REGULATION ON POSTPONEMENT OF TRANSACTIONS WITHIN THE SCOPE OF PREVENTION OF LAUNDERING PROCEEDS OF CRIME AND FINANCING OF TERRORISM

CHAPTER ONE

Objective, Scope, Legal Base and Definitions

Object and Scope

ARTICLE 1- For the implementation of Law No. 5549 on Prevention of Laundering Proceeds of Crime dated 11/10/2006, and within the scope of prevention of laundering proceeds of crime and financing of terrorism and combating effectively with these crimes, the objective of this Regulation is to determine the principles and procedures for suspending or not allowing the execution of the transactions that are attempted to be conducted or currently going on within or through obliged parties in cases where the assets which are the subject of these transactions are suspected to be linked to the offence of laundering or financing of terrorism.

Legal Base

ARTICLE 2- (1) This Regulation has been drawn up on the basis of Article 19/A of Law No. 5549.

Definitions

ARTICLE 3- (1) In this Regulation;

a) Laundering offence means the offence defined in article 282 of Turkish Criminal Law No.5237 dated 26/09/2004,

b) Minister means Minister of Finance,

c) MASAK means Financial Crimes Investigation Board,

c) Electronic notification means the notification made by MASAK electronically within the scope of article 9/A of Law No.5549,

d) Postponement of transaction means to suspend or not to allow the execution of the transaction,

e) Assets means money, any kind of movable or immovable, tangible or intangible goods or rights which have monetary value, and any kind of legal documents or instruments certifying rights on them,

f) Suspicious transaction means the transaction defined in article 27(1) of the Regulation on Measures regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism published on the Official Gazette dated 9/1/2008 with No.26751,
g) The offence of the financing of terrorism means the offence defined in article 4 of the Law No.6415 on the Prevention of the Financing of Terrorism dated 7/2/2013,

ğ) Obliged party means the natural and legal persons listed in the first paragraph of article 4 of the Regulation on Measures Regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism

CHAPTER TWO

Postponement of Transaction

Postponement of transaction based on suspicious transaction reports

ARTICLE 4 – (1) If there is any document or serious indication supporting suspicion that the assets which are the subject of a transaction attempted to be conducted or currently going on within or through obliged parties are be linked to offence of laundering or financing of terrorism, obliged parties shall submit a suspicious transaction report (STR) to MASAK with their grounds including the request of suspension of the transaction.

(2) That the transaction which is the subject of a STR with a request of suspension is extraordinary means that it has following indicators;

- It is understood after the controls made in various databases or other resources that the person(s) carrying out the transaction is or might be related to the offence,

- There is a risky situation that if the transaction is completed then seizure of the funds or the proceeds of crime thought to be related to financing of terrorism might be prevented or complicated.

(3) The obliged parties submitting STRs with the request of suspension to MASAK shall abstain from execution of the transaction until the decision on the transaction to be made by the Minister is notified to them by MASAK. Duration of postponement of transactions cannot exceed seven work days following the submitting date of the STR by the obliged party.

(4) The procedures and principles regarding the STRs to be submitted with the request of postponement shall be specified in the STR Guidances.

Postponement of the transactions in relation to the assets that MASAK detected

ARTICLE 5 – (1) As to the assets within obliged party detected by MASAK, if there is any document or serious indication supporting the suspicion of their link to offence of money laundering or financing of terrorism; the decision made by the Minister for the postponement of the transactions related to relevant assets shall be notified to relevant obliged Parties by MASAK. Obliges parties shall not execute the transactions specified in the decision for seven work days as from the date of notification.
Requests received from foreign counterparts

ARTICLE 6 – (1) A reasoned request made by a foreign counterpart for postponing a transaction related to offence of laundering or financing of terrorism shall be considered by MASAK. The decision regarding the request shall be made by the Minister in the event that MASAK finds out any document or serious indication supporting the suspicion of link to offence of laundering or financing of terrorism. Principle of reciprocity shall be applied while executing this power.

(2) The decision made by the Minister for postponing transactions regarding the relevant assets shall be notified by MASAK to relevant obliged parties. Obliged parties shall not execute the transactions specified in the decision for seven work days as from the date of notification.

(3) To get a decision on postponement of transactions, the reasoned request of a foreign counterpart shall, at least, include:
   a) detailed information on the transaction and on the obliged party that will postpone it,
   b) information on documents or serious indications supporting the suspicion that the transaction is linked to offence of laundering or financing of terrorism,
   c) clear identity information of the persons mentioned in the request,
   d) information on nature of the process that is going on in the relevant country on the subject.

(4) The decision regarding the request shall be notified to requesting counterpart by MASAK.

Notification of the decision

ARTICLE 7 – (1) The decision to be applied to transaction shall be notified electronically to relevant obliged parties that have electronic notification account provided by MASAK.

(2) The decision to be applied to transaction shall be immediately notified to relevant obliged parties that do not have an electronic notification account by using technical communication instruments such as fax, e-mail or web service.

CHAPTER THREE
Final Provisions

Entry into Force
ARTICLE 8-(1) This Regulation shall enter into force on the date of its publication.

Execution
ARTICLE 9 – (1) Minister of Finance shall execute the provisions of this Regulation.