

From the Banking Regulation and Supervision Agency:

**COMMUNIQUÉ ON THE PRINCIPLES AND PROCEDURES FOR THE
ADMINISTRATIVE FINES TO BE IMPOSED ON REPORTINGS MADE WITHIN
THE SCOPE OF BANKING DATA TRANSFER SYSTEM**

(Published in Official Gazette dated March 22, 2007 Nr. 26470)

SECTION ONE

Objective and Scope, Basis and Definitions

Objective and Scope

ARTICLE 1- (1) The objective of this Communiqué is to determine the principles and procedures on the implementation of the sanctions stipulated in Article 146 (1p) of the banking Law Nr. 5411 dated October 19, 2005, in order to contribute to the usage of true, sound and reliable information in audit process, in the cases that the information received within the framework of “Banking Data Transfer System” is not submitted or submitted with delay or submitted with incomplete information and that it includes control errors or there is continuity in control errors.

(2) (**Amended OG 25/3/2014-28952**) This Communiqué comprises electronic reporting in annually, semi annually, quarterly, monthly, biweekly, weekly and daily forms in the Banks Reporting Set and made to the Banking Regulation and Supervision Agency by the institutions within the scope of Banking Law within the framework of Banking Data Transfer System.

Basis

ARTICLE 2 – (1) This Communiqué has been prepared on the basis of Articles 93(4), 95(3), 96 and 146(1p) of the Banking Law.

Definitions

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

- a) Banking Data Transfer System (BDTS): The electronic reporting infrastructure implemented in order for banks to be able to submit the information required by the Agency in determined format and periods,
- b) Banks Reporting Set (BRS): Forms received on quarterly, monthly, weekly and daily

basis, the scope and submitting periods of which are determined by the Agency,

c) Bank's General Reporting Performance: Various indicators relating to the reporting such as number of forms not submitted or submitted with delay, delay periods

thereof, number of control errors and number of forms transmitted with incomplete information or the value calculated by using those information belonging to the reporting institution within the last 1 year period,

ç) Electronic reporting: Transfer of forms included in the BRS to the Agency via BDTS in electronic media,

d) Submitting period: The maximum submitting period of each form in the BRS, following the related period and in working days terms,

e Lock Application: Application enabling the BDTS to be closed for information transfer for a reporting period in order to prevent the institution to make changes in forms and which enables to make controlled changes, after submitting of all the forms and the correction of control errors for the related reporting period,

f) Board: Banking Regulation and Supervision Board;

g) Institution: Deposit banks, participation banks as well as development and investment banks,

ğ) Agency: Banking Regulation and Supervision Agency;

h) Letter of undertaking: Written contract, which was signed by the members take part during the financial reporting process of the institution including the related audit committee member, general manager, assistant general managers responsible for financial reporting and information systems, financial reporting unit manager and containing BRS sent in electronic form via BDTS infrastructure without prejudice to personal responsibilities is produced in accordance with the official records of the institution; the actual financial status is reflected, the possible responsibilities which may occur pursuant to the matters listed in the Article 146 (1p) of the Banking Law is adopted and other concerned matters,

ı) Legal Limits: Measurements such as limits relating to capital adequacy, FX assets and liabilities, liquidity, loan amounts, real estates and partnership shares which are obliged to be calculated, met in the determined ratio, continued and be reported as of certain periods according to the Banking Law and related sub-legislations.

SECTION TWO

Principles Relating to Imposing Administrative Fine

Cases Requiring Administrative Fines to be Imposed

ARTICLE 4-(1) Cases requiring imposing administrative fine, the responsibility of not submitting the information taken by the institution concerned, submitting them delayed, submitting them with incomplete information, their including control errors and control errors' presenting continuity of control errors relating to content within the scope of letter of undertaking and demanded from the institutions within the scope of the Law by the Agency within the scope of the Article 95 and 96 of the Banking Law and sending them by the mediation of Banks Data Transfer System.

Not Submitting or Submitting with Delay

ARTICLE 5- (1) Submitting with delay represents; submitting the form after the due delivery date determined by the Agency has expired, and not submitting the form represents not submitting the form in monthly, biweekly, weekly and daily forms in period exceeding two times of the due delivery date, in annually, semi annually and quarterly forms, it represents not submitting them in period exceeding one and a half times.

(2) The period which the form is not submitted, by taking into account of general reporting performance of the bank and if the information has a connection with legal limits, there imposed penalty up to TL 10.000 from TL 5.000 in submitting them in delay, in case of not submitting them there imposed a penalty up to TL 15.000 from TL 5.000.

Submitted with incomplete information

ARTICLE 6- (1) The deficiency representing not including an information required to be in the forms or not entering a data appropriate to column or line explanation of the forms or entering them not in due form. The state of deficiency is taken into account as of the expiration of due period of the form.

(2) The importance of the deficiency is determined as to the following criteria;

a) Little Deficiencies: Faults emanating from arithmetical transactions and from rounding off which do not affect legal limits in any manner.

b) Serious Deficiencies: Deficiencies and faults to be affecting interpretation of information and the integrity of the information in the forms.

c) Very Serious Deficiencies: Deficiencies and faults that shall result important changes both in bank basis and in sectoral evaluation or that shall create an effect on basic values in chain in between forms.

(3) For emerging the state of “delivery with incomplete information”, the deficiency must be determined as serious deficiency or very serious deficiency.

4) In case of determining the deficiency and faults ,in the daily forms, which reporting frequency is more, required to be submitted in a short period by preparing them as “Very Serious Deficiency”, it is accepted that the state of “delivery with incomplete information” has arisen.

(5) In case of delivery with incomplete information, penalty up to TL 15.000 from TL 5.000 is applied by taking into account of the importance of the deficiency, the period of removing the deficiency and general reporting performance of the bank.

Control Errors

ARTICLE 7-(1) Control errors represent the control errors included in “bunch of control mistakes subject to penalty” and determined by control mechanisms established with a view to provide consistency with each other and increase the quality of data of forms included in reporting set.

(2) Administrative fine is applied in case of existing control mistakes in system by the end of the due date of delivery of the forms.

(3) In case of existing control mistakes and not removing them until the due delivery date, by taking into account of the period of removing the control mistakes later , effect of it to the legal limits and the general performance of the bank, administrative fine up the TL 15.000 from TL 5.000 is applied.

Faults and Deficiencies Arose after the Lock Application

ARTICLE 8- (1) Changes made by unlocking with a view to remove fault and deficiencies determined by the institution itself or independent auditors in information relating to period taken under the control by closing it to data transfer by lock application , are not taken into account as not submitted, transmitted with delay, control submitted or submitting with incomplete information. But, in case of making

changes against the statements included in unlocking and misuse justifications, the state of “not submitted” is arisen for the form in which there made a change is accepted.

(2) The errors , that shall arise as a result of resending the forms relating to these periods by unlocking them in evaluation periods included in the Article 12(1) are evaluated as control errors in case of not being removed by the end of the day.

(3) In case of there existed control errors when sending the forms by unlocking in periods before evaluation period and there existed control errors relating to this period and incase of not removing them by the end of the day, these errors are evaluated as delivery with incomplete information.

Continuity of control errors

ARTICLE 9- (1) Continuity of control errors is formation of the same control error in reporting of an institution three times in last one year for three-month forms, three times in a row or total of four times within the last six months for monthly forms or three times in a row or total of four times within the last three months for weekly and biweekly forms except for the semiannually and annually forms and is failure to remove these errors until deadline of these forms.

(2) Administrative fines are imposed between TRY 5.000 to TRY 15.000, having regard to the number of continuous errors in the case of continuity of control errors, effect of these control errors on legal limits and general reporting performance of the bank.

Exceptions

ARTICLE 10- (1) It is accepted that submitted with delay, not submitted, submitted with incomplete information and inclusion of control errors did not occur, in case of existence of the situations below:

a) Rendering appropriate additional time by the Agency for completing the report having considered the adaptation process of the institutions to report, due to the delays that may arise in consideration of reflecting format and explanation updates to be made in order to increase usage efficiency of the amendments made in the legislation or information submitted to the Agency to the report,

b) Reasons originated from the Agency:

- 1) Technical reasons: Delay of data flow to be submitted in electronic environment as a consequence of Agency originated problems.
- 2) Finding errors in main controls subject to detecting control errors.
- 3) Other reasons originated from the Agency.
- c) Technical or other defects derived from companies that provide communication service or the institution without being its own fault, provisioned that it is documented,
- d) Fire, natural disaster and similar extraordinary developments experienced by the institution to report,
- e) Other reasons that should be deemed appropriate by the Agency.

Provisions on determining conditions which administrative fines are going to be imposed on

ARTICLE 11- (1) In case of emergence of some or all the situations such as not submitted, submitted with delay, submitted with incomplete information and inclusion of control errors and continuity of control errors in one period, separate fines are imposed for each situation.

(2) Separate administrative fines are imposed for each form that has been delayed or failed to be submitted.

(3) All information submitted with incomplete information cases are evaluated together in determining the situations to impose administrative fines concerning submission with incomplete information. In case submission with incomplete information situation derived from the same reason was originated for the same form for more than one period one after the other, all these situations are evaluated together in determining administrative fine amount.

(4) All control errors are evaluated together in determining the situations to impose administrative fines concerning control errors.

(5) All control errors determined to be continuous within the evaluation period set forth in Article 12(1) in determining the situations to impose administrative fines concerning continuity of control errors.

(6) Changes made in order to remove errors and defects determined previously by external auditors or by the institution itself after the deadline and prior to key application in a form that has been submitted

in due of time are no considered as not submitted, submitted with delay, control errors or submitted with incomplete information provided that the Agency is notified in advance and control errors that may arise are removed until the end of day.

SECTION THREE

Miscellaneous and Final Provisions

Provisions on implementation

ARTICLE 12- (1) Determinations and evaluations concerning prosecution of administrative fines are made by the Agency quarterly after the three-month period following the evaluation process ends. However, in case severe problems are determined in reporting performance, an evaluation may be carried out on a specific one or more than one institution notwithstanding the three-month period.

(2) Determinations and evaluations concerning administrative fines are carried out by the Department of Information Management and statements of the institutions are taken by the same department and submitted to the agenda of the Board by the Vice-Presidency to which it reports.

(3) Submission dates of the forms included in BRS are determined by the Agency. The Agency is authorized to differentiate the submission dates of the forms thereof on the basis of bank or bank groups.

(4) The Agency shall demand the information flow to be realized within the framework of the BDTS, be made with secure electronic signature within the scope of the Law on Electronic Signature Nr. 5070 dated January 23, 2004. Issues relating to the electronic signature application are regulated separately.

Evaluation on the continuation of control errors

PROVISIONAL ARTICLE 1 – (1) In the evaluation towards past relating to the continuation of control errors stipulated in Article 9(1), control errors to appear after the date of entry into force of this communiqué are taken into consideration.

Entry into Force

ARTICLE 13- (1) This Communiqué shall enter into force on July 01, 2007.

Enforcement

ARTICLE 14- (1) The provisions of this Communiqué are enforced by the Chairman of the Banking Regulation and Supervision Agency.