end of June, and subscriptions not deposited by members in a timely manner will be collected through legal and execution proceedings.

**Commissions and Additional Commissions:**

**ARTICLE 22 – (1)** Each member is under obligation to pay a querying commission to be determined by the Risk Center Management on monthly basis by taking into account the unit querying cost and the total number of queries.

(2) Each member is further liable to pay an additional commission requested by the Risk Center Management from it, for the costs arising out of or incurred due to failure in timely provision of information requested from the members, or late or incomplete delivery thereof, or delivery of information with control errors or other notification errors.

**Fees:**

**ARTICLE 23 – (1)** Where natural persons or legal entities request delivery of the Risk Center Report to themselves or with their prior consent, to legal entities designated by them, the fees to be charged therefor will be determined by the Risk Center Management within the frame of cost analysis of the subsequent year and will be published via internet website of the Risk Center.

**SIXTH PART**  
**Miscellaneous and Final Provisions**

**Remunerations:**

**ARTICLE 24 – (1)** Requests for non-payment of any remunerations to the representatives representing the members in the Risk Center Management are to be fulfilled.

**Determination of First Subscription and Fee:**

**TEMPORARY ARTICLE 1 – (1)** If and when the Risk Center is commissioned before the year-end, the yearly subscriptions to be determined will be collected from members in proportion to the remaining portion of the year.

**(2)** Fees payable for Risk Center Report are to be determined on the estimated cost basis for the first year.

**Sharing of Information on Past Periods:**

**TEMPORARY ARTICLE 2 – (1)** For the period from 1/1/2007 to the calendar year relating to the period the Risk Center starts the sharing of information:

- (a)** Total number and amount of receivables arising out of cash and non-cash loans, funds and activities made available and settled, and total number and amount of frozen debts (debts to be settled) reported as per sub-paragraph (b) of first paragraph of Article 9; and
- (b)** Total number and amount of paid cheques, other than the dishonored cheques, reported as per sub-paragraph (g) of first paragraph of Article 9

are gathered separately for customers, and are shared with the relevant members.

**Notification by Natural Person Customers Owing Debts To Be Settled Towards Members:**

**TEMPORARY ARTICLE 3 – (1)** One year after the period of completion of information pursuant to Temporary Article 2, the collection of identity data of natural person customers owing debts to be settled towards the members according to sub-paragraph (e) of first paragraph of article 9 and the sharing of such information according to forth paragraph of article 10 will be stopped. However, if the Risk Center Management considers that it will cause loss of information if the said system is terminated at the end of the said period, then this time period may be extended by 1 more year by the Risk Center Management for completion of the said deficiency.

**Effective Date:**

**ARTICLE 25 – (1)** This Regulation will become effective as of the date of its promulgation.

**Enforcement:**

**ARTICLE 26 – (1)** The provisions of this Regulation will be enforced by the Banks Association of Turkey.