

SIXTH SECTION

Actions Requiring Administrative Fine and Capital Market Crimes

FIRST CHAPTER

Actions Requiring Administrative Fine

General principles

ARTICLE 103 – (1) Persons who have acted in violation of the regulations, determined standards and forms based on this Law as well as general and specific decisions of the Board, shall be imposed an administrative fine from twenty thousand Turkish Liras up to two hundred fifty thousand Turkish Liras by the Board. However, in cases where a benefit has been gained due to the violation of the obligation, the amount of the administrative fine to be imposed cannot be less than twice of this benefit.

(2) In case when the person acting in violation of the provisions of the first paragraph is a body or representative of a private legal entity, or when this person is tasked within the scope of the activity of this legal entity although he is not a body or representative of it, an administrative fine shall also be imposed on the legal entity according to the provision of the first paragraph. If the violation prompts to the disadvantage of the legal entity which is represented or acted on behalf of, no administrative fine shall be imposed on the legal entity.

(3) An administrative fine shall be imposed by the Board up to the total amount of shares subject to take over bids for real persons and legal entities who fail to fulfill their take over bid obligations in accordance with the Article 26 and if necessary, within the additional time that may be granted by the Board.

(4) Without requiring the presence of information as mentioned in Article 106, except the situations authorised by the Board, the members of the board of directors and managers of issuers who have acquired a gain from the purchase and sale of the related capital market instruments shall be obliged to deliver net gain they have obtained to the issuer, within the timeframe determined by the Board. The Board shall impose an administrative fine amounting to twice of the acquired benefit on those who do not fulfill this obligation within thirty days.

(5) Members who do not fulfill the obligation mentioned in the sixth paragraph of Article 75 shall be imposed an administrative fine by the Capital Markets Association of Turkey from five thousand Turkish Liras up to fifty thousand Turkish Liras.

(6) In case when publicly-held corporations and collective investment schemes as well as their subsidiaries and associates provide an increase in the profits or assets of real persons or legal entities with whom they are related by not performing the activities expected from them as prudent and honest merchants or in accordance with the market practices with the aim of preserving or increasing their profits or assets according to their articles of association or their fund rules, the related legal entity shall be imposed an administrative fine from twenty thousand Turkish Liras up to two hundred fifty thousand Turkish Liras. However, the amount of the administrative fine to be imposed cannot be less than twice of the benefit acquired.

Market abuse actions

ARTICLE 104 – (1) Actions and transactions which cannot be explained with a reasonable economic or financial justification, which are of a nature deteriorating the functioning of exchanges and other organized markets in security, openness and stability, shall be regarded as market abuse actions, provided that they do not constitute a crime. An administrative fine from twenty thousand Turkish Liras up to five hundred thousand Turkish Liras shall be given to those who perform the market abuse actions determined by the Board. However, in case when a benefit has been procured by this means, the amount of the administrative fine to be given cannot be less than twice of this interest.

The application of administrative fines

ARTICLE 105 – (1) The defense of the related person shall be taken before the application of administrative fines. If the defense is not submitted within thirty days starting from the notification of the letter requesting the defense, the related person shall be accepted as having waived from the right of defense.

(2) In case where one of the delinquencies defined in this Law is offended more than once until the decision of

administrative fine has been made, then according to the related provision the related real person or legal entity shall be imposed an administrative fine which shall be increased twice. However, in cases where a benefit has been obtained by means of this delinquency or a loss has been caused, the amount of the administrative fine to be imposed cannot be less than three folds of this benefit or loss.

(3) Fifty percent of the collected administrative fines shall be registered as income to the state budget, fifty percent shall be transferred to the ICC for being recorded as income.

(4) It is possible to appeal to the administrative justice process against the administrative fines imposed according to this Law.