

## Regulation

From Capital Markets Board of Turkey:

### GENERAL REGULATION ON THE ESTABLISHMENT AND OPERATING PRINCIPLES OF CENTRAL CLEARING AND SETTLEMENT INSTITUTIONS

#### CHAPTER ONE

#### Purpose, Scope, Basis and Definitions

##### Purpose

**ARTICLE 1 – (1)** The purpose of this Regulation is to determine the principles regarding central clearing and settlement institutions and implementation of central counterparty practice within the scope of articles 77 and 78 of Capital Markets Law dated 06/12/2012 and numbered 6362.

##### Scope

**ARTICLE 2 – (1)** This Regulation covers the principles regarding the central clearing and settlement institutions and the activities, business and operations carried out by these institutions within the scope of articles 77 and 78 of Capital Markets Law dated 06/12/2012 and numbered 6362.

##### Basis

**ARTICLE 3 – (1)** This Regulation has been prepared in accordance with the articles 77 and 78 of Capital Markets Law dated 06/12/2012 and numbered 6362.

##### Definitions and abbreviations

**ARTICLE 4 – (1)** The terms used in this Regulation shall bear the following meanings:

a) Exchange: Systems and market places operating on an organized basis authorized in accordance with the Law and established in the form of joint stock companies which are operated and/or managed by themselves or a market operator and which bring together buy and sale orders resulting in trades or facilitate bringing together of such orders in order to ensure facile and secure trading of capital market instruments, foreign exchange, precious metals and stones as well as other contracts, documents and assets deemed appropriate by the Board under free competition conditions and to determine and declare the prices formed.

- b)** Law: Capital Markets Law dated 06/12/2012 and numbered 6362.
- c)** Board: Capital Markets Board.
- ç)** Central Clearing and Settlement Institutions (“CCSI”): Central Clearing and Settlement Institutions which carry out the services defined in articles 77 and 78 of the Law.
- d)** CCSI Regulation: The regulation which stipulates the principles and procedures related to membership in CCSIs, collateral, clearing and default processes, discipline, capital, income and other matters pursuant to article 77 of the Law and this Regulation, and which shall be prepared by CCSIs and issued upon approval of the Board.
- e)** Qualifying Shareholder: Except the Republic of Turkey Prime Ministry Undersecretariat of Treasury and the stock exchanges established by the Law, the shareholder who owns the shares representing directly or indirectly 5% or more of the capital or voting rights and the shares that give the right to appoint members to the boards even if these shares are below this rate.
- f)** CBRT: The Central Bank of the Republic of Turkey, incorporated as a joint-stock company.
- g)** TCC: Turkish Commercial Code numbered 6102 and dated 13/1/2011.
- ğ)** Capital market instruments: Securities and derivative instruments as well as other capital market instruments including investment contracts, designated in this context by the Board,
- h)** Member: Those allowed to become a party to the transactions conducted with the CCSI.
- ı)** Manager: Chairman and Members of the Board, General Manager and Deputy General Managers, and person or people responsible from internal control, risk management, internal audit and supervision divisions, and other authorized signatories.

## CHAPTER TWO

### Establishment and Operations of Central Clearing and Settlement Institutions

#### Establishment

**ARTICLE 5 – (1)** Central clearing and settlement institutions are established by the approval of the related Minister as defined in the Law, based on the proposal of the Board. The commencement of operations of these institutions is subject to the authorization of the Board.

**(2)** While the establishment of CCSIs is recommended, in addition to the conditions set forth in this Regulation, the general market conditions and systemic risk factors of domestic and foreign financial markets, as well as the stock exchanges to which CCSIs will provide services and other issues are taken into consideration.

### **Conditions for establishment**

**ARTICLE 6 – (1)** In order to obtain the establishment permission;

- a) CCSIs must be established as a joint-stock company,
- b) All of their shares must be registered,
- c) Their shares must be issued for cash,
- ç) Their capital must be no less than the amount determined by the Board and must be wholly paid.
- d) Their founders and, in case of legal persons as the founders, the shareholders who have significant impact directly or indirectly on these legal person founders must satisfy the conditions specified in article 44 of the Law.
- e) Their articles of associations must be in compliance with the provisions of the Law and the related regulations,
- f) Their ownership structure must be clear and transparent.

**(2)** Their founders and, in case of legal persons as the founders, their shareholders who have significant impact directly or indirectly on the legal person founders are also required to have the necessary financial strength and a reputation and integrity required by the business.

**(3)** Except public corporations, the legal person founders and shareholders who have significant impact directly or indirectly on these legal person founders must submit their last three years of independently audited financial statements. Foreign founders and shareholders, as to show those qualifications sought for real and legal persons of Turkish nationality also exist, must submit, where applicable, notarized translations of the information and documents certified by the competent authorities of the country where they reside or the information and documents certifying that their validity are in accordance with the Law or international agreements.

**(4)** The supplementary conditions defined within the scope of central counterparty practice that have been regulated in the fifth chapter of this Regulation herein shall be reserved.

### **Required qualifications for qualified shareholders, managers and specialized personnel**

**ARTICLE 7 – (1)** The qualified shareholders, managers and specialized staff of CCSIs;

- a) Should not be insolvent, entered into an arrangement with creditors (concordat) or rendered the decision to postpone bankruptcy,
- b) Should not be one of the people responsible for the sanctions of the institution whose one or more of operating licenses is cancelled by the Board or which is being permanently removed from Exchange membership.

c) Should not have been sentenced to an imprisonment for offences specified in the Law,

ç) No liquidation decision should have been taken either for them or for institutions they have partnership with respect to the Decree by-law "Regarding the Transactions of Bankers in Financial Difficulty", No: 35 dated 14/1/1982 and its annexes,

d) Even if the period's specified in article 53 of the Turkish Penal Code numbered 5237 and dated 26/9/2004 lapsed; should not be sentenced for an intentional criminal offense requiring five years or more imprisonment or crimes against state security, the constitutional order and its functioning, embezzlement, extortion, bribery, theft, fraud, forgery, breach of trust, fraudulent bankruptcy, bid rigging, rigging the fulfillment of contractual obligations, the hindrance and disruption of information system, deletion and alteration of data, abuse of bank or credit cards, laundering proceeds of crime, smuggling, tax evasion and unjustified benefit.

In the execution of this clause; conditions defined in sub-clause (a), in cases of the decisions for rescission of bankruptcy, or approval of the bankrupt's certificate shall not be taken into consideration after the lapse of a period of ten years from the effective date of; and conditions defined in sub-clause (b) shall not be taken into consideration after the lapse of a period of ten years from the effective date of the decision made in respect thereof.

In the event of an appointment of a legal entity as a board member, the aforesaid conditions are also sought for the appointed legal entity representative.

**(2)** In case of any change in the managers of CCSIs, the Board shall be informed on the first business day thereafter by stating the reasons for resigning. If the managers of CCSIs, during the course of their duties, are determined as in breach of or no longer satisfies the conditions specified in the first clause of this article, their duties should be terminated by CCSI. CCSI is responsible for monitoring its managers to assure the conditions specified in this article. If such a determination is made by the Board, it calls those concerned to resign from their duty and this call is carried out by CCSI. If the person who is asked to resign is a board member, the CCSI general assembly is called for an extraordinary meeting by the Board within thirty days at the latest for the removal of the relevant board member from office.

**(3)** If it is subsequently determined or identified as that the specialized personnel other than the managers of CCSIs do not meet one of the conditions required to perform their duties, this personnel is removed from the office by the authority entitled to make the assignments.

### **Establishment procedures**

**ARTICLE 8 – (1)** Founders shall make an application to the Board with the articles of association to be prepared in accordance with the establishment conditions and with the documents that certify the requirements stipulated in articles 5 and 6.

**(2)** Pursuant to article 5 of this Regulation, after the receipt of the establishment license of CCSIs, an application shall be made to Ministry of Customs and Trade for the conclusion of the establishment procedures within the framework of Turkish Commercial Code.

## **Operating requirements**

**ARTICLE 9 – (1)** CCSIs, to which the establishment permission is granted in accordance with article 5 of this Regulation, should apply to the Board in order to receive the operating license within one year at the latest after granting this permission. Operating license applications shall be concluded by the Board within six months after the complete submission of information and documents required for application to the Board and the ordinance shall be informed to related people concerned. The establishment approval of the agencies, which have failed to make an application to the Board within one year after their accreditation or which have not been found eligible to grant an operating license as a result of their application, shall be cancelled. In case of existence of compulsory conditions or reasons whereby failing to make an application cannot be attributable to the agency, this duration can be extended for one year by the Board.

**(2)** In order to be qualified to take an operating license; a recordkeeping, information and documentary system compliant with the regulations made by the Board, as well as an organization sufficient to ensure a regular flow work and communication should be established, technical infrastructure should be provided, the internal control, internal audit and supervision and risk management divisions and systems should be created and provided functional; and the necessary safety measures for the protection of important assets embodied within the CCSI should be in place.

**(3)** The provisions under article 41 of the Law shall also apply for the cancellation of the operation license granted by the Board.

**(4)** An agreement regarding the determination of the mutual rights and obligations of the parties regarding the services to be rendered within the scope of article 23 of this Regulation should be executed.

**(5)** CCSIs should notify the Board for engaging in activities outside the scope of Capital Markets Law. The Board may require CCSIs for non-performance of these activities.

**(6)** CCSIs should establish the necessary information processing systems and technological infrastructure for the purpose of performing the services they will render to their members and the duties assigned to them by Law in an efficient, reliable and uninterrupted manner, and should take the necessary systemic and administrative measures, and make relevant arrangements to establish and monitor the control systems for the purpose of ensuring their reliability, consistency, completeness and timely availability in respect thereof. The Board, if it deems necessary, is authorized to make arrangements on the subject and make a decision for the application.

**(7)** The Board can impose restrictions on dividend distribution amounts provisioned in the articles of association of the CCSIs and on benefits granted to the shareholders by the articles of association.

**(8)** The assent of the Board should be obtained for changes in the articles of association.

**(9)** Transfer of shares of more than five percent or transfer of shares leading to an ownership change in five percent or above, either directly or indirectly; as well as all type of transactions resulting in direct or indirect transfer of control even if there is no share transfer shall be subject to approval of the Board. Transfer of privileged shares, in any case, shall be subject to the permission of the Board. For transferring of shares, the natural persons and legal entities by whom the shares to be taken over as well as the qualified shareholders of these legal entities should also meet the conditions specified in article 7 of this Regulation. Changes made in articles of association without the assent of the Board and any share transfer as well as transactions resulting in transfer of control without its approval shall be null and void. Transfer of shares made contrary to this provision shall not be entered in the stock register, and records made in such a manner shall be deemed invalid and unenforceable. Transfer of shares less than five percent shall be informed to the Board within 15 business days at the latest after the realization of the transfer.

**(10)** The supplementary conditions defined within the scope of central counterparty practice that have been regulated in the fifth chapter of this Regulation herein shall be reserved.

### **Operating principles and procedures**

**ARTICLE 10 – (1)** CCSIs should abide to the following principles during their operations:

- a)** To prepare the related regulations in order to establish the necessary infrastructure, equipment and organizational structure ensuring that the members execute the clearing and settlement operations in a secure and stable manner,
- b)** To take the necessary measures to ensure the compliance of the members to the regulations established in relation to the CCSIs' business and operations,
- c)** To provide the necessary information and documentary support to operations conducted by the exchanges within the scope of the second paragraph of article 71 of the Law to prevent market disrupting actions and crimes stipulated by Law,
- ç)** To provide continuous information flow between themselves and members and participants in the markets they serve as well as between themselves and the Board in the required manner,
- d)** To have the necessary capital and organization to ensure the safe and stable functioning of the clearing and settlement system,
- e)** To be fair in the regulation and execution of central clearing and settlement activities,
- f)** To carry out their activities and operations in coordination and cooperation with the Board and the stakeholders,
- g)** To be fair in remuneration of services,
- ğ)** To determine the process and procedures for the disciplinary measures to be applied to the members and act equitably in the execution,

h) To announce their financial statements, clearing and settlement fees and organizational structure to the public on their websites in a regular manner,

i) To fulfill the duties assigned to them by Law.

## CHAPTER THREE

### Principles Regarding Bodies, Committees and Specialized Personnel of CCSI

#### General assembly

**ARTICLE 11 – (1)** The general assembly is the supreme decision making body of the CCSIs and is composed of the shareholders. The shareholders exercise their rights in relation to the business of CCSIs in the general assembly. Legal exemptions are reserved. Non-partner members can attend the general assembly without the right to vote.

**(2)** Except the ordinary meetings, where necessary, the general assembly shall be summoned to convene for an extraordinary meeting in accordance with the provisions of Turkish Commercial Code.

**(3)** The invitation letters and the agenda of the general assembly, including all information, documents and appendices related to the agenda items shall be sent to the shareholders and the Board through a registered and reply-paid letter at least three weeks before the meeting date.

**(4)** Board representative can attend the general assembly without the right to vote.

**(5)** General assembly minutes shall be sent to the Board on the next business day after they were signed by the presidential board. All information, documents and appendices related to the agenda items, and in the event a board member is elected in the general assembly, the information and documents certifying that the board members bear the qualifications specified in article 7 and in the second paragraph of article 12 shall be sent to the Board within 5 business days at the latest after the meeting date. The Board may request additional information and documents relating to such general assembly decisions. If the general assembly decisions for the election of board members are in contradiction with legislation, the CCSI shall be asked to remedy this contradiction.

**(6)** In case of any contradiction with the relevant legislation and/or if it is deemed necessary by the Board, the general assembly shall be summoned to convene for an extraordinary meeting by the Board within 15 business days after the date of the assessment of such necessity; and the agenda of the general assembly shall be adopted and announced by the Board to the shareholders.

#### Board of directors

**ARTICLE 12 – (1)** The board of directors shall consist of a minimum of 7 and a maximum of 11 members. The general manager is a natural member of the board of directors.

**(2)** The members of the board of directors must have an undergraduate or graduate degree in the fields of business administration, economics, finance, public administration, international relations, law, engineering, capital markets or banking and must have at least 10 years of experience in the fields of financial markets and economics after the university degree.

**(3)** The members of the board of directors shall be elected for a maximum term of 3 years. Any member whose term of office is over may be re-elected. If the membership ceases before the expiration of the term of office, a new member shall be elected by the board of directors in accordance with the provisions of Turkish Commercial Code as to hold office until the first general assembly. The person elected as the board member, together with the documents certifying that he/she satisfies the qualifications specified in this article and in article 7 of this Regulation, shall be informed to the Board within 5 business days after the date of board resolution taken in respect thereof.

**(4)** As to the structure of the Board of Directors, the provision of article 41 of this Regulation shall be reserved.

#### **The duties and powers of the board of directors pursuant to capital markets legislation**

**ARTICLE 13 – (1)** The board of directors, in addition to the duties and powers determined by Turkish Commercial Code and other legislation, but also within the scope of capital markets legislation, has the power and duty to;

- a) Adjudicate the regulations that are required to be prepared by CCSI,
- b) Determine the exchanges and other organized market places to which the service is rendered, and other markets and capital market instruments that are subject to this service,
- c) Set out the criteria for acceptance of membership applications, permanent or temporary suspension from the membership; conclude the membership applications, and, when necessary, decide on permanent or temporary suspension of its members from the membership,
- ç) Ensure that operations are carried out according to the legislation and regulations in an orderly manner,
- d) Determine the principles that need to be fulfilled regarding the supervision function within the context of this Regulation,
- e) Assess the business and operating results of CCSI organization and its service divisions; decide on the supervision, audit, review, research and investigation reports, ensure the implementation of the results and suggestions of which it deems necessary,
- f) Make agreements with domestic and foreign institutions and international organizations for issues falling within the scope of the duty and powers of CCSI, establish the committees, as determined by the legislation or out of the scope of the

legislation, which may be needed, elect their members and arrange their working principles,

**g)** Notify those concerned about the board resolutions, ensure the fulfillment of these resolutions and monitor their applications,

**ğ)** Prepare the budget, financial statements and annual operating report and submit them to the general assembly,

**h)** Announce the information required to be disclosed to the public on their websites in a regular manner,

**ı)** assign the authorized people to sign on behalf of CCSI and the limits of their authorization,

**i)** determine the general principles of personnel policy,

**j)** Fulfill the duties and responsibilities imposed by legislation and by the Regulation herein.

**(2)** The board of directors may delegate the duties and powers assigned exclusively to it pursuant to Turkish Commercial Code and its other duties and powers excluding its duties and powers specified in the sub-clauses (a), (b), (e), (f) and (ğ) of the first paragraph of this article to the General Manager provided that it has been made with clearly defined boundaries and in writing. The board of directors may delegate its power for concluding the membership applications specified in the sub-clause (c) of the first paragraph of this article, and for permanent or temporary suspension of its members from membership, to the General Manager, if necessary. In case of delegation of such power to the General Manager, the board of directors shall be informed by the General Manager in the first board of directors meeting.

### **Meeting and quorum**

**ARTICLE 14 – (1)** The Board of Directors meets and takes decisions according to the provisions of Turkish Commercial Code. The General Manager, whenever required, may request the chairman of the board to summon a meeting for the duties within the scope of capital markets law. **(2)** The Board may foresee an aggravated meeting and quorums in the articles of association of CCSI.

### **General manager**

**ARTICLE 15 – (1)** The general manager performs the duties, which have been assigned and delegated to him in accordance with the relevant legislation and board resolutions, regarding the administration and representation of CCSIs.

**(2)** The general manager must have at least 10 years of experience in the fields of financial markets, economics, treasury, business administration, capital markets, banking or finance after the university degree.

**(3)** The general manager must be appointed exclusively for this duty.

**(4)** The general manager may also take other positions, as a chairman and a board member etc., at the institutions in which CCSI has a management, audit or capital relationship and the institutions affiliated by these institutions either directly or indirectly through a management, audit or capital control, as well as in stock exchanges and organized markets, clearing, settlement and custody organizations and in other financial entities to be deemed appropriate by the Board, provided that such duties shall not be executory in nature and not hinder the fulfillment of the official duties in the CCSI.

**(5)** Person who shall be appointed as the general manager should be notified to the Board together with the documents certifying that he satisfies the qualifications specified in article 7 of this Regulation and in the second paragraph of this article. Appointment of the general manager can only be executed unless no adverse opinion is declared within 15 business days after the receipt of such notification by the Board.

### **CCSI organization and staff**

**ARTICLE 16 – (1)** With respect to the fulfillment of duties and exercise of powers assigned to CCSIs by the related legislation and this Regulation; the organization of CCSI, its service divisions, structure, job descriptions, power and responsibilities and their delegation and the working rules and regulations of its personnel shall be set by an organizational directive which shall be put into effect by the board of directors upon the proposal of the general manager. **(2)** The specialized staff who shall be designated by CCSI and appointed for the fulfillment of main activities of CCSI must be graduates from higher education institutions. **(3)** Recruitment of staff, staff dismissals, their qualifications, advancement and promotions, performance criteria, their duties, responsibilities and obligations, rules they must obey and the disciplinary issues shall be set by a personnel directive which shall be put into effect by the board of directors upon the proposal of the general manager.

### **Confidentiality obligation**

**ARTICLE 17 – (1)** The managers and all personnel of CCSIs are obliged to provide the confidentiality of information, related to the CCSI and corporations, institutions and all other natural persons and legal entities having business relations with CCSI which they have learned due to their titles and performance of their duties, and not to disclose these information in any manner to anyone other than legally authorized persons and authorities, and not to use them for the advantage or disadvantage of themselves or third persons. Information on beneficial ownership, provided to CCSI by the Central Registry Agency is confidential and the managers and personnel of CCSI are responsible from the confidentiality of this information. This obligation remains in effect also after resignation of people concerned from their duties in the CCSI. **(2)** CCSIs, within the scope of the clearing and settlement operations, can cooperate with foreign CCSIs and international institutions in accordance with the principle of reciprocity. Transactions and actions conducted in this context shall not constitute a violation of the obligation of maintaining confidentiality and the confidentiality rules contained in the law and other legislation.

## **Prohibitions**

**ARTICLE 18 – (1)** The managers and specialized personnel of CCSIs and their spouses and children under their custody cannot conduct trading activities in the markets, places, platforms and systems within the body of the stock exchange to which the clearing service is rendered as well as in the markets of other exchanges where the

CCSIs must dispose all type stock exchange to which the clearing service is rendered is the market operator.

**(2)** Before taking up their duties; all personnel including the general manager of the of shares or securities of corporations or their subsidiaries listed in the stock exchange which they hold, except for debt securities issued by Undersecretariat of Treasury, either by selling or transferring them to others other than their spouses and children under their custody within thirty days from the start of their terms of office.

**(3)** All those who have failed to act in compliance with the provision of this article shall be deemed resigned from their positions as of the date the noncompliance was ascertained.

## **CHAPTER FOUR**

### **Principles Applicable for the Members of the CCSI**

#### **Members of CCSI**

**ARTICLE 19 – (1)** The Central Bank of the Republic of Turkey, investment institutions operating in accordance with the Law and other people proposed by the CCSIs and approved by the Board can become a member of CCSIs. The CCSIs can make the membership acceptance conditional upon a membership of a stock exchange or other organized markets.

**(2)** Membership relation is established by an agreement. The matters relating to this agreement, application to membership, acceptance to membership, membership types and the activities that can be performed by these members, representation of the members, obligations of the members and the disciplinary actions to be taken against them, notification principles for changes that may occur in these cases, principles and procedures regarding the resignation and dismissal from the membership and other issues shall be set by a regulation which is prepared by the board of directors of the CCSIs and published with the approval of Board.

#### **Membership collateral**

**ARTICLE 20 – (1)** The CCSIs may ask for a membership collateral from their members to cover the losses which they may expose the CCSI in connection with the clearing and settlement process and operations. Principles concerning the membership collateral shall be set by the CCSI Regulation.

Responsibility of the members, operating principles and measures applicable to the members

**ARTICLE 21 – (1)** CCSI members, within the principles specified in the legislation, are responsible from all operations related to the delivery of the capital market instruments traded in stock exchanges and other organized market places and in places other than these, payment of their prices and fulfillment of collateral and guarantee fund contribution amount obligations, as well as from the actions carried out by the employees within the scope of their duties in this context.

The responsibilities of the members can neither be limited nor relieved by adding clauses to the agreements to be entered between the customers and CCSI members.

**(2)** The CCSI members must comply with the rules and principles contained in the relevant legislation and the following requirements regarding the clearing and settlement activities:

- a) To act according to the rules and principles defined by CCSI,
- b) To behave in accordance with the principles of honesty and good faith against their customers and other members,
- c) To maintain both general and special insurances to be specified by CCSI for the purpose of covering financial and legal liability that may arise against its customers and other members and to take other measures in this nature,
- ç) To inform CCSI immediately about all type of important changes regarding the ownership, governance and financial structure at the date of their realization,
- d) In addition to books and records which they are legally required to keep, to keep other records specified by the CCSI, prepare the information and documents in due form, and submit them periodically or at times requested by the CCSI and keep them for a period of time specified by the CCSI.

**(3)** The CCSI implements the measures under its sole authority on the members who do not comply with the matters stated in this article or who have identified as having capital market instrument deficiencies which may result in non-fulfillment of the settlement obligations completely.

**(4)** The provisions of the first paragraph of this article shall be applied also for the assets traded in other markets to which CCSI renders the clearing service in accordance with the third paragraph of article 22 of this Regulation.

## **CHAPTER FIVE**

### **Clearing and Settlement Principles**

#### **Scope of the clearing and settlement services to be provided**

**ARTICLE 22 – (1)** CCSIs carry out the operations related to the delivery of capital market instruments traded in exchanges and other organized market places as well

as in places other than exchange and other organized markets, payment of cash obligations and fulfillment of collateral requirements related to these transactions.

**(2)** It is principal that the delivery of capital market instruments traded in exchanges and other organized market places, payment of cash obligations and fulfillment of collateral requirements of these transactions must be realized through the CCSIs. The Board designates the exchanges and other organized market places where CCSIs can provide clearing and settlement services. This designation can be on the basis of markets, places and platforms established in exchanges and other organized market places and/or instruments to be traded. In determining the exchanges to which CCSIs can provide clearing and settlement services, the consents of the exchanges are obtained.

**(3)** CCSIs can provide clearing, settlement as well as payment and collateral services, with the exception of those established by CBRT, to the exchanges, organized market places and over-the-counter markets that are established or to be established outside the capital markets, upon the approval of the Board. Furthermore, the Board may also require the transactions in capital market instruments executed off outside exchanges and other organized market places to be cleared and settled by the CCSIs.

**(4)** The CCSIs, provided that they are authorized according to the relevant legislation, can also carry out the operations specified in this Regulation for the commodity stocks issued by the licensed warehouses.

**Agreements to be signed with the exchanges and other organized market places to which the service will be provided**

**ARTICLE 23 – (1)** An agreement shall be signed between the CCSI and the exchanges and other organized market places to stipulate the rights, obligations and powers of both institutions. In this case, the CCSI assumes all power and responsibilities stated in the relevant regulations of the institution to which it provides services for performing the transactions and operations falling into the CCSI's field of service. Except for the contractual financial obligations of the parties against each other, the agreement to be executed is subject to the Board approval and it shall not include any issues incongruent to this Regulation herein. The Board may request for changes in this agreement. A minimum notice period is required to be set for the termination of the agreement between the exchanges and other organized market places and the CCSI. The amendments to be made in this agreement are also subject to the Board approval.

**(2)** The CCSI carrying out the clearing and settlement operations of the exchanges and other organized market places can be changed by the board resolution of the exchanges and other organized market places and approval of the Board.

**(3)** In the case that certain factors which disrupt the stable and secure functioning of the market arise between the CCSI and the exchanges and other organized market places to which it renders service, and if it is determined that this situation has arisen due to the CCSI's failure in duly fulfilling its obligations, the Board may decide these institutions to directly perform the CCSI's duties and/or assignment of another CCSI.

(4) If the operations and regulations concerning the exchanges and other organized market places to which the service is provided constitute rights and/or obligations in favor of the exchanges and other organized market places; thereby these are also recognized as rights and/or obligations in favor of the CCSI.

### **Clearing and settlement principles and clearing and settlement systems**

**ARTICLE 24 – (1)** Principles related to the clearing and settlement systems are stipulated by the CCSI Regulation.

The clearing and settlement principles in the aforementioned Regulation can be separately set on the basis of each instrument, exchange and other organized market place or within the context of differentiation criteria such as markets.

(2) The principles and procedures regarding the complete and timely fulfillment of obligations of performed transactions, event of default, measures to be taken, sanctions to be applied and remedies upon default are stipulated by the CCSI Regulation.

(3) The CCSI, for the instances it shall define in the CCSI Regulation, may stipulate certain measures such as asking for the fulfillment of clearing and settlement obligations without offsetting, asking for depositing the cash amount needed to execute orders in the buy orders and for the entire or a certain portion of the capital market instrument subject to sell in the sell orders before the execution of the orders.

### **Collaterals**

**ARTICLE 25 – (1)** The CCSI, for the fulfillment of obligations arising with itself as a result of the conducted operations, asks members to provide collateral according to the principles to be stipulated in the CCSI Regulation.

(2) The principles pertaining to the application of collateral and collateralization procedures to the CCSI members at different rates on the basis of transactions, accounts and instruments to be traded, the eligible assets as collateral and their delivery, collection, disposition periods, interest accrual and usage shall be stipulated in the CCSI Regulation.

(3) The CCSI members are required to ask their customers to provide collateral sufficient to cover the minimum rate and amount to be determined by the CCSI regulations.

The Board, by taking the developments in market conditions into consideration, may impose a minimum limit to collateral amounts or rates, if necessary.

### **Guarantee fund established in cases where the CCSIs are not the central counterparty**

**ARTICLE 26 – (1)** The CCSI may create a guarantee fund for avoiding delays which shall be used in cases of non-fulfillment of obligations. The Board may enforce the creation of a guarantee fund as to the capital market instruments and markets opened in the stock exchanges and other organized market places.

**(2)** The principles and procedures pertaining to the contributions to be made by the members and CCSI to the Guarantee Fund, interest to be accrued on these contributions, management and usage of the fund, and other issues related to the fund are determined by the CCSI Regulation.

#### **Protection of collaterals and assets in the guarantee fund**

**ARTICLE 27 – (1)** Collaterals and assets in the created guarantee fund which are kept within the stock exchanges and CCSIs for the prevention of clearing risks pursuant to the regulations made by the Board cannot be used for purposes other than their main purpose, not be seized even for the collection of public receivables, not be pledged, not be affected from the liquidation decisions of the administrative authorities, not be included in the bankruptcy estate and an interim injunction cannot be imposed.

#### **Settlement finality and pledge right**

**ARTICLE 28 – (1)** Provisions of article 79 of the Law shall apply to settlement finality and pledge rights.

### **CHAPTER SIX**

#### **Central Counterparty**

##### **Central counterparty practice**

**ARTICLE 29 – (1)** The Board may enforce the central counterparty practice to the central clearing and settlement institutions where they undertake the settlement finality by assuming the seller role against the buyer, and the buyer role against the seller for the markets or capital market instruments.

**(2)** 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.

**(3)** The CCSIs shall perform the central counterparty practice in accordance with the Regulation to be prepared by them pursuant to the principles defined in articles 77 and 78 of the Law and approved by the Board. The principles defined in the second, third and fourth paragraphs of article 78 of the Law shall be stipulated in this Regulation.

##### **Application and permission**

**ARTICLE 30 – (1)** The CCSIs those made an application to the Board to undertake central counterparty practice must comply with the following requirements in order to obtain the approval;

**a)** They must maintain the minimum equity in an amount corresponding to the financial risks and other risks to be undertaken for the capital market instruments to

which the service shall be rendered, however, being not less than the amount to be determined by the Board;

**b)** They must establish and maintain an efficient risk management mechanism and department capable of describing, calculating and reporting the risks which may arise as a result of being a central counterparty.

**(2)** The Board may also foresee additional conditions in addition to the conditions set forth in the first paragraph of this article.

**(3)** If the CCSIs fail to maintain any one of the conditions required to become a CCSI or to be authorized as a central counterparty, the Board shall be informed as of the date such situation is ascertained.

**(4)** If aCCSI which has been granted permission to become a central counterparty in a certain market or capital market instrument wishes to operate as a central counterparty for another market or capital market instrument, it must reapply for the approval of the Board.

### **Financial liability of central clearing and settlement institutions in central counterparty practice**

**ARTICLE 31 – (1)** The financial liability of the clearing and settlement institutions in clearing and settlement transactions where they act as a central counterparty shall be determined within limits to be allocated and in accordance with collaterals to be taken from the members as well as other guarantees.

**(2)** If the fulfillment of the obligations causing impairment in the equity of the central clearing and settlement institution, this situation shall be notified to the Board on the same day with its reasons. The CCSI shall urgently take all necessary measures including capital increase in order to restore its financial position. Until the equity is restored to the necessary level, the CCSI shall report its statement of changes in equity to be prepared according to Turkish Accounting Standards to the Board on a weekly basis.

### **Segregated monitoring of assets and collaterals**

**ARTICLE 32 – (1)** It is principle to monitor the assets of account holders and collaterals taken by the CCSIs providing the central counterparty service separately from the assets of the CCSIs. Except for the transactions related to the fulfillment of the clearing and settlement; the institution rendering the central counterparty service shall not use such collateral or assets for purposes other than that for which they are deposited. The institution providing the central counterparty service shall take the necessary precautions to ensure compliance with this article.

### **Other issues concerning the risk management and the guarantee fund established pursuant to central counterparty operations**

**ARTICLE 33 – (1)** The CCSIs providing the central counterparty service shall establish a single guarantee fund for the entire market or individual guarantee

funds for each market by the contribution amounts to be collected from their customers in relation to the central counterparty services.

**(2)** The Board shall be informed in the event that a significant change is required to be made in any one of initially specified processes of the risk management system or in the risk calculation methods being used, and in any case, no later than once every six months The Board is entitled to request for changes in these methods.

**(3)** The risk management systems established within the CCSIs which will operate as a central counterparty should be capable of demonstrating total risk of each member and at any time.

## **CHAPTER SEVEN**

### **Financial Provisions**

#### **Budget and personnel staff**

**ARTICLE 34 – (1)** The CCSIs shall determine their budgets and personnel staff by themselves through their board of directors.

#### **Income, fees and commissions**

**ARTICLE 35 – (1)** The fees and commissions applied by the CCSIs to all their members within the scope of main services provided by them and on the basis of their status arising as the sole supplier of these services, and their collection periods and methods shall enter into force by the proposal of their board of directors and approval of the Board.

**(2)** The fees charged for other services which are not compulsory to benefit from the CCSI's main services, however, are rendered in relation to these services to the requesting participants shall be determined by the CCSIs and submitted to the Board's information. Although the training services provided by the CCSI's are compulsory for the members, they shall be considered within the scope of this paragraph.

**(3)** Fees collected for other services which are unrelated to the core or ancillary services being rendered shall be submitted to the Board's information collectively and in a detailed manner at the end of each accounting period.

## **CHAPTER EIGHT**

### **Other Provisions**

#### **CCSI's authority to inspect and request information and documents**

**ARTICLE 36 – (1)** The CCSIs are entitled and authorized to; request information and documents from their members and conduct inspections concerning the matters they deem necessary about their business and operations; measure and monitor the financial position of their members to ensure the security of the operations conducted with themselves;

and place sanctions for the regulatory divergences related to the clearing operations discovered during these activities of which are at its sole discretion.

**(2)** The CCSIs; monitor the operations and transactions of members conducting the clearing, settlement and other related transactions with themselves and their compliance with the CCSI rules in a regular and effective manner; take the necessary measures to ensure an uninterrupted flow of clearing and settlement process; and specify the principles and procedures in respect thereof.

**(3)** The CCSIs are entitled and authorized to make regulations in relation to the power and duties assigned to them by law and other legislation and execute these regulations accordingly.

**(4)** The CCSIs shall make a notification to the Board in case of gross negligence or willful neglect of their rules detected during their inspections carried out within the scope of this article.

### **Financial and information system audits of the CCSIs**

**ARTICLE 37 – (1)** The Board is the authority for regulation, supervision and control of the CCSIs related to their operations within the scope of the Law. The Board, when it deems necessary, is authorized to make supervision and audits related to their operations within the scope of the Law. The CCSIs are required to provide a suitable working environment to the personnel authorized to conduct the audit.

The Board is authorized to request from the CCSIs and their members in order to fulfill certain matters which it deems necessary related to central clearing and settlement operations and to send all types of information and documents upon its request or in a regular manner.

**(2)** The principles and procedures related to the audit of CCSI's' information systems and the institutions which will conduct this audit shall be determined by the Board. The information systems of CCSIs must be audited at least once a year or in shorter time periods by the independent audit companies whose qualifications shall be determined by the Board. The report to be prepared at the end of the independent audit shall be sent to the relevant CCSI and the Board simultaneously.

**(3)** The financial audits of the CCSIs shall be conducted by the independent audit companies included in the list announced by the Board. The report to be prepared at the end of the independent audit shall be sent to the relevant CCSI and the Board simultaneously.

**(4)** The CCSIs which are subject to independent auditing within the scope of their exclusive legislation shall be deemed to have fulfilled this obligation in accordance with the Board's regulation about independent auditing. The report to be prepared at the end of the independent audit shall be sent to the relevant CCSI and the Board simultaneously. The Board, if it deems necessary, may ask for conducting an independent audit on the issues it determines.

## **Financial reporting**

**ARTICLE 38 – (1)** The CCSIs must prepare their financial statements and reports in the form and content within the framework of Turkish Accounting Standards and according to the regulations stipulated by the Board, by considering the features of CCSI operations, in a complete and accurate manner, and submit them accordingly.

**(2)** The Board may enforce public disclosure of financial statements and reports of the CCSIs.

## **Measures to be taken against the CCSIs' illegal activity and operations and in case of deterioration of their financial position**

**ARTICLE 39 – (1)** The Board is authorized to impose the measures specified in Article 96 of the Law against the CCSIs' illegal activity and operations; and the measures in Article 97 of Law in case of deterioration of their financial position.

## **Supervision system and cooperation**

**ARTICLE 40 – (1)** The CCSIs are authorized to make investigation and request information and documents from their members and from the natural and legal persons who place orders or conduct transactions, for the matters which they deem necessary in relation to their operations defined in the Regulation. Parties to whom information and document are requested cannot refrain from providing them based on non-disclosure and confidentiality provisions of their exclusive legislations about the issues in the CCSIs' field of responsibilities.

**(2)** The CCSIs are responsible for exchanging all types of necessary technical support, assistance and provide information sharing with the exchanges and other related institutions, within the scope of principles and procedures specified by the Board, for the prevention, supervision or control of market disruption and other offences stipulated by Law and the efficient application of the regulations made based on the Law. The CCSIs shall perform the duties to be assigned to them by the Board and make the necessary cooperation. Transactions and actions conducted in this context shall not constitute a violation of the obligation of maintaining non-disclosure and the confidentiality rules contained in the Law and other legislations. The CCSIs are obliged to take the necessary measures requested by the Board immediately in accordance with the supervision and control activities conducted within the scope of article 10 of the Law.

**(3)** The CCSIs, for the purpose of providing the efficiency of clearing, settlement and central counterparty services and risk monitoring, are entitled to share information and cooperate with the exchanges and capital market institutions located abroad or in the country as well as other related organizations and entities according to the principle of reciprocity.

**(4)** The CCSI shall provide support to relevant exchanges for the resolution of disputes which occur among their members or with their customers for clearing, settlement and related transactions.

### **Corporate governance principles**

**ARTICLE 41 – (1)** With regard to the corporate governance principles, the first and second paragraphs of article 17 of the Law shall apply to the CCSIs by analogy.

### **Application principles**

**ARTICLE 42 – (1)** The Board is entitled to interpret the provisions of this Regulation, make decisions on the subjects that are either unclear or not included in the Regulation by taking the general provisions into consideration, lead and regulate the application.

### **Other provisions**

**ARTICLE 43 – (1)** In terms of the banking activities of Istanbul Settlement and Custody Bank Inc., the second sentence of the fifth paragraph of article 9 of this Regulation shall not apply.

### **Temporary provisions related to Istanbul Settlement and Custody Bank Inc.**

**PROVISIONAL ARTICLE 1 – (1)** Istanbul Settlement and Custody Bank Inc. will continue to carry out the business and operations which it carries in relation to capital market activities by the title of CCSI on the date the Law enters into force, without the need of permission or authorization.

**2)** The existing members of the board of directors of Istanbul Settlement and Custody Bank Inc. shall continue their duties until the end of their term of office without being requested of information and document.

**3)** For the independent audit of Istanbul Settlement and Custody Bank Inc., the provisions of the eleventh paragraph of article 138 of the Law shall be reserved. The report to be prepared at the end of the independent audit shall simultaneously be sent to the Republic of Turkey Prime Ministry Undersecretariat of Treasury, the relevant CCSI and the Board.

### **Compliance with the Regulation and making the organizations stipulated in the Regulation**

**PROVISIONAL ARTICLE 2 – (1)** Istanbul Settlement and Custody Bank Inc. shall comply with this Regulation within 1 year from the publication date of this Regulation. This period can be extended by the Board if it is deemed as appropriate.

**(2)** The necessary organizations required to be prepared by Istanbul Settlement and Custody Bank Inc. pursuant to this Regulation shall be made within 6 months beginning from the publication date of this Regulation.

### **Enforcement**

**ARTICLE 44 – (1)** The Regulation shall enter into force on its publication date.

**Execution**

**ARTICLE 45 – (1)** The provisions of this Regulation shall be executed by Capital Markets Board.

*“Translation for information purpose. Only the Turkish version is legally binding”*