

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

**REGULATION ON THE PRINCIPLES AND PROCEDURES FOR ACCEPTING,  
WITHDRAWAL OF DEPOSITS AND PARTICIPATION FUNDS AS WELL AS THE  
PRESCRIBED DEPOSITS, PARTICIPATION FUNDS CUSTODY AND RECEIVABLES**

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**SECTION ONE**

**Objective and Scope, Basis and Definitions**

**Objective and Scope**

**ARTICLE 1** – (1) The objective of this Regulation is to regulate the procedures and principles for accepting, withdrawal of deposits and participation funds in banks as well as the prescribed deposits, participation funds, custody and receivables.

**Basis**

**ARTICLE 2** – (1) This Regulation has been prepared on the basis of Articles 60, 61, 62 and 93, of the Banking Law Nr. 5411 dated 19/10/2005.

**Definitions**

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

- a) Bank(s): Bank(s) which are defined in Article 3 of the Law,
- b) Unit value: the coefficient which is assumed as 100 for the first day for the participation bank that accept fund to its participation accounts however which changes when profit or loss is made,

calculated in the days on which profit or loss registrations are made by dividing total value of each fund separated according to their maturities to total account value of the previous day, and which is equal to the unit value of the previous day on the days on which no profit/loss registration is made,

c) Unit account value: The value determining the current value of the participation account and calculated through multiplying the unit value by the account value and the amount on which the participation account owner may lay claim to,

ç) Fund: The Savings Deposit Insurance Fund,

d) Account Value: The coefficient calculated by dividing the amount deposited by the account owner to the unit value which is assumed as 100 for the first day for the participation bank that accept fund to its participation accounts, and in the following days by adding or subtracting the amount to be found by dividing the amount deposited or withdrew by the account owner to the unit value to the account value belonging to the person who deposited or withdrew money, respectively and which shows the participation ratio of participation account owners to fund holdings,

e) Law: Banking Law Nr. 5411,

f) Participation Funds: Participation funds which are defined in Article 3 of the Law,

g) Participation accounts: Participation account(s) which are defined in Article 3 of the Law,

ğ) Credit institution(s): Credit institution(s) which are defined in Article 3 of the Law,

h) Board: The Banking Regulation and Supervision Board,

ı) Institution associations: Institution associations which are defined in Article 3 of the Law,

i) Agency: The Banking Regulation and Supervision Agency,

j) Deposit(s): Deposit(s) which are defined in Article 3 of the Law,

k) Private current account: Private current accounts which are defined in Article 3 of the Law.

## **SECTION TWO**

### **Accepting and Withdrawal of Deposits and Participation Funds**

#### **Accepting Deposits and Participation Funds**

**ARTICLE 4** – (1) It is implemented by credit institutions by announcing participation ratios to profit and loss relating to deposit interests and participation accounts to be determined by taking as basis the Article 114 of the Law.

(2) In order for credit institutions to accept deposits or participation funds on behalf of their customers, they have to certify the identities, The Republic of Turkey identity and tax numbers of the customers in order to approve the customer and to fulfill the obligations included in the regulations made by the Ministry of Finance according to Article 76(3) of the Law.

(3) The credit institutions are obliged to arrange a frame contract to be signed with their customers in order to include the principles and procedures relating to the amount of the deposit or participation fund they accepted which is insured within the scope of Article 63 of the Law, the implementations to be made in the case that they are prescribed by considering the principles and procedures determined in Article 8, withdrawal of them by the deposit or participation fund owner directly or by an instruction to be given by him/her or without prejudice to the provisions of Article 60 of the Law, transfer thereof to the account in another bank established in Turkey or abroad and belonging to themselves or another person as well as the electronic banking implementations under this scope.

(4) In addition to the issues stipulated in the third paragraph, the following issues shall take place in frame contracts;

a) the account owner has the right to take back his/her current in case of his/her demand in sight deposit account and private current account contracts,

b) In the time deposit account and participation account contracts, the participation ratio to interest or profit and loss which will be implemented within maximum amount and ratios to be determined pursuant to Article 114 of the Law according to the type of the account cannot be changed until the end of maturity without prejudice to the provisions of the said Law, accounts which are not closed on its maturity will be assumed to be renewed on a new maturity in the case

that new maturity end of the account owner comes to weekend and if he/she gives instruction for shifting it to the first business day, and in the case that he/she didn't give such a n instruction, it will be renewed with the same maturity and over the participation ratio to interest or profit and loss valid on the renewal date and that the demand right of the account owner from the credit institution shall be in the amount calculated over unit account value or the interest rate on the date which the maturity of the account is over,

c) in the case that the accounts stated in (a) and (b) sub-paragraphs are renewed, the contract is also assumed to be renewed unless the account owner makes an objection.

(5) Other minimum issues to be included in addition to the issues determined, in type and content of the contracts too be signed by considering third and fourth paragraphs, are determined by institution associations by taking the appropriate view of the Board according to Article 76(2) of the Law.

(6) One copy of the contracts to be arranged and the account books to be arranged by credit institutions on behalf of account owners are obliged to be given to customers. It is obligatory to stipulate in account books clear name and title of the account owner, code number determining the branch in which the account is opened and the name of the branch, the date of the opening of the account, account and book number, the amount of the account as well as stipulating the provisions taking place in the frame contract in the same manner pursuant to third and fourth paragraphs or the notifications which will include that the related articles in the frame contract signed by the account owner shall be implemented by addressing the numbers thereof by stating the dates thereof. Interest or profit/loss participation ratio to be implemented within the maximum amount and ratios pursuant to article 144 of the Law as per the type of the account as well as maturity and notice period are mandatory to be included in time deposit account and participation account books.

(7) In the case that a natural person or legal entity has more than one account in the same or different type in a credit institution, it is not necessary to arrange frame contracts for each account separately including the issues determined in third, fourth and fifth paragraphs. Nevertheless, in this situation, on condition that the customer accepts and the date of the contract is stated clearly in the account books to be given concerning the said accounts, it is obligatory to make a notice stipulating that provisions of the frame contract signed by the account owner are also valid for the

related account. The same principles and procedures are implemented in the renewal of the accounts within this scope.

### **Withdrawal of deposits and participation funds**

**ARTICLE 5** – (1) Without prejudice to the provisions relating to pledges and right of retention of the Turkish Civil Code Nr. 4721 dated 22/11/2001, transfer and alienation of the receivables as well as clearance of the Code of Obligations Nr. 818 dated 22/4/1926 as well as powers and obligations brought by other laws, rights of deposit and participation fund owners to take back the amounts to be paid to them can not be limited in no way. Provisions to be determined on maturity and notice period are reserved in the contract to be signed between deposit or participation account owners and credit institutions according to Article 4.

## **SECTION THREE**

### **Principles for Participation Fund**

#### **General Conditions for Participation Fund**

**ARTICLE 6** – (1) As well as no preset yield guarantee can be provided to the account holder under any name in consideration of special current accounts and participation accounts, no guarantee, in participation accounts, can be provided that the capital deposited is repaid to the account holder. These subjects are declared by putting on a poster that can be clearly seen on the branches of participation banks.

(2) right of demand of the account holder on participation fund accounts and payment obligation of the participation bank; is the amount deposited to special current accounts, while unit account value in valid at the end of maturity participation accounts. Unit account value is calculated according to the model in annex-1.

(3) Profit or loss stemmed from operating participation funds are distributed daily or weekly at the rate of the weight on unit account value within total participation accounts of each maturity group in currency type basis.

(4) Without prejudice to the provisions of the article 144 of the Law, participation banks may determine participation rates to profits and losses to stem from operating participation accounts individually by amount and maturity groups, on condition that rate of participation to loss is not less than 50 per cent of rate of participation to profit.

(5) Rate of participation to profit and loss valid at the time the participation account is opened is recorded to account book and this record, without prejudice to the provisions of the article 144 of the Law, cannot be changed after the account is opened until the end of the maturity. The account which is not closed on maturity is regarded as renewed on the rate of participation to loss and profit valid at the same maturity and renewal date.

### **Pool of special funds**

**ARTICLE 7** – (1) Participation banks, pursuant to the 60 (7) of the Law, may constitute pool of special funds with maturities no less than three months by collecting funds in independent accounts so as to be utilized in financing of preset projects or other investments, without abiding the maturity and types established by the Central Bank of the Republic of Turkey. Participation accounts belonging to the funds collected in this way are operated as of their maturities and independent from other accounts and the funds collected cannot be transferred to the other maturity groups. The Agency is informed in fifteen days after establishing and liquidation. Pool of special funds is liquidated at the end of the financing period.

## **SECTION FOUR**

### **Prescription**

#### **Deposit, participation fund, custody and receivables underwent prescription**

**ARTICLE 8** – (1) Any deposit, participation fund, custody and receivables including shares and bonds in the custody of the banks, investment fund participation bills, sums included in the deposit accounts opened in the name of the customers they gave cheques-book even if the cheques-book is not submitted, transfer costs, deposit, interest charged from receivable and custody until the prescription period and dividends concerning participation account, those of

which are not sought beginning from ten years as of the last demand, transaction, any written order of the beneficiary.

(2) Banks are obliged to warn the beneficiaries of any deposit, participation fund, custody and receivables at the amount of TRY 50 and above that underwent prescription in a calendar year, that their accounts shall be transferred to the Fund in case they do not apply, through a registered and reply-paid letter until the end of January of the following calendar year. The said deposit, participation fund, custody and receivables and any deposit, participation fund, custody and receivables below TRY 50 are announced as list for three months in the website of the bank as of the beginning of February. The Bank announces for two days that the said lists are announced in its website on the two most-widely circulated papers publishing nationwide until the fifteenth day of February. Lists that are announced on websites are delivered simultaneously by the banks to the Fund. The Fund publishes these lists as consolidated on its own website until the end of April.

(3) Any of those deposit, participation fund, custody and receivables underwent an announced prescription which is not sought by the beneficiary or inheritor until the fifteenth day of May, along with their interests and dividends are transferred to the accounts in the Central Bank of the Republic of Turkey until the end of May. Banks are obliged to inform the Fund about this situation in one week following the transfer date by means of a list to be prepared designating, identity information, addresses and the sums to be reached after interest and dividends of rights of the beneficiaries.

(4) The said deposit, participation fund, custody and receivables are recorded income by the Fund as of the date of transfer along with their interest and dividends.

(5) List models to be prepared for deposit, participation fund, custody and receivables underwent prescription and interest and dividends belonging to them and to which accounts they are going to be deposited or in which way they are going to be submitted or delivered are announced to the banks by the Fund via institution associations.

**Prescription on assets in safe-deposit boxes, blocked accounts and accounts opened on behalf of infants and the payments are made solely to the infants from the account thereof**

**ARTICLE 9** – (1) Prescription period for safe-deposit boxes begins as of the date at which the safe was opened last.

(2) Prescription period begins, on the accounts which are opened on behalf of infants and on condition that the payments are made solely to the infants, at the date the infant is pubescent.

(3) Prescription period for the accounts blocked by the competent authority stops at the date the blocking is tied up. Prescription period continues to proceed as from the date the blocking in the account is stopped.

## **SECTION FIVE**

### **Miscellaneous and Final Provisions**

#### **Accommodation to the framework convention**

**PROVISIONAL ARTICLE 1** – Banks adopt themselves to the other provisions excluding the article 4 (1) and (2) until July 1, 7, 2007.

**Deposit, participation fund, custody and receivables underwent prescription from November 1, 2005 to December 31, 2005**

**PROVISIONAL ARTICLE 2** – Any deposit, participation fund, custody and receivables underwent prescription from November 1, 2005 to December 31, 2005 are assessed and processed together with deposit, participation fund, custody and receivables underwent prescription in 2006.

#### **Entry into Force**

**ARTICLE 12**– (1) This Regulation enters into force on the date of publication.

#### **Enforcement**

**ARTICLE 11**– (1) The provisions of this Regulation are enforced by the Chairman of the Banking Regulation and Supervision Agency.

