

SECOND CHAPTER

Capital Markets Association of Turkey, Association of Appraisal Experts of Turkey, Central Clearing Houses, Central Securities Depositories and Central Registry Agency

Capital Markets Association of Turkey

ARTICLE 74 – (1) Institutions authorized to perform investment services and activities according to Article 37 of this Law and institutions deemed appropriate by the Board among those that carry out activities in capital markets, shall apply for membership to the Capital Markets Association of Turkey, which is a public professional organisation possessing a legal identity. The mentioned institutions are obliged to make the required application within three months starting from the date when they receive their licenses. The activities of institutions which do not comply with this obligation shall be ceased by the Board.

(2) The Association is tasked with and authorised to;

- a) Conduct research in order to ensure the development of capital markets and the activities of member institutions,
- b) Establish professional rules aimed at providing that the members of the Association work in solidarity with due care and discipline required by the capital markets and the occupation,
- c) Take necessary measures in order to prevent unfair competition,
- c) Make regulations on issues assigned to it by legislation and determined by the Board, execute and supervise them,
- d) Impose disciplinary penalties specified in the Statute of the Association,
- e) Cooperate with national and international institutions on behalf of member institutions,
- f) Follow-up on national and international professional developments, legal and administrative regulations and inform members about these issues,
- g) Establish and manage the necessary infrastructure regarding the resolution of disputes arising from the activities of its members within the scope of this Law through arbitration,
- ğ) Perform the other tasks determined by the Board.

(3) The Association is obliged, when making regulations and taking decisions, to act in accordance with this Law and related legislation.

Statute and organs of the Capital Markets Association of Turkey

ARTICLE 75 – (1) The statutory organs of the Association are the general assembly, board of directors and board of auditors.

(2) Not less than fifteen days prior to the general assembly meeting at which the organs of the Association are to be elected, a list identifying the members of the Association and their representatives who shall participate in the elections, along with a notice specifying the location, date, time and agenda of the meeting and also information with respect to a second meeting in case a meeting quorum is not obtained for the first meeting, shall be submitted in three copies to the judge appointed as chairman of the election board by the Supreme Election Council. The judge shall approve the list and other issues upon making the required examination, appoint a chairman and two members to the balloting board and one substitute member for each of these. The voting process shall be made in accordance with the principles of secret ballot and open vote counting. At the end of the election period, election results shall be determined in an official report signed by both the chairman and members of the balloting board. All kinds of objections regarding the election to be made within two business days following the preparation of the official report shall be examined at the same day by the judge and a final decision shall be made. The Board holds a right of objection on issues regarding the implementation of this Law and the objection made by the Board shall also be examined and finalised according to the same procedure.

(3) The organs of the Association, its revenues, expenses and operating principles, acceptance to membership,

and principles regarding temporary or permanent removal from membership shall be regulated in the Statute which shall be put into force with a decree of the Council of Ministers upon the proposal of the Board and the assent of the Related Ministry. Upon the request of the Association or ex officio, where deemed necessary, the Board may propose to the Related Ministry to make amendments to the Statute.

(4) In principle, all of the Association members determined in Article 74 shall be represented in the board of directors of the Association. The procedures to be followed for being candidate and nominating a candidate in order to meet this principle shall be indicated in the Statute of the Association.

(5) Association fees not paid within the period determined in the Statute shall be collected by the Association through attachment. Decisions related to the payment of Association fees shall be deemed to constitute an official document in the context of Article 68 of the Execution and Bankruptcy Law dated 9/6/1932 and numbered 2004.

(6) Members are obliged to abide by the Statute of the Association and the decisions to be taken by the Association.

(7) The Association shall be inspected by the Board every year. Principles and procedures related to the inspection of all kinds of operations and accounts of the Association shall be determined by the Board. A copy of the inspection report with respect to the inspection made by the Board in this context shall be sent to the related Ministry at the latest by the end of the sixth month of the following year. The related Minister may request from the Capital Markets Board to take necessary measures for ensuring the compatibility of the activities of the Association with the objectives of its establishment and is also authorized to inspect all kinds of operations and accounts of the Association. An objection can be made before the Board regarding decisions taken by the authorised organs of the Association within ten business days following the notification of the decision to the related person. The decisions to be taken by the Board with regard to the objection shall be final.

The Association of Appraisal Experts of Turkey

ARTICLE 76 – (1) Those who possess a real estate appraisal Expert license and appraisal firms are required to apply to become members of the Association of Appraisal Experts of Turkey, which is a public professional organization possessing a legal identity.

(2) The license holder is obliged to make the necessary application to the Association of Appraisal Experts of Turkey within three months starting from the date of becoming entitled to hold the license. The licenses of those who do not comply with this obligation shall be cancelled by the Board.

(3) Appraisal firms are obliged to make the necessary application to the Association of Appraisal Experts of Turkey within three months starting from the date when they have gained the status of appraisal firm. In the event that this obligation is not fulfilled, the Board is authorised to take all kinds of measures about these firms, including the cessation of their activities and the cancellation of their authorities.

(4) The Association of Appraisal Experts of Turkey is tasked and authorised to; conduct research in order to ensure the development of the real estate market and real estate appraisal activities, provide training and certificates, constitute professional rules and appraisal standards aimed at providing that the members of the Association work in solidarity with the due care and discipline required by the occupation, take necessary measures in order to prevent unfair competition, make regulations on issues that have been assigned to it by legislation or determined by the Board, to execute and supervise them, , impose disciplinary penalties specified in the Statute of the Association of Appraisal Experts of Turkey, cooperate with related institutions on behalf of members on related issues, followup on professional developments, administrative and legal regulations and inform members on these issues.

(5) Information concerning appraisals made within the context of housing finance must be transmitted to the Association of Appraisal Experts of Turkey in line with principles and procedures to be determined by the Association of Appraisal Experts of Turkey.

(6) Principles regarding the amounts and limits of appraisal fees related to the services performed by the members of the Association of Appraisal Experts of Turkey shall be determined each year by the Board by taking the

opinion of the Banking Regulation and Supervision Agency, the Association of Appraisal Experts of Turkey, the Banks Association of Turkey and the Capital Markets Association of Turkey. The minimum annual fee tariff determined by the Board shall be published in the Official Gazette.

(7) The Association of Appraisal Experts of Turkey is obliged to act in accordance with this Law and related legislation in the decisions it takes and regulations it makes.

(8) A representative of the Association of Appraisal Experts of Turkey shall be member of the board of directors of the Association of Capital Markets of Turkey.

(9) Provisions of Article 75 shall be implemented by analogy for the Association of Appraisal Experts of Turkey, its members, organs and its Statute.

(10) Members of the Association of Appraisal Experts of Turkey are obliged to abide by the Statute of the Association of Appraisal Experts of Turkey and the decisions to be taken by the Association of Appraisal Experts of Turkey. Members who do not fulfill this obligation shall be imposed an administrative fine between five thousand Turkish Liras and fifty thousand Turkish Liras by the Association of Appraisal Experts of Turkey.

(11) The Association shall be inspected by the Board every year. Principles and procedures related to the inspection of all kinds of operations and accounts of the Association shall be determined by the Board. A copy of the inspection report concerning the inspection made by the Board in this context shall be sent to the related Ministry at the latest by the end of the sixth month of the following year. The related Minister may request from the Capital Markets Board to take the necessary measures for ensuring the compatibility of of the activities of the Association with the objectives of its establishment and is also authorized to inspect all kinds of operations and accounts of the Association. An objection can be made before the Board regarding the decisions taken by the authorised organs of the Association within the ten business days following the notification of the decision to the related person. The decisions to be taken by the Board with regard to the objection shall be final.

Central Clearing Institutions

ARTICLE 77 – (1) Central clearing institutions are private law legal entities, established in the form of joint stock corporations carrying out the operations regarding delivery and payment with respect to capital market instruments traded on exchanges and other organized market places and fulfillment of guarantee obligations for such transactions. The establishment of clearing institutions shall be approved by the related Minister upon the proposal of the Board. The commencement of operations of these institutions is subject to authorisation by the Board. Principles and procedures regarding the capital of central clearing institutions, their activities in the context of this Law and the suspension or permanent cessation of their activities, their supervision, surveillance, financial reporting standards, independent auditing of their financial statements and their cooperation with other institutions and bodies shall be determined by the Board. Central clearing institutions established according to this Law may also carry out transactions mentioned in this paragraph with regard to commodity stocks issued by licensed depositories, provided that they are authorised according to related legislation.

(2) Regulations concerning membership, guarantees, clearing principles, disciplinary principles, capital, income and other issues with regard to central clearing institutions shall be determined by the Board or when deemed appropriate by the Board, with the by-laws prepared by the related clearing institution and approved by the Board,. Principles and procedures regarding the clearing system, membership, transactions in case of default, guarantees provided to the central clearing institution in order to ensure clearing security as well as the establishment, operation and utilisation of guarantee funds to be formed with the participation of members for the cases where liability is assumed as central counterparty shall be established with a by-law prepared by the central clearing institution and approved by the Board.

(3) The Board shall determine the exchanges and other organized market places where central clearing institutions may provide clearing services. The assent of exchanges shall be taken in the determination of the exchanges where central clearing institutions can provide clearing services. When deemed appropriate by the Board, central clearing institutions may also carry out clearing, payment and guarantee transactions for markets established or to be

established outside capital markets, with the exception of those established by the CBRT. Furthermore, the Board may require transactions in capital market instruments executed outside exchanges and other organised market places to be cleared at the central clearing institution.

(4) The Board is the regulation, surveillance and supervision authority for central clearing institutions within the scope of this Article. The Board may request from central clearing institutions and members of these institutions to carry out the issues it deems necessary about central clearing operations and to send all kinds of information and documents regularly, or upon its demand.

(5) Article 44 shall also be applied to central clearing institutions.

(6) Central clearing institutions are authorized to request information and documents from their members on issues they deem necessary for their operations and transactions and to perform examinations. Regarding issues in the scope duties of central clearing institutions, members may not refrain from providing information by relying on the provisions in their specific legislation

Central counterparty

ARTICLE 78 – (1) The Board may require central clearing institutions to be a central counterparty as of markets or capital market instruments whereby they undertake the duty to complete clearing by acting as seller against buyer and buyer against seller. Exchanges or other organized market places may also apply to the Board in order to initiate the practice of the central counterparty for the traded capital market instruments.

(2) The financial liability of clearing institutions with regard to clearing transactions in which they undertake the duty to act as central counterparty, shall be determined within the limits to be established and in the framework of the guarantee to be taken from their members as well as other collaterals.

(3) Principles regarding guarantees that central clearing institutions that are to provide central counterparty services would take from their members as well as principles concerning the guarantee fund within their organisation shall be determined by the Board upon the proposal of the related clearing institution.

(4) For capital market instruments subject to the central counterparty practice, conditions related to clearing membership and membership types including the obligations of members and minimum requirements concerning capital, internal audit and risk management shall be established by the related clearing institution upon taking the approval of the Board,

(5) Central clearing institutions that are to provide central counterparty services must have and maintain an adequate level of capital in line with the financial risks they have undertaken in the related capital market instruments and other risks, establish and maintain a data processing infrastructure as well as internal control, risk management and internal audit systems. The internal audit units of these institutions are obliged to control the reliability and adequacy of their risk management and data processing infrastructures as a minimum at six month intervals and to notify the Board of the results. The Board may decide the related control be made more frequently and require an independent audit to be conducted with regard to the issues mentioned above. Furthermore, the Board is authorised to require the financial adequacy of the institution that is to provide central counterparty services to be assessed with methods it would specify, including stress tests, and to request a credit rating to be assigned in cases where it deems necessary.

(6) In order to maintain financial stability, The Board may impose additional obligations including capital requirements on these institutions of systemic importance and their members..

(7) In principle guarantees taken by the institution that is to provide central counterparty services and the assets of account holders shall be monitored separately from the assets of this institution. The institution providing central counterparty services shall not use these guarantees or assets for purposes other than that they were deposited for with the exception of transactions with regard to the execution of clearing. The institution that is to provide central counterparty services shall take necessary measures in order to comply with this paragraph.

(8) Institutions that are to provide central counterparty services are not obliged to make separate contracts with the parties in each transaction.

Clearing finality and right of pledge

ARTICLE 79 – (1) Clearing orders and transactions of capital market instruments as well as payment transactions cannot be undone or cancelled, including cases where the activities of central clearing institution members have been suspended or ceased permanently or when liquidation processes have started before administrative and judicial authorities.

(2) In cases where member institutions have provided as guarantee, assets belonging to them as well as to their customers or third persons, Articles 988 to 991 of the Turkish Civil Code dated 22/11/2001 and numbered 4721 shall also be applied to property or limited real right acquisitions on dematerialised capital market instruments constituting the guarantee. The fact that investment firms do not have power of disposition over assets constituting the guarantee for any reason, does not prevent the central clearing institution to acquire real rights with good faith. Remuneration or limited real right claims of third persons on asset values constituting the guarantee cannot be claimed against the central clearing institution.

(3) The rights and authorities of central clearing institutions on assets they have taken as guarantee due to the transactions they carry out as a clearing institution and central counterparty can under no circumstances be restricted. Granting term of composition to the member institution or to the person establishing the guarantee, the approval of its composition, its entering the process of composition with creditors either after bankruptcy or by renouncing assets, its restructuring through reconciliation, its bankruptcy, the postponement of its bankruptcy or other execution procedures under the Law numbered 2004 or the provisions of this Law regarding gradual liquidation shall by no means restrict the exercise of rights and authorities that the central clearing institution holds on the related guarantees.

Central securities depositories

ARTICLE 80 – (1) Central securities depositories are private law legal entities in the form of joint stock corporations providing central custody services for capital market instruments and services concerning the exercise of rights related to them. The approval for the establishment of central securities depositories shall be given by the related Minister upon the assent of the Board and the commencement of the activities of these institutions is subject to the authorisation of the Board. The principles and procedures for these institutions regarding capital, profit distribution, activities in the context of this Law and the temporary or permanent suspension of their activities, auditing, surveillance, financial reporting standards, the independent auditing of their financial reports and their cooperation with other institutions and bodies shall be determined by the Board.

(2) Membership, guarantee and custody principles in central securities depositories, regulations on discipline, income and other issues shall be determined by the Board or by the by-laws prepared by the related central securities depositories and approved by the Board, when deemed appropriate by the Board.

(3) The Board shall determine the types of capital markets instruments for which central securities depositories can act as central custodian. The Board may require that certain capital market instruments be kept in one or more central security depository. When deemed suitable by the Board, central securities depositories may also perform custodial operations of markets established or to be established outside capital markets. The central depository institution of dematerialised capital market instruments is the CRA.

(4) The Board is the supervision and surveillance authority of central securities depositories under this Article. The Board may request from central securities depositories and their members to carry out the issues it deems necessary about central custody activities and to send all kinds of information and documents upon its request or regularly.

(5) Article 44 shall also apply to central securities depositories.

Central Registry Agency

ARTICLE 81 – (1) The Central Registry Agency is a joint stock corporation possessing the status of private law legal entity established in order to realise the operations related to the dematerialisation of capital market instruments, to monitor the records of these dematerialised instruments and the rights associated with them in the electronic environment as of members and right holders and, to provide their central custody.

- (2) The establishment, activity, membership, operation and auditing principles of CRA as well as its revenues and dividend distribution principles shall be determined with a by-law to be issued by the Board.
- (3) Apart from the tasks in the first paragraph, CRA shall also perform the following activities:
- a) Establishing an electronic platform through which the communication between companies, their partners and investors can be carried out, for the purpose of providing that companies comply with the corporate governance principles included in the Law numbered 6102 and other related legislation
 - b) Establishing a data bank for the purpose of collecting data related to capital markets at a single center, providing for the utilization of the data according to the principles to be established by the Board
 - c) Performing other tasks assigned by the Board in the framework of capital market legislation and other related legislation as well as operations required by regulations
 - c) Performing the operations regarding the dematerialisation of commodity stocks issued by licensed depositories, the monitoring of these stocks and the rights attached to them in a dematerialised form on the electronic environment and the establishment of a platform for them, provided that it is authorised under related legislation
- (4) In the framework of the regulations made by the Board, CRA is authorised to request information and documents from its members regarding matters it deems necessary about the operations and transactions and to perform examinations. Regarding issues in the scope of duties of the CRA, members may not refrain from providing information by relying on provisions in their specific legislation.
- (5) CRA and its members shall be held responsible for the damages incurred by right holders due to incorrect recordkeeping in proportion to their fault.
- (6) The Board is the supervision and surveillance authority of the CRA. The Board may request from the CRA and its members to carry out the issues it deems necessary about the monitoring of capital market instruments in a dematerialised form and to send all kinds of information and documents in written format or in the electronic environment upon its request or regularly.