

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

**REGULATION ON FINANCIAL HOLDING COMPANIES**

(Published in the Official Gazette dated November 1, 2006, Nr 26333)

**SECTION ONE**

**Objective and Scope, Basis and Definitions**

**Objective and Scope**

**ARTICLE 1–** (1) The objective of this Regulation is to set down 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 based on 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 undertaking: Parent undertaking other than the bank as defined by Article 3 of the Law
- b) Subsidiary: Subsidiary as defined by Article 3 of the Law
- c) Bank: Bank defined in 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 institution: Financial institution 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 institution: Credit institution 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 undertaking which is established in Turkey as a joint stock company (AS) and has at least one subsidiary operating as a credit institution are met altogether, the mentioned parent undertaking falls in the scope of financial holding companies:

- a) More than half of the subsidiaries are credit institutions and/or financial institutions,
  - b) More than fifty per cent of its paid up capital is allocated for such types of subsidiaries,
  - c) The ratio of the average of the sum of assets held by the subsidiaries which are composed of credit institutions and financial institutions as of the end of the last three accounting periods to the average of the individual sums of assets of the parent undertaking and subsidiaries is forty per cent or more
- ç) (**Amended OG 6/6/2017- 30088**) The ratio of the average of the sum of assets of any credit institution among the subsidiaries as of the end of the last three accounting periods to the average of the sum of assets of all the subsidiaries composed of credit institutions and financial institutions is not more than or equal to ninetyfiveper cent.

## **SECTION TWO**

### **Corporate Structure of Financial Holding Companies**

#### **Qualifications of shareholders and indirect shareholding**

**ARTICLE 5–** (1) Legal and natural person shareholders with qualified shares of financial holding companies must meet the qualifications of founders of banks as laid down by Article 8 of the Law.

(2) In determination of shareholding with qualified shares 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 Banking Operations 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 within ten work days from the date of registration of these amendments to the Trade Registers Office.

(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 about corporate governance**

**ARTICLE 7–** (1) Financial holding companies may determine their organizations and processes regarding corporate governance pursuant to the procedures and principles established by the Regulation on the Principles for Corporate Governance of Banks referring 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 shall 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 board of directors and Audit Committees of financial holding companies. Notifications to be made to the Agency in connection with appointments of members for board of directors and Audit 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 board of directors of the bank, which is in a position as a subsidiary of the financial holding company may serve on the board of directors of the financial holding company as well.

(5) (**Amended OG 23/10/2015-29511**) The members of the audit committee established in the bank which is in a position as a subsidiary of the financial holding company pursuant to the procedures and principles laid down by the Regulation on Internal Systems and Internal Capital Adequacy Assessment Process of Banks published in Official Gazette No:29057 dated July 11, 2014 may also serve on the audit 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 deputy general managers are subject to Article 6 of the Regulation On Procedures And Principles Regarding Notification, Oath And Declaration Of Property, Of Individuals To Be Appointed To Top Management Of Banks, And Keeping Of Resolution.

(7) (**Amended OG 23/10/2015-29511**) Financial holding companies are obliged to internally calculate capital on consolidated basis to meet the risks to which they are exposed to and may be exposed to and to operate with capital above this level. Provisions of the Regulation on Internal Systems and Internal Capital Adequacy Assessment Process of Banks are applicable in execution of these obligations.

(8) Resolutions of board of directors 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 Procedures And Principles Regarding Notification, Oath And Declaration Of Property, Of Individuals To Be Appointed To Top Management Of Banks, And Keeping Of Resolution is applicable in keeping resolution book.

## **SECTION THREE**

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

#### **Own Funds, capital adequacy, leverage ratio and liquidity adequacy**

**ARTICLE 8- (Amended OG 23/10/2015-29511)** (1) Financial holding companies are obliged to calculate consolidated own funds pursuant to the provisions of the Regulation on Own Funds of Banks published in Official Gazette No:28756 dated September 5, 2013.

(2) Financial holding companies calculate capital adequacy pursuant to the provisions of Regulation On Measurement And Assessment Of Capital Adequacy Of Banks published in Official Gazette No:29111 dated September 6, 2014 in order to ensure to have adequate capital on consolidated basis against the losses that may arise because of the risk exposure.

(3) Financial holding companies are obliged to have additional tier one capital on consolidated basis as conservation and countercyclical capital buffer. Provisions of Regulation on Conservation and Countercyclical Capital Buffers published in Official Gazette No:28812 dated November 5, 2013 are applied in calculation of additional tier one capital and the actions and measures to be taken if the additional tier one capital requirement is not met

(4) Financial holding companies are obliged to have adequate capital on consolidated basis pursuant to the provisions of Regulation on Calculation and Assessment of Leverage Ratio of Banks published in Official Gazette No:28812 dated November 5, 2013 against the potential risks they may be exposed to with the effect of leverage

(5) Financial holding companies are obliged to have adequate high quality liquid asset stock that can meet net cash outflows in order to determine minimum liquidity level on consolidated basis pursuant to the provisions of Regulation on Calculation of Liquidity Coverage Ratio of Banks published in Official Gazette No:28948 dated March 21, 2014.

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

**ARTICLE 9-** (1) Financial holding companies are obliged to calculate on consolidated basis the FX net position/own fund standard ratio in a manner to include their subsidiaries having the nature of credit institution and financial institution pursuant to the provisions about protective regulations in Article 43 of the Law.

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

#### **Credit limits**

**ARTICLE 10-** (1) The financial holding company having the nature of parent undertaking is obliged to calculate and implement credit limits upon the provisions of the Regulation on Credit Operations of Banks by taking into account the transactions included in balance-sheet and off-balance sheet accounts of each subsidiary having the nature of credit institution or financial

institution covered by consolidation and considered as credit by Article 48 of Law and by considering the consolidated own fund calculated according to the Article 8(1) of this Regulation.

### **Elimination of excesses**

**ARTICLE 11-** (Amended OG 23/10/2015-29511) (1) Provisions of related legislation are applicable in elimination of excesses about limits and ratios that financial holding companies are subject to.

## **SECTION FOUR**

### **Audit 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 subsidiaries covered by consolidation are subject to consolidated supervision. Consolidated supervision is conducted by consolidating the results of supervision of banks and companies of financial leasing, factoring and financing supervised by the Agency and the results of supervision conducted by authorities authorized to monitor and supervise other financial institutions. Upon a request made to competent authorities by the Board if deemed necessary by the Agency, consolidated supervision shall jointly be conducted by the staffs of the Agency and relevant competent authorities, who are authorized to conduct such supervision.

(2) Copies of any reports, opinions and/or written comments obtained as a result of supervision conducted by authorities authorized to monitor and supervise the financial institutions 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 monitoring and supervision of the relevant financial institutions 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 supervision 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 supervision 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 supervision of financial holding companies, the Agency, in connection with the measures deemed necessary for introduction by the financial institutions other than banks and financial leasing, factoring and financing companies, informs in writing the authorities authorized to monitor and supervise such organizations accordingly. Copies of information and documents requested by the mentioned 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, pursuant to 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 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 Report by Banks are taken as a basis in preparation of the annual activity reports. Annual reports to be prepared by financial holding companies shall cover the considerations listed by sub-paragraph 1 of sub-clause (a) and subparagraphs (1), (3) and (4) of sub-clause (c) of the Article 6 (1) 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 directors 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.

### **Independent Audit**

**ARTICLE 14-** (1) (Amended OG 2/4/2015-29314) The independent audit of consolidated financial reports of financial holding companies prepared as of the end of accounting period, is conducted pursuant to Turkish Commercial Law No:6102 dated January 13, 2011, Decree Law Concerning the Organization and Duties of Public Oversight Accounting and Auditing Standards Authority No:660 dated September 26, 2011 and related legislation.

## **SECTION FIVE**

### **Miscellaneous and Final Provisions**

#### **Receiving rating, valuation and outsourcing services**

**ARTICLE 15-** (1) Article 34 of the Law applies for any ratings to be procured 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 Cancellation of their Authority in line with the procedures and principles laid down by the mentioned 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

Procurement Of Appraisal Services By Banks, And Authorization And Activities Of Entities Providing Appraisal Services To Banks in line with the procedures and principles laid down by the mentioned regulation.

(3) Article 35 of the Law is applicable for procurement of outsourcing 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 outsourcing services and subjects for which outsourcing services may be received. In the event that the outsourcing services received by financial holding companies having the nature of a parent undertaking are same as the outsourcing services received by the banks covered by consolidation and that such services are procured from the service provider through which such banks receive outsourcing 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 document and information request of the Agency.

(2) The shareholders of financial holding companies, members of board of directors and other members, persons act in the name of them, and institutions which financial holding companies receive rating, independent audit, valuation and outsourcing services and their employees are subject to the provisions relating to confidentiality requirements 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 permission of the Board pursuant to 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 own funds 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 independent audit, rating, valuation and outsourcing services to financial holding companies, take out liability insurance policies pursuant to the procedures and principles laid down by the relevant sub regulations in line with the provision of Article 36 of the Law.

### **Documents concerning shareholders with qualified shares**

**PROVISIONAL ARTICLE 1–** (1) For shareholders with qualified shares 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, for legal person founders copies of the Trade Registry Gazette indicating that founders are shareholders with qualified shares of 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 shareholders with qualified shares 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 shares in financial holding companies by June 1, 2007 such that their shareholdings fall below the limit of qualified shares. Partners failing to achieve the required share transfers by this date shall 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 shall 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 board of directors and audit 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.