

**COMMUNIQUÉ**

**By 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**

**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 scope of “Banking Data Transfer System” is not transmitted or transmitted with delay or transmitted with incomplete information and that it includes control errors or there is continuity in control errors.

(2) This Communiqué comprises electronic reporting in quarterly, monthly, 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 transmitted or transmitted with delay, delay periods thereof, number of control errors and number of forms transmitted with missing 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 by BDTS in electronic media,
- d) Submitting period: The maximum transmitting period of each form in the BRS, following the related period and in working days terms,
- e) Lock Application: Following the transmitting of all forms and the removal of control errors for a reporting period, BDTS is closed for information transfer for the said period in order to prevent the institution to make changes in forms and which enables to make controlled changes,
- 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) Commitment: 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,

1) 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**

#### **States Requiring Administrative Fines to be Imposed**

**ARTICLE 4-**(1) States requiring imposing administrative fine, the responsibility of not sending the information taken by the institution concerned , sending them delayed, sending them with imperfect data, their including control mistakes and control mistakes' presenting continuity relating to content within the scope of written contract signed 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.

#### **Unsent or Transmitting with Delay**

**ARTICLE 5-** (1) The state of transmitting with delay is representing; sending the form after the due delivery date determined by the Agency has expired, and the state of not sending them representing unsent the form in monthly, weekly and daily forms in period exceeding two times of the due delivery date, in quarterly forms, it represents not sending them in period exceeding one and a half times. In cases deemed appropriate by the Agency and in cases in which the institutions have documented excuse, the due period for unsent state can be differentiated by the Agency.

(2) The period which the form is unsent, 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 sending them in delay, in case of not sending them there imposed a penalty up to TL 15.000 from TL 5.000.

### **Transmitting with incomplete data**

**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 deficient 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 sent in a short period by preparing them as “Very Serious Deficiency”, it is accepted that the state of “delivery with deficient information” has arisen.

(5) In case of delivery with deficient 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 mistakes represent the control mistakes 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 unsent, sending in delay, control mistake or delivering with imperfect data. But, in case of making changes against the statements included in unlocking and misuse justifications, the state of “not sending” is arisen for the form in which there made a change is accepted.

(2) The mistakes ,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 mistakes in case of not being removed by the end of the day.

(3) In case of there existed control mistakes when sending the forms by unlocking in periods before evaluation period and there existed control mistakes relating to this period and incase of not removing them by the end of the day, these mistakes are evaluated as delivery with imperfect 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 six-month forms or three times in a row or total of four within the last three months for weekly 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 continuous 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 delay in transmission, failure to transmit, transmission with absent 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 sent 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 failure to transmit, delay in transmission, transmission with absent 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 transmitted.

(3) All transmission with absent information cases are evaluated together in determining the situations to impose administrative fines concerning transmission with absent information. In case transmission with absent 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 failure to transmit, delay in transmission, control error or transmission with absent 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 delays 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) Transmission dates of the forms included in BRS are determined by the Agency. The Agency is authorized to differentiate the transmission 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.