

# REGULATION GOVERNING THE INCORPORATION AND OPERATING PRINCIPLES OF SAVING FINANCING COMPANIES

## PART ONE

### Objective, Scope, Grounds and Definitions

#### Objective and Scope,

**ARTICLE 1** – (1) The objective of this Regulation is to regulate the incorporation and operating principles of saving financing companies.

#### Grounds

**ARTICLE 2** – (1) This Regulation has been prepared based on Articles 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 39/A, 39/B and 50/A of the Law No: 6361 dated 21/11/2012 on Financial Leasing, Factoring, Financing and Saving Financing Companies.

#### Definitions

**ARTICLE 3** – (1) The following terms referred to for the purpose of executing this Regulation shall have the meanings indicated below;

- a) Bank: The bank, as defined in Article 3 of the Banking Law No: 5411 dated 19/10/2005,
- b) Association: Financial Institutions Association (FIA),
- c) Financial institution: A financial institution, as defined in Article 3 of Law No. 5411,
- ç) Law: Law No. 6361
- d) Control: Control as defined in Article 3 of the Law,
- e) Agency (BRSA): Banking Regulation and Supervision Agency,
- f) Board: Banking Regulation and Supervision Board,
- g) Client: Real or legal person with whom a saving financing contract is concluded,
- ğ) Privileged share: Shares that directly or indirectly represent ten percent or more of a company's total capital or voting rights and shares that grant the privilege of nominating members to the board of directors even if they are cumulatively below this ratio,
- h) Organization fee: Organization fee as defined in Article 3 of the Law,
- ı) Shareholder's Equity: The balance to be derived by appropriating period's net loss, previous years' loss and other items to be determined by the Board from the sum of paid-in capital, capital reserves, profit reserves, net profit for the period, previous years' profit and other items to be determined by the Board (if any) and subordinated debts to be determined by the Board,
- i) Agreement: The Saving Financing Agreement as defined in the first paragraph of Article 39/A of the Law,
- j) Company: A Saving Financing Company,
- k) Branch: Branch as defined in Article 3 of the Law,
- l) Allowance: Allowance as defined in Article 3 of the Law,
- m) Allocation fund: The minimum amount of funds to be allocated by the company as of a certain period, within the scope of the liquidity and other limitations as per the Law and this Regulation,
- n) Tariff: The table exhibiting the savings and allocation terms and costs of customer-based or lottery-style savings finance agreements offered to clients over a certain period,
- o) Savings fund pool: Savings fund pool as defined in Article 3 of the Law,
- ö) Liquidation committee: The liquidation committee established in accordance with the second paragraph of Article 50/A of the Law,
- p) Saving financing activity: Saving financing activity as defined in Article 3 of the Law,

r) Commercial purpose contracts: Contracts related to financing used by real person merchants in relation to their commercial enterprises and contracts related to financing used by legal entity merchants.

## **PART TWO**

### **Transactions Requiring a License**

#### **Incorporation of the Company**

**ARTICLE 4 – (1)** For the purpose to incorporate a saving financing company in Turkey; the Company is required to submit

a) an activity schedule that analyzes the expected benefit from the incorporation of the company, covering the business plans of the intended activities, the projections on the financial structure of the organization, the budget plan for the first three years and its organizational structure,

b) a declaration provided by founders, legal person founders, real or legal person partners holding the privileged shares or real and legal persons holding the power to control the Company, prepared in accordance with the samples in APPENDIX-1 and APPENDIX-2 and signed in the presence of a notary public,

c) The draft of the articles of association signed by the Founders,

ç) Documents to be obtained from the trade registry offices certifying that founders, real or legal person partners of legal person founders holding the privileged shares or real and legal persons holding the power to control the Company are not bankrupt and have not declared a bankruptcy,

d) Documents to be obtained from the trade registry offices certifying that legal person partners, real or legal person partners of legal person founders holding the privileged shares or legal persons holding the power to control the Company do not have an application for restructuring their debts approved by reconciliation or who not have applied for bankruptcy postponement,

e) Criminal records as of the recent six months including archive records pertaining to real person founders, real person partners of legal person founders holding the privileged shares or legal persons holding the power to control the Company,

f) Examples of resolutions taken from authorized boards of legal person founders attesting that they may be partners in the company to be incorporated,

g) a letter of undertaking (APPENDIX-5) signed in the presence of a notary public attesting that founders and partners of legal person founders holding the privileged shares or real/legal persons holding the power to control the Company do not directly or indirectly own ten percent or more shares or hold the power to control in Banks subjected to the provisions of Article 71 of the Law No. 5411 or transferred to the Savings Deposit Insurance Fund before this Law took effect and documents to be obtained from the Savings Deposit Insurance Fund attesting these matters stipulated herein,

ğ) a letter of undertaking (APPENDIX-6) signed in the presence of a notary public attesting that founders and partners of legal person founders holding the privileged shares or real/legal persons holding the power to control the Company do not directly or indirectly own ten percent or more shares or hold the power to control in bankers subjected to liquidation, factoring, financial leasing, financing, saving financing and insurance companies and institutions operating in money and capital markets whose operating licenses have been revoked except for voluntary liquidation purposes,

h) detailed explanations about the share ratios and amounts, fields of activity, investments and operations; balance sheets and income statements as of the recent three years

pertaining to the partners of legal person founders holding the privileged shares or real/legal persons holding the power to control the Company approved by certified public accountants who have been licensed in accordance with the Law No: 3568 on Certified Public Accountants and Sworn-in Certified Public Accountants dated 1/6/1989, a report prepared by one of the rating companies for legal person founders in the nature of a bank or financial institution,

1) Tables exhibiting the shareholding structures of the real person partners of the legal entity founders and the lists certifying their privileged shares or, in the absence of privileged shares, a letter of undertaking to be signed in the presence of a notary public (APPENDIX-4),

i) a letter of undertaking (APPENDIX-3, APPENDIX-4) signed by founders and partners of legal person founders holding the privileged shares or real/legal persons holding the power to control the Company in the presence of a notary public attesting that they have no due tax and social security premium debt,

j) Information pertaining to the deposit and credit accounts of the founders who have committed ten percent or more of the capital, as specified in their founding declarations; documents, each of which bears the same date, to be issued by the relevant banks addressing the Agency, for the purpose of attesting these accounts, including their opening dates,

k) A report on the financial situation of real person founders who have committed ten percent or more of the capital, to be prepared by certified public accountants who have been licensed in accordance with Law No. 3568,

l) Written information specifying how the founders who have committed ten percent or more of the capital will derive the necessary resource in this regard in addition to an undertaking to be signed in the presence of a notary public, certifying that these people have obtained this amount free from all kinds of fictitious transactions as a result of their commercial, industrial and other legal activities,

m) Samples of the power of attorney provided by the person or persons authorized to represent the founders (if any) regarding the transactions to be carried out with the institution,

n) Detailed CVs of the members of the board of directors, prepared in accordance with the sample in APPENDIX-8,

o) Notarized copies of identity documents or passports of foreign natural persons except for those whose personal identity and address information can be determined electronically through the systems established within the scope of the Civil Registration Services Law No. 5490 dated 25/4/2006

annexed to the petition to be submitted.

(2) In the event the founding partners are Banks or financial institutions incorporated abroad, following information and documents should be provided in addition to the documents specified in sub-paragraphs (a), (b), (c) and (i) of the first paragraph:

a) Examples of resolutions taken from authorized boards attesting the incorporation of a company in Turkey,

b) Independently audited consolidated financial reports for the last five years,

c) A document obtained from authorized boards attesting that the operating license of the Company/Institution in question is not revoked in the country where it is incorporated or currently operates in or that there are no restrictions over its activities,

ç) Detailed information and documents about the fields of activity specified in the articles of association, organizational structure, administrative structure regarding the operations to be carried out in the country where it is incorporated and abroad, activities in international financial markets as well as the report, prepared by the rating companies (if any) including the predicted rating

(3) For the purpose of the applications submitted for obtaining a license for incorporation; shareholders of companies, directly or indirectly, holding ten percent or more of the shares and/or holding the power to control who have shares in Banks and financial holding companies operating under the supervision and control of the Agency and who are the owners of the privileged shares in accordance with Law No. 5411 thereof and who hold ten percent or more of the shares and/or holding the power to control in financial leasing, factoring and financing companies and asset management companies shall not be obliged to provide documents stipulated in sub-paragraphs (b), (ç), (d), (e), (g), (ğ), (h), (ı), (i), (k) and (o) of the first paragraph.

(4) The application submitted for obtaining a license for incorporation shall become null and void in the event that the discrepancies regarding the information and documents within the scope of the application for incorporation are not corrected within six months as of the date of notification of the Agency's letter regarding the discrepancy.

(5) The Companies are obliged to specify housing finance as their field of activity in the draft of the articles of association to be drawn up within the framework of subparagraph (c) of the first paragraph.

### **Operation License**

**ARTICLE 5** – (1) After the transactions for incorporation are performed in accordance with the provisions of the relevant legislation, the registration in the Trade Registry and announcement procedures are duly finalized, risk management, internal control, accounting, information technology and reporting systems as well as business units suitable for the activities are established and recruitment of the sufficient personnel for these units and determining the appropriate job descriptions, powers and responsibilities for these personnel; the Company shall apply to the Agency within six months as of the date of the Board's resolution on granting the license for incorporation pursuant to Article 4 of the Law, providing the following:

- a) A copy of the Trade Registry Gazette in which the articles of association is published,
- b) Documents certifying that the members of the Board of Directors, the general manager and assistant general managers meet the conditions set forth in Article 13 of the Law

(2) Subsequently; Agency investigates whether the capital of the company applying for an operating license is paid in cash, free from all kinds of fictitious transactions, whether the company's capital is at a level sufficient to carry out the planned activities, whether risk management, internal control, accounting, information technology and reporting systems as well as business units suitable for the activities are established, whether sufficient personnel for these units are recruited and whether the appropriate job descriptions, powers and responsibilities for these personnel are defined accordingly. In this context, a report to be prepared about the company as a result of the on-site inspection to be carried out by the independent audit firms attesting whether the necessary measures regarding the continuity of the planned activities as well as the security and confidentiality of the information within the scope of the Communiqué on the Management and Audit of Information Systems of Financial Leasing, Factoring and Financing Companies published in the Official Gazette dated 6/4/2019 and issued 30737 are taken will also be submitted to the Agency. The companies deemed appropriate by the Board, following the said investigation and the evaluation to be performed in the light of the independent audit report, shall be granted an operating license. The licenses granted shall become valid as of the date of their publication in the Official Gazette.

(3) Before the announcement for the operating license is published in the Official Gazette; the founders are required to submit to the Agency a document attesting that the system entry share, which corresponds to five percent of the minimum capital amount

specified in Article 5 of the Law, has been deposited to the accounting units affiliated to the Ministry of Treasury and Finance to be recorded as revenue in the general budget, following the notification to be communicated by the Agency.

(4) It is obligatory for the company to notify the Agency the date of commencement of operations accordingly together with its contact information.

#### **Opening a Branch**

**ARTICLE 6** – (1) Branch opening of companies is subject to permission. The company that will apply to the Agency to obtain a permission to open a branch should have been operating in accordance with the standard rates and limitations stipulated in Articles 20, 21, 22, 24 and 25 and have a capital of one million Turkish Lira for each branch. The capital to be taken into account for the purpose of executing the provisions of this paragraph refers to the amount remaining after deducting the portion of the loss expressed in the balance sheet that cannot be covered by the reserves from the paid-in capital of the companies.

(2) It is obligatory to attach a copy of the resolution of the board of directors giving permission for opening a branch to the application petition to be submitted to the Agency.

(3) The company that is deemed appropriate by the Agency, as a result of the evaluations, is allowed to open a branch.

(4) It is obligatory for the branch opening to be registered in the Trade Registry and announced accordingly within three months as of the date when the permission is received and a copy of the Trade Registry Gazette, in which the registration is announced, should be delivered to the Agency.

(5) In case the branch opening is not duly registered and announced accordingly within three months as of the date when the permission is received, the permit shall become null and void. The Company shall also notify the Agency of its closed branches within one month following the date of closure.

(6) Changes to the address of the branches should be notified to the Agency within one month.

(7) Transfer a branch, already opened in one province, to another is subject to the principles regarding opening a new branch.

(8) The company is not allowed to establish an organization other than branches, under any name whatsoever, and cannot grant franchises.

#### **Amendments to Articles of Association and Capital Increase**

**ARTICLE 7** – (1) It is obligatory to send drafts of amendments to the Articles of Association to the Agency with a copy of the resolution of the board of directors on the subject.

(2) For the purpose of the amendments to the articles of association regarding capital increases; in case the capital increase shall be covered from within the internal resources of the company, the report certifying that internal resources in question are suitable to be added to the capital should be submitted to the Agency and in case the capital increase shall be covered in cash without applying to the internal resources of the company, a declaration attesting that the amount to be increased shall be paid in cash, free from all kinds of fictitious transactions, should be submitted to the Agency in addition to the documents stipulated in the first paragraph and the report attesting that the previous capital has been fully paid.

(3) The reports to be submitted to the Agency in accordance with the second paragraph should be approved by independent auditors meeting the conditions specified in subparagraph (a) of the first paragraph of Article 28 of the Independent Audit Regulation published in the Official Gazette dated 26/12/2012 and numbered 28509, within the framework of Turkish Commercial Code No: 6102 dated 13/1/2011, Decree-Law No:660 dated 26/9/2011 on the Organization and Duties of the Public Oversight, Accounting and Auditing Standards Authority (Decree-Law) and relevant legislation.

(4) The companies accepted the registered capital system within the framework of Law No. 6102 are obliged to notify the Agency within the scope of the second paragraph for capital increases to be realized within the upper limit of the registered capital.

(5) A copy of the Trade Registry Gazette, in which the amendment to the articles of association is published, is delivered to the Agency within seven business days following its publication.

(6) The capital that is determined to have been increased in breach of the legislation shall not be taken into account while calculating the equity.

#### **Acquisition and transfer of shares**

**ARTICLE 8** – (1) For the purpose of acquisition and transfer of shares subject to the approval of the Board in accordance with Article 11 of the Law; the documents enlisted in the first paragraph of Article 4, with the exception of sub-paragraphs (a) and (c), should be annexed to the applications to be submitted to the Agency by real and legal persons who will acquire the shares.

(2) For the purpose of acquisition and transfer of shares subject to the approval of the Board in accordance with Article 11 of the Law; the documents enlisted in the second paragraph of Article 4 should be annexed to the applications to be submitted to the Agency in case the Parties to take over the transferred shares are a Bank or a financial institution incorporated abroad.

(3) Share transfers recorded in the share ledger should be notified to the Agency within one month, even if they are not subject to approval.

#### **Mergers, Acquisitions and Divisions**

**ARTICLE 9** – (1) Mergers, acquisitions and divisions of companies within the scope of this article are subject to general provisions, except for the procedures and principles stipulated in the third paragraph of Article 12 of the Law.

(2) The following documents should be annexed to the application petition to be submitted to the Agency in order to obtain the approval of the Board regarding the mergers, acquisitions and divisions;

- a) Board of directors' resolution regarding the merger, acquisition and division,
- b) The plan for the fulfillment of existing obligations following the merger, acquisition and division,
- c) Merger, acquisition and division agreement,
- ç) Independent audit reports determining the company's equity, the calculation of the merger and transfer rates, determining the amount for the capital increase and the financial statements regarding the merger, acquisition and division,
- d) The draft of the articles of association to be drawn up as a result of merger, acquisition and division,
- e) The report setting out the justifications for the merger, acquisition and division,
- f) Estimated financial statements/estimated balance sheet covering the three-year period following the merger, acquisition and division.

(3) Granted approval shall be null and void in the event that merger, acquisition and division transactions are not initiated by taking a decision at the general assembly of the company within three months as of the date of notification of the approval. Unless a new approval is received, these procedures cannot be continued.

#### **Voluntary Liquidation**

**ARTICLE 10** – (1) The companies' termination of their activities and voluntary liquidation are subject to the approval of the Board. The company should apply to the Agency with a Board of Directors' resolution on the termination of its activities and voluntary liquidation.

(2) In the event that a resolution regarding liquidation is not taken by the company within three months following the date of the approval, granted approval shall be null and void and these procedures cannot be continued unless a new approval is received. Liquidation procedures should be initiated within fifteen days at the latest following the resolution regarding liquidation.

(3) Companies to be liquidated pursuant to this article are required to submit a liquidation plan to the Agency, indicating that they will be able to fulfill their obligations against their clients. Transactions that will retain the company from fulfilling its obligations, particularly allowance payments, are not allowed in the voluntary liquidation plan.

(4) After obtaining the necessary approval regarding voluntary liquidation, saving financing companies are required to announce their status in at least two newspapers printed and distributed throughout Turkey and they are also required to notify their clients, creditors or other persons and institutions that can be considered as relevant.

(5) The liquidation of companies, the fulfillment of their obligations and the collection of their receivables are ex-officio carried out by the company itself. Companies in this situation continue to operate until their assets and liabilities expire, depending on their maturity; however, they are not allowed to acquire new clients and to undertake any new commitments that will retain the fulfillment of the obligations after obtaining the necessary approval for liquidation.

(6) In the event it is determined that the liquidation transactions carried out pursuant to the provisions of this article are not in compliance with the plan presented as per the third paragraph or if the plan presented is determined as insufficient to fulfill the obligations against the clients at any stage of the liquidation process or that it will cause harm to the rights and interests of the clients for any reason whatsoever, approval regarding the voluntary liquidation is revoked by the Board and liquidation procedures are carried out within the scope of Article 50/A of the Law.

### **PART THREE**

#### **Corporate Governance**

##### **Notifications regarding the members of the board of directors, general managers and deputy general managers**

**ARTICLE 11** – (1) Members of the company's board of directors, general managers and deputy general managers are required to provide the following information and documents within fifteen days following their appointment or nomination annexed to a letter to be issued by the company addressing the Agency;

a) Detailed CVs, which will be prepared in accordance with the sample in APPENDIX-8, indicating their professional experience and former trainings, notarized copies of bachelor's degree and, if any, post-graduate diplomas and notarized copies of identity documents or passports for foreign nationals, except for those whose identity and address information can be accessed electronically through the systems established within the scope of Law No. 5490,

b) Documents to be obtained from the trade registry offices certifying that they are not bankrupt and have not declared a bankruptcy,

c) a letter of undertaking (APPENDIX-5) signed in the presence of a notary public attesting that they do not directly or indirectly own ten percent or more shares or hold the power to control in Banks subjected to the provisions of Article 71 of the Law No. 5411 or transferred to the Savings Deposit Insurance Fund before this Law took effect and documents to be obtained from the Savings Deposit Insurance Fund attesting these matters stipulated herein,

ç) a letter of undertaking (APPENDIX-6) signed in the presence of a notary public attesting that they do directly or indirectly hold a ten percent or more shares of or hold administrative power to control bankers subjected to liquidation or factoring, financial

leasing, financing, saving financing and insurance companies as well as institutions operating in money and capital markets whose operating licenses have been revoked except for voluntary liquidation,

d) Criminal records as of the recent six months including archive records,

e) A notarized copy of the general assembly or board of directors resolution regarding their appointment or nomination

(2) The persons who will participate as proxies in the meetings of the board of directors in the absence of the general manager and the circumstances under which these people will attend the meetings, provided that they have the same qualifications as the general manager, shall be determined by the board of directors pursuant to the second paragraph of Article 13 of the Law.

(3) In the event that the members of the company's board of directors, general manager and deputy general managers resign for any reason whatsoever, the reasons for leave should be notified to the Agency within fifteen days as of the date of leave by the relevant person and the related company.

### **Internal Systems and Information Technology Systems**

**ARTICLE 12** – (1) In order to monitor and control the risks they are exposed to; companies are responsible for establishing and operating an adequate and effective risk management, internal control and internal audit system to work affiliated to the Board of Directors that is compatible with the scope and structure of saving financing activities and in line with changing conditions.

(2) It is the sole responsibility of the Board of Directors to establish the risk management, internal control and internal audit systems in accordance with this Regulation, to ensure its operability, suitability, effectiveness and adequacy, to ensure the operation of accounting and reporting systems within the framework of the Law and related regulations and to ensure the accuracy and integrity of the information produced with these systems and to determine the authority and responsibilities within the company.

(3) Companies are obliged to establish an appropriate risk management system and to create, implement and report risk policies within this scope in order to effectively and safely pursue their saving financing activities. Risk management activities shall be executed by the risk management department and its personnel who will work under the board of directors.

(4) The risk management system and risk policies cover development of methods and models for the analysis of risks arising from saving financing activities and the continuous measurement and management of these risks.

(5) A risk management committee consisting of at least three members, including at least two members of the board of directors and the manager of the risk management department, is formed by the company's board of directors to assist the Board of Directors in its duties to determine risk policies in line with the risks arising from saving financing activities and to establish an effective risk management system. The risk management committee meets at least once a month.

(6) The person who will assume a senior role in the risk management department is expected to have a bachelor's or post graduate degree in banking, finance, financial mathematics, statistics, econometrics, engineering or equivalent fields, to have at least five years of professional experience in these fields and have the necessary technical expertise to carry out the risk management processes of the saving financing activity. The manager of the risk management department cannot assume an executive role.

(7) Companies are expected to establish an internal control system in order to ensure that the operations are carried out in accordance with the legislation, internal regulations and the nature of the saving financing activity as well as to ensure the integrity, reliability and

timeliness of the accounting and reporting system with continuous control activities to be followed and implemented by their personnel at all levels. Internal control activities shall be assumed by internal control personnel, consisting of at least one person provided that the number is compatible with the company's operating structure and scope, who will work under the board of directors and who shall exclusively be engaged in internal control activities. The internal control personnel is expected to submit a report twice a year, as of the end of June and December, regarding the internal control activities performed to the board of directors or a member of the board of directors other than the general manager to be determined by the board of directors.

(8) Companies have to establish an internal audit system, covering all departments and branches, in order to supervise the compliance of its activities with the legislation, articles of association, internal regulations and the nature of the saving financing activity. Internal audit activities shall be assumed, impartially independently and with due professional care, by a sufficient number of internal auditors who are exclusively engaged in internal audit activities and will work under the board of directors. A report regarding the internal audit activities performed is presented to the board of directors at least once a year on the compliance of the company's activities with the legislation, articles of association, internal regulations and the nature of the saving financing activity.

(9) Information systems to be established within the company shall be structured in accordance with the scale of the company, its activities and the nature and complexity of the products offered. Information systems are established within a structure that will allow all company-related information to be stored and used securely in electronic environment. It is mandatory to ensure the reliability of information systems and to timely make necessary changes and updates regularly.

#### **Independent Audit**

**ARTICLE 13** – (1) Companies are independently audited by independent audit firms authorized by the Public Oversight, Accounting and Auditing Standards Authority within the framework of Law No. 6102, Decree Law No. 660 and relevant legislation to conduct independent audits in institutions that observe public interest.

(2) The independent audit reports on the year-end financial statements of the company should be uploaded to the Agency's database until 15 April of the following year, whereas the independent audit reports covering the financial statements of the company as of June should be uploaded to the Agency's database until 15<sup>th</sup> of August.

#### **Annual Report**

**ARTICLE 14** – (1) The Companies are obliged to prepare an annual report, including information on companies' status, administrative and organizational structures, human resources, activities, financial status, evaluations and future expectations of the senior managers, financial statements, summarized board of directors' report and independent audit report and submit it to the Agency no later than end of April of the subsequent year and to publish it on their website as well.

### **PART FOUR**

#### **Saving Financing Activity**

##### **Document on general operating principles**

**ARTICLE 15** – (1) Companies are obliged to prepare a document governing their general operating principles in order to determine the scope and operation of the saving financing activity and the general framework of their Agreements and to pursue their activities in accordance with this document.

(2) Document on general operating principles includes explanations regarding:

a) Total amount of savings expected from the client within the scope of the savings finance contract and the amount of finance earned after the savings period, organization fee and expenses and, if any, calculation methods for other returns and costs within the scope of the Agreement,

b) The composition of the allowance fund, the date of the allocation and the prerequisites for the allocation as well as the methods for determining the order of allocation,

c) Separation of the company's corporate accounts and savings fund pool accounts,

ç) Calculation methods for net returns derived from savings fund pool investments,

d) Calculation of the value of the assets subject to financing,

e) Procedures and principles regarding the contracts concluded for commercial purposes,

f) Reimbursement procedures regarding the savings subject to the Agreements terminated before their expiry,

g) Calculation of and keeping the contingency reserves,

ğ) Elements to be included in the contracts.

(3) Document on general operating principles is delivered to the Agency before it is put into practice. In case a company is determined to be unable to meet its obligations against its clients, the Agency may require the company to make amendments to the general operating principles document or to adopt a different document that it deems appropriate.

(4) The company's board of directors is responsible for the preparation of the document on the general operating principles and the execution of the activities in accordance with the said document.

#### **Saving Financing Agreement**

**ARTICLE 16** – (1) Saving and acquiring finance only for the purpose of acquiring a house, a business property or a motor vehicle can be subject to saving financing agreements.

(2) Saving financing agreements, as a framework agreement, are drawn up by the Association taking into account the Board's approval.

(3) Companies cannot conclude agreements and make transactions with clients who fail to document their identities.

(4) The Agreement includes terms and conditions regarding the following:

a) Subject matter of financing determined as acquiring a housing, business property or a motor vehicle,

b) Amount of the agreement, minimum savings rate, amount of financing to be provided, financing cost, if any, and total repayment amount,

c) The maturities of the savings period and the financing period, anticipated allocation date and repayment dates regarding the financing to be provided,

ç) Guarantees expected to be required for the financing period as of the financing date,

d) Conditions for suspension or deferral of savings period payments and financing period repayments and for changing the amount stipulated in the Agreement,

e) Conditions regarding the transfer and succession of the Agreement,

f) Organization fee, valuation fee of the collateral to be received in return for the financing to be provided, other expense items and the rates and amounts related thereto,

g) Income to be provided to the customer for the savings period, if any,

ğ) Necessary conditions for rendering allowance payments and the method and rules of determining the order of payment,

h) Conditions for the termination of the agreement and legal consequences thereto,

ı) The refund period and conditions of the amount to be refunded to the client in case the agreement is terminated for any reason whatsoever,

i) Insurance policy regarding the financing to be provided, the amount to be insured, the insurance premium to be paid by the client and the terms of accepting the client's current insurance policies,

j) Default conditions within the context of the Agreement,

k) The legal consequences that will arise in case the Client fails to render the payments foreseen for the saving period,

l) Rights related to withdrawal and termination of the agreement,

m) Other rights and obligations of the parties,

n) Consumer arbitration committee or competent court that will be authorized in case of a dispute.

(5) The company is obliged to forward a preliminary information form, which includes the matters stipulated in paragraph four, to the client at least one day before the conclusion of the contract. It is obligatory to include the date and the ongoing document number in the information forms.

### **Clients' Rights**

**ARTICLE 17** – (1) Without prejudice to the repayment periods stipulated in accordance with paragraph eight; clients' right to reclaim their savings at the company in the event that the agreement expires before allocation cannot be limited in any way.

(2) It is essential for the companies to effectively inform their clients about the functioning of the saving financing system, the provisions stipulated in the saving financing agreements and the rights concerning withdrawal and termination.

(3) The allocation dates of the group of clients shall be determined in accordance with a lottery over the total number of months foreseen for the group. It is not mandatory to have an equal number of months of the group and the number of clients. For the purpose of the lottery based saving financing groups, it is obligatory to have client with whom a contractual relationship has been established, whose number is equivalent to at least forty percent of the total number of savings months of the group. For groups that do not meet this rate yet, a savings period cannot be initiated, savings payments and organization fees cannot be collected from clients. If any savings payment is collected from any of the clients in the group after meeting this rate, no new clients can be included in the group. Considering the groups where the number of clients falls below this rate due to the clients exercising their right of withdrawal or termination, the company shall use its own resources to complete the minimum number of clients. The Board is authorized to change the rates and limitations set forth in this paragraph or to impose additional restrictions in this regard.

(4) The company is obliged to establish a system to reply questions arising with regard to the services provided and to inform its clients accordingly about this service.

(5) The company is obliged to deliver its clients a copy of the agreement concluded between the parties. Upon request, a copy of any document relating to the transactions of the client is given free of charge.

(6) Companies cannot engage in any incentive practices from within the savings fund pool assets of their existing clients in order to acquire new clients within the scope of saving financing activities.

(7) Guarantees such as mortgages, pledges or promissory notes cannot be obtained from the clients within the scope of the agreement regarding the savings period; and no transaction can be performed that will oblige the customer to pay except for collecting the organization fee.

(8) In case the client exercises his/her right of withdrawal from the agreement stipulated as per the third paragraph of article 39/A of the Law, all payments rendered by the client including the organization fee, shall be returned to the client, in full without any deduction, within fourteen days as of the date when the withdrawal is notified to the company. In the

event that the client exercises his/her right to terminate the contract, the savings amount and the accrued return, if any, shall be returned to the bank account opened on behalf of the client within a maximum of six months from the date of the request of refund.

#### **Professional and Ethical Principles**

**ARTICLE 18** – (1) Companies and their members are obliged to comply with the Professional and Ethical Principles adopted by the Association in order to ensure that the activities/operations are executed in accordance with the Law, this Regulation, other relevant regulations as well as the objectives and policies of incorporation.

### **PART FIVE**

#### **Precautionary Provisions**

##### **Amounts to be followed in the Equity**

**ARTICLE 19** – (1) Pursuant to the fifth paragraph of Article 15 of the Law, the amounts reserved at the rate of five per thousand of the organization fees collected by the companies are followed in the equity.

##### **Standard Ratio**

**ARTICLE 20** – (1) The ratio of the company's equity to its total assets should be at least three percent and this ratio should be maintained.

(2) The Board may decide to increase the said standard ratio or to differentiate it on a company basis, taking into account the company's assets and financial structure.

(3) A company that cannot achieve the standard ratio will not be allowed to conclude a new contract until it achieves this ratio.

##### **Limitations with respect to Agreements**

**ARTICLE 21** – (1) The sum of high-value agreements with an allocation amount exceeding one million Turkish Lira to be concluded by a company cannot exceed fifteen percent of the total amount of all agreements concluded by the company as of the relevant date, and high-value agreements specified in this paragraph cannot be subject to lottery-based saving financing agreements.

(2) In order for companies to make allowance payments;

a) for the purpose of client-based agreements; it is obligatory to reach a savings amount of up to forty percent of the contract value and two-fifths of the stipulated contract period,

b) for the purpose of lottery-based saving financing agreements; it is obligatory to reach a savings amount of up to forty percent of the group contract value accumulated in the savings fund pool account of the company and two-fifths of the stipulated group contract period in order to make allowance payments to clients who have not yet been entitled to receive a payment in the lottery.

(3) The two-fifths period specified in sub-paragraph (a) of the second paragraph may be reduced in proportion to the ratio of the savings payment rendered by the client as a down payment to the total contract value.

(4) Considering lottery-based saving financing agreements, clients shall not be entitled to receive allowance payment before three months have passed from the date they were included in the lottery group and without making three savings payments.

(5) Within the scope of the risk management of the saving financing system, the Board is authorized to determine the minimum or maximum rate, limitations or calculation method in addition to the ones stipulated in this article, and to make amendments on the basis of goods, services or institutions regarding the existing rates and the ratio of high value agreements.

##### **Limitations with respect to financing provided**

**ARTICLE 22** – (1) The total amount of financing that can be provided by a company cannot exceed seventy-five percent of the total of the savings fund pool and its shareholder's equity.

(2) The amount of financing that can be provided to a single client cannot exceed one hundred and fifty percent of the client's total savings foreseen as per the saving financing agreement. This provision shall not apply to lottery-based saving financing agreements.

(3) The maximum maturity of the financing period in saving financing agreements cannot exceed one hundred and twenty months for housing and business property acquisition contracts and sixty months for motor vehicle acquisition contracts.

(4) Real estates to be provided as collaterals in return for the financing of housing and business property acquisition contracts should be valued by appraisal institutions authorized within the scope of the Regulation on the Authorization and Activities of Institutions to Provide Valuation Services to Banks, published in the Official Gazette dated 12/1/2017 and issued 29946 and in accordance with the procedures and principles stipulated in the said regulation. The liabilities regarding the banks in the said regulation shall apply for companies by analogy.

(5) The sum of financial liabilities that companies can acquire through interest-free financing methods from banks or financial institutions, issuance of lease certificates and similar interest-free debt instruments cannot exceed thirty percent of their shareholder's equity. The excesses that will occur due to the decreases in the shareholders' equity after the acquisition of the financial liability shall not be taken into account in calculating the limits within the scope of this paragraph.

(6 ) The Board is authorized to change the rates and limitations set forth in this paragraph or to impose additional restrictions in this regard.

#### **Limitations with respect to the investments regarding savings fund pool**

**ARTICLE 23** – (1) The amounts accumulated in the savings fund pool are invested by the company in the interest-free investment instruments specified in the second paragraph. The income obtained from these investments shall be added to the savings of the clients within the framework of the provisions of the agreement, if the saving financing agreement grants the client a return. In the event that the client is not granted an investment return as per the saving financing agreement, the said returns shall be added to the reserve fund regardless of whether the minimum rate in the first paragraph of Article 30 is met with respect to the savings fund pool.

(2) Amounts accumulated in the savings fund pool may be invested in:

a) domestic lease certificates in Turkish Lira issued by the Ministry of Treasury and Finance,

b) special current or participation accounts in Turkish Lira to be opened with participation banks operating in Turkey,

c) domestic lease certificates in Turkish Lira issued by asset leasing companies operating in Turkey

ç) other interest-free investment instruments deemed appropriate by the Board.

(3) The Board may determine a maximum or minimum rate for each investment instrument listed in the second paragraph.

(4) The company has to act in accordance with the provisions of Article 29 regarding the evaluation of savings fund pool funds.

(5) The accounts in which the amounts accumulated in the savings fund pool are deposited are kept separate from the company's own accounts. These accounts cannot be used except for making the repayments, allowance payments rendered to clients who have terminated their saving financing agreements before the financing period or who have used their right of withdrawal and for investment activities within the scope of this article.

#### **Limitations with respect to real estate acquisition**

**ARTICLE 24** – (1) The total net book value of real estate owned by a company cannot exceed fifty percent of its equity. Value increases due to revaluation or inflation adjustment

and added to the real estate account are taken into account in this calculation at a rate of fifty percent.

(2) Real estates that are certified to have been acquired due to financing receivables within the scope of the saving financing agreements are not included within the scope of the limitation mentioned in the first paragraph. Real estates and other assets, which are compulsorily acquired due to receivables, should be disposed of within three years unless a different period is determined by the Board.

(3) In case the limits mentioned in the first paragraph are exceeded, the excessive amount is taken into account as a deductible item in the calculation of equity.

#### **Limitations with respect to donations**

**ARTICLE 25** – (1) The amount of donations that the company can make in a fiscal year cannot exceed four per thousand of its equity. At least half of the donations and aids should be considered as expenses or should be deductible while calculating the corporate tax base.

#### **Correction of the Exceedings**

**ARTICLE 26** – (1) Exceedings regarding the limitations and ratios stipulated in the Law, this Regulation and other legislation issued pursuant to these as well as exceedings regarding the limits and ratios that can be associated with a certain ratio of the shareholder's equity due to the dissolution in the equity should be corrected within a period to be determined by the Agency (BRSA).

## **PART SIX**

### **Risk Management**

#### **Measurement and management of risks associated with saving financing activity**

**ARTICLE 27** – (1) Companies are obliged to determine appropriate methods to measure and manage the risks they are exposed to exclusively due to saving financing activities and to report regularly in a time and form deemed appropriate by the Agency.

(2) The Agency may require the companies to adopt simulation models to measure and calculate the risks they are exposed to and to produce scientific predictions for the future regarding the calculations within the scope of Articles 28, 29 and 30.

(3) Simulation models can be used in formulating product tariffs, calculating the amount of contingency reserves, using the surplus in the savings fund pool and other liquidity management activities, after receiving the approval of the Agency.

#### **Liquidity Management**

**ARTICLE 28** – (1) Companies are obliged to protect a certain level of cash or investment instruments that can be converted into cash with a maximum value of two days in order to meet their obligations against their clients within their maturity or legal period.

(2) Companies are obliged to carry out all their activities, including creating the product tariff, determining the allocation date, maintaining contingency reserves, determining the portion of the savings fund pool to be invested, opening branches, employing personnel and advertising and promotion activities, in a way to maintain the liquidity level within the scope of the first paragraph.

(3) Companies are obliged to calculate their liquidity levels to cover a maturity period of at least 10 years and to report them to the Agency accordingly. In the event of a breach of the restrictions set forth in Articles 21 and 22 and other restrictions determined by the Board, the company should immediately notify the Agency about the situation.

(4) Companies are obliged to calculate the liquidity level separately on the basis of each client, lottery group and the total liquidity level of the company.

(5) Future client acquisitions, withdrawals from saving financing agreements, allowance payments and repayments from previous allocations, maturities of investments or period regarding conversion into cash assets are estimated using scientific methods when calculating liquidity.

(6) Companies are obliged to employ sufficient number of personnel and to establish the appropriate information system infrastructure to calculate and manage liquidity.

(7) Calculating, the management and reporting of liquidity are the responsibility of the company's board of directors.

#### **Determining product tariffs and pricing**

**ARTICLE 29** – (1) Companies are obliged to create a tariff by calculating a total cost for each of the saving financing agreement they offer, including the organization fee and other expenses, and to inform their clients accordingly about all the costs under the agreement. Considering lottery-based saving financing agreements, the tariff is determined on the basis of the number of months of the group, depending on the date of the drawing.

(2) Companies should calculate their costs in a way that does not lead to unfairness among clients in the same period or in the same lottery group.

(3) Companies are required to submit their tariff plans together with the liquidity analyzes regarding the said tariff to the Agency's approval before implementing the tariffs they have prepared. Tariffs that are not deemed appropriate by the Agency cannot be put into effect.

#### **Contingency Reserves**

**ARTICLE 30** – (1) To meet the unforeseen obligations they may face due to client acquisitions or leaves, companies are obliged to keep at least three percent of the total of their savings fund pool as a contingency reserve in the savings fund pool. The Board is authorized to reduce the minimum rate of contingency reserves by up to one percent or to increase it by twice.

(2) Financial instruments in which the Contingency Reserves may be invested in may consist of participation accounts or interest-free investment instruments that can be converted into cash with a maximum value of two days.

### **PART SEVEN**

#### **Miscellaneous Provisions**

##### **Documents to be obtained from abroad**

**ARTICLE 31** – (1) For the purpose of the applications filed pursuant to this Regulation; foreign nationals are requested to submit documents that are deemed necessary and that can be obtained in accordance with the legislation of the relevant country.

(2) In the event that the documents required from foreign nationals cannot be obtained due to the absence of an authority or system responsible for keeping the records in question in the country where these persons are settled, this situation should be confirmed to the Agency with a document to be obtained from the competent authorities of the relevant country.

(3) In the event that the documents required from foreign nationals cannot be obtained due to the absence of an authority or system responsible for keeping the records in question in the country where these persons are settled, however it is not possible to confirm this situation to the Agency with a document to be obtained from the competent authorities of the relevant country, the real person or legal persons concerned are obliged to provide a written declaration attesting that they are unable to provide the said certification.

(4) Documents to be obtained from abroad for the purpose of the applications filed pursuant to this Regulation should be approved by the competent authorities of the relevant country and the consulate of Turkey in that country or in accordance with the Convention Abolishing the Requirement of Legalization for Foreign Public Documents adopted by Law No. 3028 dated 20/6/1984, prepared within the framework of The Hague Conference on

Private International Law. Notarized translations of the documents should be annexed to the application.

**Limitations with regard to outsourced services**

**ARTICLE 32** – (1) Companies have to internally carry out their activities within the scope of saving financing activity, accounting and reporting and internal systems. These activities cannot be assigned to third parties nor outsourced, except for consultancy.

**Adjustment Process**

**PROVISIONAL ARTICLE 1** – (1) The companies that will file an application to the Agency within the scope of the provisional article 7 of the Law are required to annex the notarized copies of the following to the petition that they will submit;

a) Declaration attesting that they are engaged in saving financing activities (Appendix-9A),

b) Information form and the plan to be followed within the scope of the process (Appendix-9B),

c) Commitment of the board of directors regarding the completion of the process (Appendix-9C),

ç) Independent audit contract concluded with an independent audit firm authorized to conduct independent audits in public interest institutions and organizations within the framework of Law No. 6102, Decree-Law No. 660 and relevant legislation,

d) In case of the Company applied for adjustment, an independent audit contract regarding the report to be prepared as a result of the on-site inspection to be executed by the independent audit departments of the company within the scope of the Communiqué on the Management and Audit of Information Systems of Financial Leasing, Factoring and Financing Companies

. The Agency may request further information and documents that it deems necessary.

(2) Companies that have decided for adjustment or voluntary liquidation are obliged to submit their independent audit reports to the Agency, within a plan deemed appropriate by the Board.

(3) The provisions of Article 46 shall apply to those who proceed to engage in saving financing activities without making an application to the Agency within within the scope of provisional article 7 of the Law.

**Acquired real estate and partnership shares**

**PROVISIONAL ARTICLE 2** – (1) The limits stipulated in Article 24 regarding the acquisition of real estates shall not apply for the property acquired by companies that were already operating before the law came into force and which obtained an operating license in accordance with the Law and the provisions of this Regulation, hence exceedings thereof shall not be considered within the scope of Article 26. Companies with such excess cannot acquire new property, except for the real estates they may be obliged to acquire due to their receivables within the scope of saving financing activities and the real estates acquired for use as a workplace, until the ratio of their existing real estates to their shareholder's equity reaches the limit stipulated in Article 24.

(2) Partnership shares of companies acquired before the law comes into force shall be disposed of within the period deemed appropriate by the Agency. No new shares can be acquired throughout this period, except for bonus capital increases.

**Agreements**

**PROVISIONAL ARTICLE 3** – (1) Companies are allowed to continue to conclude Agreements, provided that they do not contradict with the provisions of the Law and Regulation, until the framework agreements stipulated in the second paragraph of Article 16 come into effect.

(2) The minimum rate of forty percent stipulated as per the third paragraph of Article 17 shall be applied as twenty percent for saving financing contracts signed until 1/1/2022, provided that the remaining twenty percent is covered by the company's equity, the amount calculated using the simple arithmetic average of the monthly savings payments of the customers in the lottery group.

(3) The two-fifths rate stipulated in sub-paragraph (a) of the second paragraph of Article 21 can be applied as one-fifth for saving financing agreements signed until 1/1/2022. This provision cannot be applied jointly with the third paragraph of Article 21.

#### **Existing branches**

**PROVISIONAL ARTICLE 4** – (1) Concerning the branches opened before the effective date of the Law, the capital requirement stipulated in the first paragraph of Article 6 shall not be sought. However, companies whose existing branches exceed the number of branches that are allowed in accordance with the capital amount specified in the first paragraph of Article 6 cannot open new branches until such exceeding is corrected.

#### **Liquidation of Existing Companies**

**PROVISIONAL ARTICLE 5** – (1) The liquidation of companies engaged in saving financing activities as of the effective date of the Law is subject to the provisions of Article 10. The liquidation of companies that do not comply with the provisions of Article 10 is executed by the liquidation committee in accordance with Article 50/A of the Law.

#### **Enforcement**

**ARTICLE 33** – (1) The fifth paragraph of Article 22 of this Regulation shall enter into force on 1/1/2023, and the other provisions shall enter into force on the date of publication.

#### **Execution**

**ARTICLE 34** – (1) The provisions of this Regulation are executed by the Chairman of the Banking Regulation and Supervision Agency.

[Click for the Appendix](#)