

SECOND CHAPTER

Investment Services and Activities

Investment services and activities

ARTICLE 37 – (1) Investment services and activities under the scope of this Law are as follows:

- a) Reception and transmission of orders in relation to capital market instruments
- b) Execution of orders in relation to capital market instruments in the name and account of the customer or in their own name and in the account of the customer
- c) Dealing on own account
- c) Portfolio management
- d) Investment advice
- e) Underwriting of capital market instruments on a firm commitment basis
- f) Placing of financial instruments without a firm commitment basis
- g) Operation of multilateral trading systems and regulated markets other than exchanges
- g) Safekeeping and administration of capital market instruments in the name of the customer and portfolio custody services
- h) Conduct of other services and activities to be determined by the Board

Ancillary services

ARTICLE 38 – (1) Ancillary services which may be carried out by investment firms and portfolio management companies are as follows:

- a) Providing advisory services concerning capital markets
- b) Granting credits or lending and providing foreign exchange services limited to investment services and activities
- c) Providing investment research and financial analysis or general advice concerning transactions in capital market instruments
- c) Providing services in relation to the conduct of underwriting
- d) Providing intermediary services for obtaining financing by borrowing or through other means
- e) Wealth management and financial planning
- f) Conduct of other services and activities to be determined by the Board

Obligation to take permission for activities

ARTICLE 39 – (1) The performance of investment services and activities as a regular occupation, business or a professional activity requires permission from the Board. Investment services and activities can only be performed by investment firms. Provisions regarding investment companies, portfolio management companies and exchanges shall be reserved. The Board is authorised to make regulations that allow the performance of each investment service and activity by separate institutions on the basis of capital market instruments or investment services and activities.

(2) Ancillary services shall be performed by investment firms and portfolio management companies according to principles determined by the Board, without being subject to a separate license.

(3) The Board may also grant permission for one or more than one types of investment services and activities on the basis of the capital market instrument. The Board may classify investment firms according to types of their investment services and activities and capital structure.

(4) The Board shall decide on applications for taking permission for activity within a maximum period of six months starting from the full submission of necessary documents to the Board and the state of affairs shall be notified to the interested person.

(5) Persons and institutions that do not meet the conditions mentioned in this Law and that are not permitted by the Board may not carry out investment services and activities, even in cases where they have been authorized according to their special laws.

(6) The Board may require professional liability insurance for the conduct of investment services and activities as well as ancillary services.

(7) The Board is authorised to determine principles and procedures regarding borrowing and lending transactions of capital market instruments as well as short selling transactions and to make regulations concerning margin trading of capital market instruments upon taking the opinion of the Undersecretariat for Treasury and the Central Bank of the Republic of Turkey.

(8) Principles and procedures regarding the conduct of investment services and activities as well as ancillary services shall be established by the Board.

(9) Investment services and activities enumerated in sub-paragraphs (a), (b), (c), (ğ) and (h) of Article 37 of this Law may also be carried out by banks. Investment and development banks may also carry out the services enumerated in sub-paragraphs (ç), (d), (e) and (f) of the same Article. The principles and procedures regarding investment services and activities to be carried out by banks in the context of the same Article shall be determined by the Board. With regard to these services and activities the Board may determine different principles and procedures according to the nature of capital market instruments and upon taking the opinion of the Banking Regulation and Supervision Agency according to characteristics of banks.

Licenses

ARTICLE 40 – (1) A license showing investment services and activities to be carried out shall be granted to those that have been permitted by the Board to perform investment services and activities. Permission for one or more investment service and activity may be granted through a single license.

(2) Those who have not been permitted by the Board to perform investment services and activities and those whose permission has been cancelled may not carry out these services and activities and may not use any word or expression in their trade names or their announcements and advertisements which would create the impression that they perform these services and activities.

Withdrawal of the license and activity permission

ARTICLE 41 – (1) In cases listed below, the Board may withdraw the permission for activity and license it has granted in the scope this Law, without prejudice to other related provisions of this Law:

- a) Expressly renouncing the authority to carry out activities, or not performing any activity under the related permission for two years starting from the date the permission was granted
- b) Having obtained permission for activity by making false or misleading statements or through other illegal means
- c) No longer being able to meet the conditions required for the permission for activity and not being able to meet them again within three months starting from the date when it has been established by the Board that they have been lost,

(2) Those who have had all of their permissions withdrawn, are obliged to take the decision of termination or to change the related provisions of their articles of association including trade name, purpose and fields of activity, so as not to cover investment services and activities, within three months at the latest.

Principles regarding financial liability limits and employees

ARTICLE 42 – (1) The maximum limit of financial liability that may be undertaken in respect of investment services and activities and ancillary services and minimum conditions to be required for managers of investment firms as well as the employees to be tasked with carrying out these services and activities shall be determined by the Board.