

**By the Banking Regulation and Supervision Agency:**

**REGULATION ON FINANCIAL HOLDING COMPANIES**

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**SECTION ONE**

**Objective and Scope, Basis and Definitions**

**Objective and Scope**

**ARTICLE 1–** (1) The objective of this Regulation is to regulate the procedures and principles for the scope of financial holding companies, their corporate structures and their limitations and audits.

(2) This Regulation covers the financial holding companies for which natures and scope are laid down by Article 4 hereof.

**Basis**

**ARTICLE 2–** (1) This Regulation has been prepared on the basis of the Articles 78 and 93 of Banking Law Nr. 5411 dated October 19, 2005.

**Definitions**

**ARTICLE 3–** (1) The following terms used in this Regulation shall have the meanings expressly designated to them below:

- a) Parent company: Parent company other than the bank as defined by Article 3 of the Law
- b) Affiliate: Affiliate as defined by Article 3 of the Law
- c) Bank(s): Bank(s) which are defined by Article 3 of the Law
- ç) Financial holding company: Financial holding company as defined by Article 3 of the Law, for which qualifications and scope are set forth by Article 4 of this Regulation
- d) Financial organization: Financial organization as defined by Article 3 of the Law
- e) Fund: Savings Deposit Insurance Fund
- f) Accounting period: One calendar year
- g) Law: Banking Law Nr. 5411
- ğ) Credit organization: Credit organization as defined by Article 3 of the Law
- h) Board: Banking Regulation and Supervision Board
- ı) Agency: Banking Regulation and Supervision Agency

i) Qualified shares: Qualified shares as defined by Article 3 of the Law

### **Scope of financial holding companies**

**ARTICLE 4–** (1) In the event that the following conditions concerning a parent company which is established in Turkey as a joint stock company (AS) and has at least one of its affiliates operating as a credit organization are met altogether, the said parent company falls in the scope of financial holding companies:

- a) More than half of the affiliates are credit organizations and/or financial organizations
- b) More than fifty per cent of its paid up capital is allocated for such types of affiliates
- c) The ratio of the average of the sum of assets held by the affiliates which are composed of the credit organizations and financial organizations as of the end of the last three accounting periods to the average of the individual sums of assets of the parent company and affiliates is forty per cent or more
- ç) The ratio of the average of the sum of assets of the affiliates composed of banks and financial leasing, factoring and financing companies as of the end of the last three accounting periods to the average of the sum of assets of the affiliates composed of credit organizations and financial organizations is ten per cent or more.

## **SECTION TWO**

### **Corporate structure of financial holding companies**

#### **Qualifications of partners and indirect shareholding**

**ARTICLE 5–** (1) Natural persons and legal entities holding qualified shares in capital of financial holding companies must meet the qualifications for bank founding partners as laid down by Article 8 of the Law.

(2) In determination of qualified shareholding as referred to by the first paragraph, indirect shareholding is determined subject to the procedures and principles regulated by the Article 13 of Regulation on Operations of Banks Subject to Permission and Indirect Shareholding.

#### **Amendments to articles of association, share acquisition and transfers**

**ARTICLE 6–** (1) Amendments to the articles of association of financial holding companies shall be governed by provisions of the Article 16 of the Law and the Agency shall be

informed of such amendments with the Trade Registers Office within ten work days from the date of the registration.

(2) Acquisition and transfers of shares by financial holding companies shall be applied by provisions of Article 18 of the Law. Such transactions shall be subject to provisions set forth in Article 11 of the Regulation on Banking Operations Subject to Permission and Indirect Shareholding.

(3) In issue of permissions for acquisition and transfer of shares in financial holding companies, the transfer share laid down by the Article 18(3) of the Law is deposited with the Fund on the basis of the change indirectly occurring in the shareholding of the bank.

### **Provisions governing corporate management**

**ARTICLE 7–** (1) Financial holding companies may determine their organizations and processes regarding corporate management subject to the procedures and principles established by the Regulation on the Principles for Corporate Management of Banks pursuant to Article 22 of the Law.

(2) Persons not meeting the conditions in sub-paragraphs (a), (b), (c) and (d) of the first paragraph of Article 8 of the Law may not be employed by financial holding companies in positions of general managers, deputy general managers or any other officers holding signature powers. Provisions of Article 26 of the Law are applicable for staff of financial holding companies, which are established to have acted in violation of the provisions of the Law or other relevant legislation as a result of audits conducted and for whom legal proceedings are requested to be initiated.

(3) Provisions of Articles 23 and 24 of the Law are applicable for the executive boards and Supervisory Committees of financial holding companies. Notifications to be made to the Agency in connection with appointments of members for executive boards and Supervisory Committees are subject to the provisions of Articles 4 and 5 of the Regulation on the Procedures and Principles for Notification of and Taking Oath and Declaration of Assets by Executives to be Appointed to Top Management of Banks and Maintenance of Books of Resolutions.

(4) The members of the executive board of the bank, which is in a position as an affiliate of the financial holding company may serve on the executive board of the financial holding company as well.

(5) The members of the supervisory committee established in the bank which is in a position as an affiliate of the financial holding company subject to the procedures and principles laid

down by the Regulation on Internal Systems of Banks may also serve on the Supervisory Committee of the financial holding company.

(6) Article 25 of the Law is applicable for general managers and assistant general managers of financial holding companies. Notifications to be made to the Agency concerning the assignments to be made for the positions to general managers and assistant general directors are subject to Article 6 of the Regulation on the Principles and Procedures for Notification of and Taking Oath and Declaration of Assets by Executives to be appointed to Top Management of Banks and Maintenance of the Book of Resolutions is applicable in the.

(7) Pursuant to the articles 29, 30, 31 and 32 of the Law, Financial Holding Companies are obliged to establish and operate an adequate and effective internal control, internal audit and risk management system which complies with scope and composition of operations for monitoring and controlling the risks they are exposed to, and suitable to changing conditions, with the exception of those including all its partnerships subject to consolidation and those established within the structure of the associated bank. Provisions of the Regulation on Internal Systems of Banks are applicable in execution of these liabilities.

(8) Resolutions of administrative board and audit committee of financial holding companies are recorded to the resolution book to be kept in line with the article 28 of the Law. Article 11 of the Regulation on the Principles and Procedures for Notification of and Taking Oath and Declaration of Assets by Executives to be appointed to Top Management of Banks and Maintenance of the Book of Resolutions is applicable in keeping resolution book.

### **SECTION THREE**

#### **Limitations Concerning Financial Holding Companies**

##### **Equities**

**ARTICLE 8-** (1) The provisions of the article 44 of the Law is applicable for equities of financial holding companies. Financial holding companies are obliged to calculate consolidated equity within the scope of the provisions of article 12 of the Regulation on Equities of Banks. Investment amount of partnerships of which financial holding company is directly or indirectly a shareholder is discounted off the consolidated equity amount that is being calculated, subsequent to the provision of this paragraph.

(2) The sums of consolidated own-fund calculated by financial holding companies subject to the first paragraph of the present article must not be less than the total of the sum of minimum

capital required to be held by credit organizations and financial institutions they are partners to and partnership interests in credit organizations and organizations other than financial institutions.

(3) In calculation of the amount of minimum capital within the scope of the second paragraph, the following are taken as a basis:

a) Minimum capital amount calculated by banks in line with the Regulation on Measurement and Evaluation of the Capital Adequacy of Banks,

b) Minimum capital amount calculated within the scope of the Regulation on Measurement and Evaluation of the Capital Adequacy of Banks by financial leasing, factoring and financing companies which are not required to calculate minimum capital amount as per the legislation governing them,

c) Amounts indicated in information and documents reported to competent authorities authorized with surveillance and supervision by financial institutions not covered by subparagraphs (a) and (b) and which calculate minimum capital amounts as required by the legislation governing them or sent to the Agency by such authorities as per the provisions of the Article 12(1) and (2).

(4) In the implementation of this article, minimum capital amount refers to the minimum equity amount to meet capital requirement.

#### **FX net general position/own-fund standard ratio**

**ARTICLE 9-** (1) Financial holding companies are obliged to calculate FX net position/own-fund standard ratio in a manner to include their partners having the nature of credit organizations and financial institutions pursuant to the provisions governing protective regulations included in Article 43 of the Law.

(2) Financial holding companies calculate FX net general position/own-fund standard ratio as of consolidated own-fund calculation period within the scope of the provisions of articles 5 and 6 of the Regulation on the Calculation and Implementation of Foreign Currency Net General Position/Equity Standard Ratio by Banks on Consolidated and Non-Consolidated Basis.

#### **Credit limits**

**ARTICLE 10-** (1) The financial holding company having the nature of parent company is obliged to calculate and implement its credit limits upon the provisions of the Regulation on Credit Operations of Banks by considering the transactions included in balance-sheet and off-

balance sheet accounts of each credit institution that has been included in consolidation or partnership having the nature of financial institution and consolidated own-fund amount calculated as per the article 8 (1).

### **Rectification of excess**

**ARTICLE 11-** (1) Financial holding companies are obliged to increase their own-fund within six months following own-fund calculation period in which such own-fund inadequacy has emerged, in the event that their consolidated own-funds is less than the amount predicated in article 8 (2) and capital adequacy of credit institutions and financial institutions subject to consolidation meet the limits defined pursuant to the relevant legislation governing them.

(2) In the event that the sum of consolidated own fund calculated by financial holding companies subject to the Article 8(2) cannot meet the minimum capital sum of financial organizations subject to consolidation other than the banks and companies of financial leasing, factoring and financing, the Agency takes necessary measures for ensuring the relevant minimum capital sum in cooperation with the authority responsible for surveillance and supervision of the related financial organizations.

(3) Financial holding companies where there are excesses within limits laid down by Articles 9 and 10 due to the falls that may occur in own-fund have to rectify excesses within six months from the period of own-fund calculation when such an excess has taken place by increasing their own-fund in a sum to eliminate such an excess or decreasing the transaction causing such an excess and prevent recurrence of such a situation subject to the provisions of Article 47 of the Law.

## **SECTION FOUR**

### **Audits of Financial Holding Companies**

#### **Audits, sharing audit information and measures to be taken**

**ARTICLE 12-** (1) As per Articles 65, 66, 93 and 95 of the Law, financial holding companies including all of their partners covered by consolidation are subject to consolidated audits. Consolidated audits are conducted by consolidating the results of audits of banks and companies of financial leasing, factoring and financing audited by the Agency and the results of audits conducted by authorities authorized to audit and supervise other financial

organizations. Upon a request made to competent authorities by the Board if deemed necessary by the Agency, consolidated audits may jointly be conducted by the staffs of the Agency and relevant competent authorities, who are authorized to conduct such audits.

(2) Copies of any reports, opinions and/or written comments obtained as a result of audits conducted by authorities authorized to audit and supervise the financial organizations other than banks and financial leasing, factoring and financing companies, in the relevant financial organization covered by the first paragraph, which concern subjects of a nature that may have impact on the financial structures of financial holding companies, are sent to the Agency within maximum fifteen days from the date of their preparation by the relevant competent authorities as per the Article 95(4) of the Law. The Agency may request the authorities in charge of audits and supervision of the relevant financial organizations by providing justification thereof that they submit any information considered essential in view of the financial sheets of financial holding companies, which cannot be derived from the reports or opinions regarding the results of audits sent, including copies of documents concerning such information.

(3) In the event of determination of any of the instances listed by Article 67 of the Law exists for a financial holding company as a result of audits conducted, the Board may request implementation of measures set in Articles 68, 69, 70 and 72 as applicable.

(4) As a result of the consolidated audits of financial holding companies, the Agency, in connection with the measures deemed necessary for introduction by the financial organizations other than banks and financial leasing, factoring and financing companies, informs in writing the authorities authorized to audit and supervise such organizations accordingly. Copies of information and documents requested by the said authorities in writing in this respect are also sent to these authorities by the Agency.

(5) In the event that measures are introduced in a financial holding company and in banks within the scope of consolidation, pursuant to the provisions of the Article 71 of the Law, the Fund is authorized to take necessary measures concerning the management of the relevant financial holding company.

### **Accounting and reporting system**

**ARTICLE 13-** (1) Articles 37 and 38 of the Law concerning the accounting and reporting systems and consolidated financial reports are applicable for financial holding companies. Financial holding companies shall prepare and publish consolidated financial reports at the

end of March, June and September and at the end of accounting period, within the framework of Turkish Accounting Standards and Turkish Financial Reporting Standards.

(2) Pursuant to the Article 40 of the Law, financial holding companies are responsible for the preparation of annual activity reports including financial statements and independent audit reports and providing information about the fields of activity of their partnerships. The provisions of Regulation on the Principles and Procedures of Preparation and Publication of Annual Activity Report by Banks are taken as a basis in preparation of the annual activity reports. Annual activity reports to be prepared by financial holding companies shall cover the considerations listed by sub-clause (19 of sub-paragraph (a) of the first paragraph and sub-clauses (1), (3) and (4) of sub-clause (c) of the Article 6 of this Regulation.

(3) The Articles 39, 41 and 42 of the Law are applied concerning the signature, presentation, announcement and audit of financial reports of financial holding companies as well as the responsibility of the board of management and the preservation of documents. In the application of these provisions, the Articles 12, 13, 14 and 17 of the Regulation on the Principles and Procedures Related to the Banks' Accounting Applications and Preservation of Documents are applied.

### **External Audit**

**ARTICLE 14-** (1) Consolidated financial reports prepared by financial holding companies upon the close of an accounting period are subject to audits by organizations authorized under the Regulation on Authorization and Activities of Institutions to Perform External Audit in Banks in the framework of the procedures and principles laid down by the said regulation pursuant to the Articles 15 and 33 of the Law.

## **SECTION FIVE**

### **Miscellaneous and Final Provisions**

#### **Receipt of rating and evaluation activities and procurement of support services**

**ARTICLE 15-** (1) Article 34 of the Law applies for any ratings to be commissioned by financial holding companies. Such operations are carried out by the organizations authorized

under the Regulation on Principles for Authorization and Activities of Rating Institutions and Termination of Their Powers in line with the procedures and principles laid down by the said regulation.

(2) Article 34 of the Law applies for valuation to be procured by financial holding companies. Such operations are conducted by organizations authorized under the Regulation on Authorization and Activities of Institutions to Give Valuation Services to Banks in line with the procedures and principles laid down by the said regulation.

(3) Article 35 of the Law is applicable for procurement of support services by financial holding companies. The procedures and principles laid down by the Regulation on Bank's Procurement of Support Services and Authorization of Such Service Providers are taken into account over the subjects concerning providers of support services and subjects for which support services may be received. In the event that the support services received by financial holding companies having the nature of a parent company are same as the support services received by the banks covered by consolidation and that such services are procured from the service provider through which such banks receive support services, the provisions of the Article 5(1) and (2) are not applicable. Such a situation must be notified to the Agency in writing within fifteen days following the date of contract.

### **Miscellaneous provisions**

**ARTICLE 16-** (1) Financial holding companies are subject to the Article 96 of the Banking Law relating to authority of demanding information and document of the Agency.

(2) The partners of financial holding companies, members of board of management and other members, persons act in the name of them, and institutions which financial holding companies receive rating, independent audit, valuation and support services and their employees are subject to the provisions relating to keeping the secrets regulated in the Article 73 of the Banking Law.

(3) Opening a branch in abroad or representative office of financial holding companies, including the off-shore banking zones is subject to the Article 14 of the Law.

(4) In the event that financial holding companies establish partnerships abroad including the off-shore banking zones at a sum which is in excess of fifteen per cent of their ownfund or participating to partnerships established, the provisions of the Article 9(1), (2), (4),(6),(7) and (8) of the Regulation on Operations of Banks Subject to Permission and Indirect Shareholding, which govern abroad establishment of partnerships and participation to the established partnerships are applicable.

(5) It is obligatory that organizations providing services of external audit, rating, valuation and support to financial holding companies to maintain liability insurance policies subject to the procedures and principles laid down by the relevant sub regulations pursuant to the provisions of Article 36 of the Law.

#### **Documents concerning holders of qualified shares**

**PROVISIONAL ARTICLE 1–** (1) For persons holding qualified shares in companies covered by the scope of financial holding companies, documents listed by sub-paragraphs (b), (ç), (d), (e), (g), (ğ), (h), (ı), (i), (j) and (o) of the first paragraph of Article 4 of the Regulation on Operations of Banks Subject to Permission and Indirect Shareholding and copies of the Trade Registry Gazette indicating that founding legal entities are holders of qualified shares in financial holding companies as well as list of attendants and any other legal documents to be requested by the Agency are sent to the Agency no later than June 1, 2007.

(2) In the event that persons holding qualified shares in the companies falling in the scope of financial holding companies fail to meet the conditions laid down by Article 8 of the Law and/ or they fail to submit documents certifying that they are in possession of such conditions to the Agency as indicated by the first paragraph, they have to transfer their shareholdings in financial holding companies by June 1, 2007 such that their shares fall below the limit of qualified shares. Partners failing to achieve the required share transfers by this date may not benefit their partnership rights other than dividends. In this case, other partnership rights are exercised by the Fund upon a notification by the Agency. Such shareholders may not exercise their privileges until their direct or indirect shares in capital fall below ten per cent.

**Documents concerning top managers**

**PROVISIONAL ARTICLE 2–** (1) Companies falling in the scope of financial holding companies as of the date of entry into force of this Regulation have to render their positions regarding members of their executive boards and supervisory committees as well as general managers and deputy general managers compliant with the provisions of Articles 23, 24 and 25 of the Law and make necessary notifications thereof to the Agency as required by the Article 7(3) and (6) no later than June 1, 2007.

**Submission of comparative information**

**PROVISIONAL ARTICLE 3–** (1) Financial holding companies are not obliged to submit comparative information in their first reporting to be made as per the Article 13(1).

**Entry into Force**

**ARTICLE 17–** (1) Articles 8, 9, 10, 11, 12, 13 and 14 and the Article 15(1) and (2) of this Regulation enter into force as of December 31, 2007 whilst other provisions take force as of the date of publication.

**Enforcement**

**ARTICLE 18–** (1) The provisions of this Regulation are enforced by the Chairman of the Banking Regulation and Supervision Agency.