

# GENERAL REGULATION on the ESTABLISHMENT and OPERATING PRINCIPLES of CENTRAL CLEARING INSTUTIONS

## CHAPTER ONE

### Purpose, Scope, Basis, and Definitions

#### Purpose

**ARTICLE 1** - (1) The purpose of this Regulation is to determine the principles regarding the central clearing institutions and the Central counterparty service that may be provided by central clearing institutions within the scope of Articles 77 and 78 of the Capital Markets Law no. 6362 dated December 6, 2012.

#### Scope

**ARTICLE 2** - (1) This Regulation covers the principles regarding the Central Clearing Institutions and the activities, business and operations carried out by such institutions within the scope of Articles 77 and 78 of the Capital Markets Law no. 6362 dated December 6, 2012.

#### Basis

**ARTICLE 3** – (1) This Regulation is prepared on the basis of Articles 77 and 78 of the Capital Markets Law no. 6362 dated December 6, 2012.

#### Definitions and abbreviations

**ARTICLE 4** – (1) For the purposes of this Regulation, the following definitions shall apply:

- a) Exchange: means the systems and marketplaces established in the form of joint stock companies and authorized in accordance with the Law, which are either operated and/or managed by themselves or by a market operator to ensure smooth and secure trading of Capital market instruments, foreign exchange and precious metals and precious stones, as well as of other contracts, documents and assets deemed appropriate by the Board under free competition conditions and to determine and announce the prices formed, and which operate on a regular basis to bring together buy and sell orders so as to execute them or to facilitate bringing together of such orders,
- b) Independent Member: means the members of Board of Directors defined in section 4.3.6 of annex one to the Communiqué on Corporate Governance no. II-17.1 published in the Official Gazette no. 28871 dated January 3, 2014,
- c) Interoperability: means an arrangement between two or more central counterparties that involves the execution of clearing and settlement of capital markets instruments and money market instruments across the interoperating central counterparties,
- ç) BRSA: means the Banking Regulation and Supervision Agency,
- d) Communiqué on the Management Information Systems: means the Communiqué on the Management of Information Systems No. VII-128.9 enforced upon its publication in the Official Gazette no. 30292 dated January 5, 2018,
- e) CPMI-IOSCO Principles: means the core principles jointly issued by the Committee on Payments and Market Infrastructures and the International Organization of Securities Commissions in relation to financial market infrastructures,
- f) General CCP Member: CCP members who are authorized by the CCI serving as CCP to provide services for both their own and/or their clients' clearing and settlement transactions as well as the clearing and settlement transactions of Trading Institutions.,
- g) Trading Institution: The institution who executes transactions in the markets and Capital market instruments serviced by the CCI acting as a CCP but who clears and settles such transactions through a General Clearing Member,
- ğ) Law: means the Capital Markets Law no. 6362, dated December 6, 2012,

- h) Board: means the Capital Markets Board,
- ı) CRA: means the Central Registry Agency,
- i) CCP: means the Central Counterparty,
- j) Central counterparty service: means the central counterparty service defined in Article 78 of the Law, which the central clearing institutions commit to complete clearing and settlement for markets or Capital market instruments deemed appropriate by the Board through open offer, novation or another legally binding method by acting as seller against the buyer and as buyer against the seller,
- k) CCP Regulation: means CCP Regulation published for the relevant CCP based on the 4th and 9th paragraph of Article 78 of the Law,
- l) CCI: means the central clearing institution providing the services specified in Articles 77 and 78 of the Law,
- m) CCI Regulation: means CCI Regulation published for the relevant CCI based on the second paragraph of Article 77 of the Law,
- n) Qualified Shareholder: means, except in the case of the Republic of Turkey Prime Ministry Undersecretariat of Treasury and the stock exchanges established by the Law, the shareholder that 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,
- o) CBRT: means the Central Bank of the Republic of Turkey (Türkiye Cumhuriyet Merkez Bankası Anonim Şirketi),
- ö) TCC: means the Turkish Commercial Code no. 6102, dated January 13, 2011,
- p) Capital market instruments: means the securities and derivative instruments as well as other capital market instruments designated in this context by the Board, including investment contracts,
- r) Member: means those allowed to become a party to the transactions conducted with the CCI,
- s) Managers: means the chairman and members of the Board, general manager and deputy general managers.

## **CHAPTER TWO**

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

#### **Establishment**

##### **ARTICLE 5 –**

(1) CCIs 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) In order for a CCI to be established, 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 exchanges to which CCIs will provide services and other issues are taken into consideration.

#### **Conditions for establishment**

**ARTICLE 6 - (1)** In order to be granted the establishment permission:

- a) the CCI must have been established as a joint-stock company,
- b) all of its shares must be in registered form,
- c) its shares must be issued for cash,
- ç) its capital must be no less than the amount determined by the Board and must be fully paid,
- d) its founders and, in case of legal persons as the founders, the Qualified Shareholders that have significant impact directly or indirectly on such legal person founders must satisfy the conditions specified in Article 44 of the Law,

e) its articles of association must comply with the provisions of the Law and the related regulations,

f) its shareholding structure must be clear and transparent.

(2) Their founders and the Qualified Shareholders, who have significant impact directly or indirectly on founders of legal entities, are also required to have the necessary financial strength and a reputation and integrity required by the business.

(3) Except public corporations, the legal entity founders and Qualified Shareholders having significant impact directly or indirectly on legal entity founders must submit their independently audited financial statements for the last three years. Foreign founders and shareholders, must also show those qualifications that apply in relation to natural and legal persons of Turkish nationality and they must also submit, where applicable, notarized translations of the information and documents certified by the competent authorities of the country that they reside in or the information and documents certifying that they are valid in accordance with the law or international agreements.

(4) The supplementary conditions defined within the scope of the CCP service as set forth in the sixth chapter of this Regulation herein also apply.

#### **Required qualifications for Qualified Shareholders, Managers and specialized personnel**

**ARTICLE 7** – (1) The Qualified Shareholders, Managers and personnel who will be determined as specialized personnel by the relevant CCI must have the qualifications specified in subparagraphs (a), (b), (c), (ç), and (d) of Article 44 of the Law. In the implementation of this clause, the conditions specified in subparagraph (a) of paragraph 1 of Article 44 of the Law shall not be taken into consideration after the lapse of a period of ten years from the date of finalization of the decision made in respect of rescission or closing of bankruptcy, or approval of the bankrupt's certificate; and the conditions specified in subparagraph (b) shall not be taken into consideration after the lapse of a period of ten years from the date of finalization of the decision made in respect thereof. In case of appointment of a legal entity as a board member, the aforesaid conditions also apply to the appointed legal entity representative.

(2) It is mandatory that the CCI Managers and specialized personnel must have the reputation and integrity required by the business and adequate work experience in the field of financial services, risk management and clearing and settlement services in order to ensure robust and prudent management of the CCI.

(3) In case of any change in the Managers of CCIs, the Board shall be informed on the first business day thereafter with the reasons for resignation. If, during the course of their duties, the Managers of CCIs are found to be in breach of or no longer satisfy the conditions specified in the first paragraph of this Article; their duties shall be terminated by the CCI. CCI is responsible to monitor whether its Managers no longer meet the requirements specified herein. If such a determination is made by the Board, the Board shall require those concerned to resign from their duties and the CCI shall comply with the Board's requirement. Where the person asked to resign is a board member, the general assembly of the CCI is called by the Board for an extraordinary meeting within thirty days at the latest with an agenda for the removal of the relevant board member from office.

(4) If it is subsequently determined or identified that the specialized personnel other than Managers of CCIs do not meet any of the conditions required to perform their duties; the related personnel shall be dismissed from the office by the appointing body.

(5) If any of the Qualified Shareholders of the CCI is engaged in any activities that may affect the robust and prudent management of the CCI, the Board is authorized to take any and all measures including cancellation of the CCI's current authorization in order to eliminate such conditions.

#### **Establishment Operations:**

**ARTICLE 8** – This Article is repealed.

### **Operating requirements**

**ARTICLE 9** - (1) The CCIs that are granted establishment permission in accordance with Article 5 of this Regulation should apply to the Board in order to receive the operating permit within one year at the latest after obtaining such permission. Operating permit applications shall be concluded by the Board within six months after complete submission of information and documents required for application to the Board and the related decision is notified to those concerned. The establishment permission of the institutions, which have failed to make an application to the Board within one year after their accreditation or which have not been found eligible to be granted an operating permit as a result of their application, shall be cancelled. However if there are compulsory conditions or reasons whereby the failure to make an application cannot be attributed to the institution that has obtained the establishment permit; this period can be extended by the Board for another one year.

(2) In order to be granted an operating permit, the CCI must have a record-keeping, information and documentation system compliant with the regulations made by the Board, as well as an organization structure sufficient to ensure regular workflow, communication and continuity and proper functioning of the performance of services and activities must have been established; technical infrastructure must have been provided; internal control, internal audit and supervision and risk management units and systems must have been established and made operational; a sufficient number of personnel exclusively in charge of CCI activities must be provided in order to ensure efficient continuation of the activities in accordance with the laws; and the necessary security measures for protection of important assets under the structure of the CCI must have been taken.

(3) CCIs shall employ, at least, a risk manager, information technologies manager and compliance officer, who will be employed and work under their own structures.

(4) The provisions of Article 41 of the Law shall apply for cancellation of the operation permit issued by the Board.

(5) It is required that an agreement setting forth the mutual rights and obligations of the parties regarding the services to be provided within the scope of Article 22 of this Regulation should be executed.

(6) CCIs shall notify the Board of their intention to conduct activities outside the scope of capital markets legislation. The Board may require CCIs to not conduct such activities.

(7) CCIs are required to establish the necessary information processing systems and technological infrastructure for the purpose of performing the services that they will render to their Members and the duties assigned to them by laws in an efficient, reliable and uninterrupted manner; to take the necessary IT systems, other systems and administrative measures and make relevant arrangements to establish and monitor the controls for the purpose of ensuring their consistency, reliability, integrity, and timely availability of information in respect thereof. The Board is authorized to make arrangements on the subject matter and take a decision for implementation if it deems necessary.

(8) The Board may impose restrictions on dividend distribution amounts provisioned in the articles of association of the CCIs and on benefits granted to shareholders by such articles of association.

(9) The assent of the Board shall be obtained for amendments in articles of association.

(10) Transfer of shares of more than five percent or transfer of shares leading to a change of five percent and above in the shareholding structure, either directly or indirectly; as well as any and all transactions resulting in direct or indirect transfer of control even if there is no such share transfer shall be subject to the approval of the Board. Transfer of privileged shares shall, in any event, be subject to the permission of the Board. In case of transfer of shares, the natural persons and legal entities that will acquire the shares as well as the Qualified Shareholders of such legal entities must also meet the conditions specified in Article 7 of this Regulation. Amendments to articles of association that are not assented to by the Board or any share transfer or transactions resulting in transfer of control, which are not permitted by the Board, shall be null and void. Transfer of shares made contrary to this provision shall not be entered in the company's stock register and records made as such shall be deemed invalid and unenforceable. Transfer of shares less than five percent shall be notified to the Board within 15 business days at the latest after realization of the transfer.

(11) The supplementary conditions defined within the scope of CCP service as set forth in the sixth chapter of this Regulation herein also apply.

### **Operating principles and rules**

**ARTICLE 10** - (1) It is mandatory that CCIs should abide by the following principles during their operations:

a) To make the related arrangements in order to ensure the establishment of the necessary infrastructure, equipment and organizational structure that will allow the Members to execute the clearing and settlement operations in a secure and stable manner,

b) To take the necessary measures to ensure the compliance of their Members with the regulations to be established in relation to the CCIs' 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 in order to prevent the market abuse actions and crimes stipulated in the Law,

ç) To provide continuous/regular information flow between CCI and the Members and participants in the markets they serve as well as between CCI and the Board within the required framework,

d) To have adequate own funds, capital and organization to ensure the safe and stable functioning of the clearing and settlement system,

e) To act fairly and professionally in providing services to its Members or, if known, to its Members' clients, to make the best effort to ensure the benefit of its Members and / or clients without harming effective risk management practices and to establish and maintain a transparent, fair and accessible system to assess complaints received from Members,

f) To be fair in the regulation and execution of central clearing activities,

g) To carry out activities and operations in coordination and cooperation with the Board and the stakeholders,

ğ) To be fair in remuneration of services,

h) To determine the process and procedures for the disciplinary measures to be applied to the Members and act fairly in the execution,

ı) To regularly disclose their financial statements, clearing and settlement fees and organizational structure to the public on their websites,

i) To fulfil the other duties assigned to them by laws.

(2) All internal regulations, rules, procedures and agreements of CCIs regarding execution must be adequate in scope and in compliance with the Laws and other related legislation, enforceable, currently updated and accessible by the Members and stakeholders at all times.

(3) CCIs shall develop the mechanisms that will allow their Members and the clients of such Members to express their opinions, as applicable, with respect to the changes to be made in relation to material issues and notify the Board of all changes proposed to be made in relation to such issues.

### **Prevention of Conflicts of Interest**

**ARTICLE 10/A** - (1) CCI shall establish written regulations that will allow for identification, management and settlement of conflicts of interest that may arise between the CCI itself and its Managers or other personnel or between the CCI itself and the settlement Members or the clients, if known, of settlement Members.

(2) In case of identification of any conflicts of interest that cannot be prevented under the regulations referred to in the first paragraph during the evaluations made at the CCI; the counterparties shall be informed of the source or nature of the possible conflict of interest before execution of any transaction with the CCI.

(3) The Board of Directors of the CCI is responsible to evaluate whether any conflicts of interest may arise if its Members take office in the management of other institutions and to take the necessary actions.

## **CHAPTER THREE**

### **Principles Regarding the Bodies, Committees and Specialized Personnel of CCI**

#### **General assembly**

**ARTICLE 11** - (1) The general assembly that is the supreme decision-making body of the CCIs is comprised of the shareholders. The shareholders exercise their rights in relation to the company business and affairs in the general assembly. Legal exemptions shall apply. The Members that are not shareholders may attend the general assembly without the right to vote.

(2) Except for the ordinary meetings, if required the general assembly is summoned to convene for an extraordinary meeting in accordance with the provisions of the TCC.

(3) The invitation letter and the agenda of the General Assembly, including all information, documents and annexes related to the items on the agenda to be discussed shall be sent to the shareholders and the Board via a registered and reply-paid letter at least three weeks before the meeting date.

(4) The Board representative may attend the general assembly meeting without the right to vote.

(5) General assembly minutes shall be sent to the Board on the next business day after they are signed by the executive board. All information, documents and annexes related to the issues discussed in the agenda, and in the case of the election of a board member in the general assembly meeting, the information and documents certifying that the board members bear the qualifications specified in Article 7 and the second paragraph of Article 12 of this Regulation 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 in relation to such general assembly decisions. If the general assembly decisions on election of board members are in contradiction with the laws, the CCI shall be asked to remedy such 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 called by the Board to convene for an extraordinary meeting within 15 business days after the date of determination of such necessity; and the agenda of the general assembly shall be specified by the Board and announced to the shareholders.

#### **Board of Directors**

**ARTICLE 12** - (1) The Board of Directors shall be comprised of not less than 7, and not more than 11 members. The general manager is a natural member of the Board of Directors. One third of the board members must have Independent Member status.

(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 have at least ten years of experience in the fields of financial markets and economics after the university degree.

(3) The members of the Board of Directors are elected for a maximum term of 3 years. Any member whose term of office expires 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 the TCC, who will hold office until the first general assembly meeting. The person elected as the board member shall be notified to the Board together with the documents certifying that s/he satisfies the qualifications specified in this Article and in Article 7 herein, within 5 business days after the date of the relevant board resolution taken in respect thereof.

(4) The CCIs that will provide services as CCPs must establish and maintain at least an audit committee, a corporate governance committee and a remuneration committee operating under the structure of their Board of Directors.

(5) The fees payable to the Independent Members and non-executive members of the Board of Directors may not be associated with the CCI's profitability and business performance.

(6) Clients which are Trading Institutions and clear through a General Clearing Member of a CCI that acts as a CCP may be invited to provide a representative to attend the Board of Directors' meetings in

which the issues of segregation and portability of collaterals and positions and transparency shall be discussed.

**The duties and powers of the Board of Directors pursuant to capital markets legislation**

**ARTICLE 13** - (1) The Board of Directors, in addition to their duties and powers set forth in the TCC and other applicable laws and within the scope of capital markets legislation, have the power and duty to:

- a) decide on and finalize the regulations that are required to be prepared by the CCI,
- b) determine the Exchanges and other organized market places to which the service will be rendered, and other markets and Capital market instruments that are planned to be subject to this service,
- c) determine the criteria for acceptance of membership applications, temporary or permanent suspension from the membership; conclude the membership applications; and, when necessary, decide on temporary or permanent suspension of its Members from the membership,
- ç) ensure that operations are carried out according to the legislation and rules in an orderly manner,
- d) determine the principles required to be fulfilled regarding the supervision function within the context of this Regulation,
- e) monitor and assess the business and operating results of the CCI organization and its service units as well as internal audit, internal control, and compliance functions and the outsourced services and functions; decide on the supervision, audit, review, research and investigation reports; ensure the implementation of the results and recommendations that it deems necessary; and inform the relevant public authorities and institutions in case of occurrence of any situations requiring sanctions,
- f) make agreements with domestic and foreign institutions and international organizations for issues falling within the scope of duty and powers of the CCI, establish the committees as determined by the legislation or out of the scope of legislation, which may be needed and elect their Members and arrange their working principles,
- g) ensure that those concerned are notified of the board resolutions, and ensure the execution of such resolutions and monitor their implementation,
- ğ) prepare the budget, financial statements and annual operating report and submit them to the general assembly,
- h) efficiently monitor the risks arising from the Central counterparty service and the other activities related to such service,
- ı) determine the objectives and strategies, risk tolerance and risk bearing capacity levels of the CCI, and ensure that the CCI's responsibilities towards all stakeholders are fulfilled,
- i) ensure that the information required to be disclosed to the public are regularly published on their websites,
- j) determine the people authorized to sign on behalf of the CCI and the limits of their authorization,
- k) determine the general principles regarding the personnel policy, and
- l) fulfil the duties and responsibilities imposed by the legislation and by this Regulation.

(2) The Board of Directors may delegate the duties and powers exclusively assigned to it pursuant to the TCC and its other duties and powers except for its duties and powers specified in subparagraphs (a), (b), (e), (f), (ğ), and (ı) of the first paragraph of this Article to the general manager providing that such delegation has been made in writing and with clearly delineated boundaries. The Board of Directors may delegate its powers for concluding the membership applications specified in subparagraph (c) of the first paragraph of this Article, and for temporary or permanent suspension of its Members from membership, to the general manager. 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 of decision**

**ARTICLE 14** - (1) The Board of Directors meets and takes decisions according to the provisions of the TCC. The general manager may, whenever required, request the chairman of the board to call for a meeting for the duties within the scope of the capital markets legislation.

(2) The Board may require a CCI to include provisions relating to extraordinary meetings and decision quorums in its articles of association.

### **General Manager and Deputy General Managers**

**ARTICLE 15** - (1) The general manager and Deputy General Managers perform the duties regarding the administration and representation of CCIs, which have been assigned and delegated to them in accordance with the related legislation and board resolutions.

(2) It is mandatory that general manager and Deputy General Managers must have at least ten years of experience in the fields of financial markets, economics, treasury, business administration, capital markets, banking, information technologies or finance after the university degree.

(3) The general manager and Deputy General Managers must have been appointed exclusively for such duties.

(4) The general manager and Deputy General Managers may also take other positions, as a chairman and a board member, etc. at the institutions in which the CCI 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 Exchanges and organized markets, clearing, settlement and custody organizations and in other financial institutions to be deemed appropriate by the Board, providing that such duties shall be of non-executive nature and not hinder the fulfilment of their official duties in the CCI.

(5) It is required that the persons to be appointed as the general manager and Deputy General Managers should be notified to the Board together with the documents certifying that they satisfy the qualifications specified in the second paragraph of this Article and those specified in Article 7 of this Regulation. The appointment of the general manager may only be executed unless no negative opinion is declared within 15 business days after the receipt of such notification by the Board.

### **CCI organization and staff**

**ARTICLE 16** - (1) With respect to the fulfilment of duties and exercise of powers assigned to CCIs by this Regulation and the related legislation; the organization of the CCI, its service units, structure, job descriptions, powers and responsibilities and their delegation and the working principles and procedures of its staff shall be set by an organizational directive that will be put into effect by the Board of Directors upon the proposal of the general manager.

(2) The CCI's organizational directive shall contain, at least;

a) the composition, duties and powers of the committees established under the structure of the Board of Directors,

b) the duties and responsibilities of the general manager, the reporting relationships between the other Managers and the Board of Directors,

c) the principles and procedures regarding the appointment of other Managers that will take office as other Managers,

ç) the structuring of the risk management, internal audit, internal control, and compliance functions separately from the other activities in order to ensure sufficient functional independence, and in particular, the clear separation of the reporting process related with risk management from the other processes,

d) the principles on remuneration procedures that ensure efficient risk management and do not cause any reduction in the risk management standards, and the processes that will allow for fulfilment of the CCI's responsibilities towards its stakeholders.



## **Provisions regarding Specialized Personnel**

### **ARTICLE-16/A**

(1) Recruitment of CCI Specialized personnel, and their dismissal, qualifications, advancement and promotions, performance criteria, remuneration, duties, responsibilities and obligations, and the prohibitions and disciplinary issues that they must obey shall be set by a personnel directive that will be put into effect by the Board of Directors upon the proposal of the General Managers.

(2) The CCI remuneration policy must support efficient risk management and not contain any elements that may prejudice the risk management standards. The criteria for remuneration of the risk management, compliance and internal audit staff must be independent from the CCI's business performance. The issue about whether the CCI remuneration policy complies with the principles specified in this paragraph is audited and reviewed by the Board of Directors on an annual basis at minimum. The Board reserves its right to request that such remuneration policy be audited and reviewed by an independent institution.

### **Risk committee**

**ARTICLE 16/B** - (1) A risk committee that is authorized to give recommendations and opinions of an advisory nature to the Board of Directors on issues related with risk management practices shall be established at the CCI that will provide service as a CCP; the CCI Members that have memberships in the markets to which CCP service is provided as well as the clients of such Members may be represented in this committee that shall, in any event, be comprised of at least one independent board member. The risk committee shall be chaired by one of the Independent Members taking office in the Board of Directors of the CCI. The risk committee may, whenever deemed necessary, invite the CCI personnel or external independent experts to attend its meetings without any voting right. The board or the other public authorities may also request to attend such meetings without any voting right or to be informed of the activities conducted and the decisions taken by the risk committee. The risk committee shall be formed properly to ensure that any of the representatives mentioned above does not constitute the majority in the committee.

(2) The CCI that will serve as a CCP shall explicitly specify in a straightforward manner, its independence, operational procedures, criteria for admission to membership, the mechanisms for selection of the risk committee members and the other issues that are to be regulated by the Board as deemed appropriate, within the CCP Regulation regarding the Central counterparty service that it will provide as well as in the other directives and/or procedures regarding corporate governance which are prepared in compliance with the Board's corporate governance principles. The related CCI shall publicly announce all of the issues specified above, including the frequency of meetings to be held by the risk committee.

(3) The risk committee shall submit to the Board of Directors its proposals regarding any arrangements to be made in relation to material changes in the CCI's risk model, default process, criteria for admission of Members, clearing and settlement of new Capital market instruments or outsourced services, which may affect the risk management of the CCI serving as a CCP. Such proposals of the risk committee shall not cover the daily affairs of the CCI. The Board of Directors, general manager and other Managers shall also obtain information and proposals from the risk committee in relation to the developments that are likely to affect the risk management of the CCI serving as a CCP and put them into practice, as applicable.

(4) Without prejudice to the regulations regarding timely provision of information to the Board and the other related public authorities, the risk committee members shall abide by the rules of confidentiality regarding the information known or held by them under their possession as required by their duties. In cases where a conflict of interest is likely to arise in relation to a Member's business and transactions, the chairman of the risk committee shall take necessary measures to ensure that the related Member does not cast votes in the meeting in which the related issue will be resolved.

(5) If the Board of Directors of the CCI serving as a CCP decides to not execute the proposal of the risk committee; it shall immediately inform the Board and the other concerned public authorities/institutions related with the subject matter together with the related rationale.

(6) The tools and methods used in risk management by the CCI serving as a CCP must cover any and all risks including those arising from its Members, clients of the Members, other central clearing institutions or central counterparties interoperated with, security settlement and payment systems, custody institutions, banks which provide liquidity or with which accounts are opened, and the stock exchanges and trading platforms to which services are provided by the CCI serving as a CCP itself or by the other institutions of critical importance; and they must allow for efficient management and reporting. The reporting line related with risk management must be clearly separated from the reporting line related with other activities.

**Internal audit, risk management, internal control, compliance and information systems**

**ARTICLE 16/C** - (1) CCI providing service as CCP must have an internal audit unit that is independent from the other functions and responsible for direct reporting to the Board of Directors. Such internal audit unit is obliged to prepare a report covering the review of adequacy and efficiency of the CCI and, if any, the CCP systems, internal control mechanisms, corporate governance framework and risk management processes within the framework of a comprehensive audit plan; the opinions and suggestions provided in line with the results of such review; and the monitoring of the issue about whether such opinions and suggestions are implemented or not; and to directly submit such report to the Board of Directors on an annual basis. A copy of the audit plan shall also be sent to the Board.

(2) The CCI must have a separate risk management unit independent from the other units operating under its structure as well as written policies, procedures, and systems in place which will allow for identification, management, quantification, monitoring, and control of all risks that the CCI is exposed to.

(3) The CCI information and risk-control systems must have the capacity and the level of development required in order to allow its Members and, if necessary, the clients of its Members to have timely access to sufficient information, which will allow them to execute their risk management policies and procedures appropriately, and to monitor their credit and liquidity risks both at the CCI level and at the Member, and, if necessary, at clients levels, as applicable.

(4) The CCI shall establish the necessary internal control mechanisms in order to help the Board of Directors monitor the adequacy and efficiency of the risk management policies, procedures and systems.

(5) The CCI must have a separate compliance unit that will be operating independently from the other functions. The compliance unit has to establish the policies and procedures that will be used to identify the risks of non-fulfilment by the CCI, its Managers or other staff of the obligations arising from the Law, this Regulation, and the relevant legislation and to develop the rules and procedures that will allow for identification and analysis of potential conflicts of interest and mitigation of legal risks resulting from such issues. The CCI's manager responsible for its compliance unit is obliged to monitor the adequacy and efficiency of the CCI's policies regarding compliance with laws, to conduct the compliance policies established in place at the CCI, to regularly report to the Board of Directors the compliance of the CCI and its staff with the Law, this Regulation and the related legislation, to develop procedures on the actions to be taken in case of noncompliance and to ensure that the other staff that take office in the compliance function are not assigned for the services and activities that they are responsible to monitor.

(6) The CCI must have reliable information technology systems at high speed and capacity, suitable for the types, diversity and complexity of the activities performed and services provided by the CCI, resistant against stress conditions and meeting the internationally accepted technical standards. The CCI is obliged to develop a proper information security framework covering also the policies and procedures regarding the protection of information, prevention of unauthorized disclosure of such information, accuracy and integrity of such information, and uninterrupted provision of clearing and settlement and, if any, the CCP services for the proper management of the information security risk.

(7) The provisions specified in the Information Systems Management Communiqué shall apply.

### **Confidentiality obligation**

**ARTICLE 17** - (1) The Managers and all other personnel of CCIs are obliged to provide the confidentiality of the information and secrets related to the CCI and corporations, institutions and all other natural persons and legal entities having relations with the CCI, which they have learned due to their titles, duties and positions and not to disclose such secrets to any person/legal entity other than the legally authorized persons and authorities under any circumstances, and not to use them in favour or against themselves or any third parties. Information on beneficial ownership provided to CCIs by the CRA is confidential; and the Managers and personnel of the CCI are responsible for the confidentiality of such information provided to them. This obligation shall survive even after resignation of the people concerned from their duties in the CCI.

(2) CCIs may cooperate with foreign CCIs and international institutions in accordance with the principle of reciprocity within the scope of clearing and settlement operations. Transactions and actions conducted in this context shall not constitute a breach of the nondisclosure obligation and the confidentiality rules specified in the Law and other legislation.

### **Prohibitions**

**ARTICLE 18** - (1) The Managers and specialized personnel of CCIs and their spouses and children under their custody shall not execute trading transactions in the markets, places, platforms and systems under the structure of the Exchange to which the clearing service is provided as well as in the markets of other Exchanges where the Exchange is the market operator for which the clearing service is rendered. (2) The Managers and specialized personnel specified in the first paragraph must dispose any and all of their shares or other securities of corporations or their subsidiaries listed in the Exchange which they hold, except for the instruments and pension fund units issued by the CBRT, Ministry of Treasury and Finance and the asset leasing companies established within the framework of the Law on Regulating Public Finance and Debt Management dated March 28, 2002 and no. 4749, 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 acting contrary to the provision of this Article shall be deemed to have resigned from their positions as of the date such breach is ascertained.

## **CHAPTER FOUR**

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

### **Members of CCI**

**ARTICLE 19** (1) The CBRT, investment institutions operating in accordance with the Law and other legal entities proposed by the CCIs and approved by the Board may become a Member of CCIs. The CCIs can make the admission to membership 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, admission to membership, membership types and the activities that can be performed by such Members, representation of Members, obligations of Members and the disciplinary actions to be imposed against them, notification principles for changes that may occur in their status, and the principles and procedures regarding the resignation and dismissal from the membership and other issues shall be set forth in the CCI Regulation to be prepared by the boards of directors of CCIs and published upon the approval of the Board.

(3) The CCI shall share both the CCI and CCP services and activities and the criteria for admission to settlement membership with the public without any charge.

### **Membership collateral**

**ARTICLE 20** - (1) The CCIs may ask for a membership collateral from their Members to cover the losses which they may expose the CCI to in connection with the clearing and settlement process and operations. The principles concerning the membership collateral shall be specified by the CCI Regulation.

### **Responsibilities of the Members, operating rules and measures to be applied to the Members**

**ARTICLE 21** - (1) CCI Members are, within the principles specified in the legislation, responsible for all operations related with the delivery, the payment of charges and the fulfilment of collateral and guarantee fund contribution obligations of the capital market instruments traded in Exchanges, other organized market places and in places other than these as well as for all of the actions carried out by the employees within the scope of their duties in this context. The responsibilities of the Members shall neither be restricted nor removed by adding clauses to the agreements signed between CCI Members and their clients.

(2) The CCI 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 the CCI,
- b) To act in compliance with the principles of good faith and integrity with its clients and other Members,
- c) To take out and maintain both general and special insurances which may be specified by the CCI in order to undertake the financial and legal responsibilities that may arise against its clients and other Members and to take other measures in this nature as well,
- ç) To inform the CCI immediately about all types of important changes regarding the ownership, management structure and financial situation on the date of their occurrence,
- d) To keep the other records decided by the CCI in addition to the books and records that they are legally obliged to keep, and to prepare the information and documents in due form; and to submit them to the CCI periodically or at any time requested by the CCI and to keep them for a period of time specified by the CCI,
- e) To establish a corporate and integrated risk management system in which all risks, including risks arising from information technologies, to which the organization is exposed are evaluated and to create processes that will enable the outputs and information produced by the system to be an input to the relevant decision-making mechanisms.

(3) The CCI shall acting in its sole discretion take measures in respect of those Members who do not comply with the rules stated in this Article or who have been identified as having deficiencies in Capital market instruments which will or might result in the non-fulfilment of the settlement obligations completely.

(4) The provisions of the first paragraph of this Article shall apply also for the assets traded in other markets to which the CCI renders the clearing and settlement service pursuant to 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) CCIs carry out the operations related to the delivery and the payment of the cash obligations in respect of Capital market instruments traded in Exchanges and other organized market places as well as in places other than those and the fulfilment of collateral requirements related to such transactions.

(2) It is essential that the delivery and the payment of the cash obligations in respect of the Capital market instruments traded in Exchanges and other organized market places, and the fulfilment of collateral requirements related to such transactions must be conducted at the CCIs. The Board designates the

Exchanges and other organized market places where CCIs can provide clearing and settlement services. This designation can be on the basis of markets and platforms established under the Exchanges and other organized market places and/or of the instruments to be traded. The assent of the Exchanges are taken in determining the Exchanges to which CCIs can provide clearing and settlement services.

(3) CCIs can, upon the approval of the Board, provide clearing, settlement, payment and collateral services to the Exchanges, organized market places and over-the-counter markets that are established and to be established outside the capital markets, with the exception of those established by the CBRT. In addition, the Board may also require the transactions in Capital market instruments executed outside the Exchanges and other organized market places to be cleared and settled by the CCIs.

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

#### **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 CCI and the Exchanges and other organized market places to stipulate the rights, obligations and powers of both institutions. In such cases, the CCI 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 in the CCI's field of service. The agreement to be executed is subject to the approval by the Board, except for the contractual financial obligations of the parties against each other; and it shall not contain any provisions contrary to this Regulation. The Board may request for changes to be made in this agreement. A minimum notice period must be set for the termination of the agreement between the CCI and the Exchanges and other organized market places. The amendments to be made in such agreements are also subject to the Board approval.

(2) The CCI carrying out the clearing and settlement operations of the Exchanges and other organized market places can be changed by the resolution of the Board of Directors of the related Exchange or other organized market place and upon the approval of the Board.

(3) In case that certain factors that will disrupt the stable and secure functioning of the market arise between the CCI and the Exchanges and other organized market places to which it renders service, and if it is identified that this situation has arisen from the CCI's failure in duly fulfilling its obligations; the Board may decide that these institutions shall directly perform the CCI's duties and/or another CCI shall be assigned.

(4) If the operations and regulations concerning the Exchanges and other organized market places to which the service is provided create rights and/or obligations in favour of the Exchanges and other organized market places; thereby these are also considered as rights and/or obligations in favour of the CCI.

#### **Clearing and settlement principles and clearing and settlement system**

**ARTICLE 24** - (1) Principles regarding the clearing and settlement system are set forth by the CCI Regulation. The clearing and settlement principles in the said Regulation may be separately specified on the basis of each instrument, Exchange and other organized market place or within the context of other criteria such as markets.

(2) The principles and procedures regarding the complete and timely fulfilment of the obligations of performed transactions, event of default, the measures to be taken, the sanctions to be applied and remedies for correction of the related event of default are regulated by the CCI Regulation.

(3) The CCI may, for the instances it shall define in the CCI Regulation, stipulate certain measures such as asking for fulfilment of clearing and settlement obligations without offsetting, asking for depositing the cash amount needed to execute orders in case of buy orders and for the entire or certain portion of the Capital market instruments to be deposited in case of sell orders before the execution of such orders.

### **Collaterals to be obtained in cases where the CCI does not provide CCP service**

**ARTICLE 25** - (1) The CCI asks Members to deposit collateral according to the principles to be stipulated in the CCI Regulation in order to ensure the fulfilment of obligations arising with itself as a result of executed operations.

(2) The principles regarding the application of collateral and collateralization procedures to the CCI Members at different rates on the basis of transactions, accounts and instruments to be traded, the eligible assets acceptable as collaterals and their delivery, collection, and the timing of the provision of collateral, interest accrual and usage shall be specified in the CCI Regulation.

(3) The CCI Members are required to ask their clients to provide collateral sufficient to cover the minimum rate or amount to be determined by the CCI Regulations. The Board may, by taking the developments in market conditions into consideration, impose a minimum limit on collateral rates or amounts, if necessary.

### **Collaterals received by the CCIs to provide CCP service**

**ARTICLE 25/A** – (1) The CCIs that will render CCP services shall require Members to provide collaterals according to the principles to be specified in the CCP Regulation in order to ensure the fulfilment of the obligations arising with itself as a result of executed operations. The detailed provisions regarding the application of different rates on the collaterals and margining methodologies on the basis of transactions, accounts and instruments to be traded which will be applied for the Members of the CCI to provide CCP services, types of the collaterals, assets that can be accepted as collaterals and their delivery, collection, and the timing of the provision of collateral, interest accrual and usage as well as the general provisions regarding the management of said collaterals shall be specified in the same regulation.

(2) The Members of the CCIs that will provide CCP services are required to ask their clients to provide collateral sufficient to cover the minimum rate or amount to be determined by the CCI Regulations. The Board may, by taking the developments in market conditions into consideration, impose a minimum limit on collateral rates or amounts, if necessary.

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

**ARTICLE 25/B** - (1) It is essential that the collaterals taken by the CCI and the assets of account holders are monitored separately from the assets of CCI. Except for the transactions related to the fulfilment of the clearing and settlement, the institution rendering Central counterparty service may not use such collateral or assets for purposes other than for which they are deposited. The CCI shall take the necessary precautions to ensure compliance with this Article.

### **Guarantee fund established in cases where the CCIs does not provide CCP service**

**ARTICLE 26** - (1) The CCI may, in order to avoid delays, create a guarantee fund which shall be used in cases of non-fulfilment of obligations related with the market, marketplace or Capital market instruments for which it does not provide CCP service. The Board may stipulate as a requirement the creation of a guarantee fund as to Capital market instruments and markets opened in the stock exchanges and other organized market places to which services are provided.

(2) The principles and procedures regarding the contribution to be made by Members and the CCI to the guarantee fund, interest to be accrued on such contributions, management and usage of the fund, and other issues related to the fund are specified by the CCI Regulation.

### **Guarantee fund established in cases where the CCIs provide CCP service**

**ARTICLE 26/A** - (1) The CCI that will render CCP service shall, in order to avoid delays, create a guarantee fund which shall be used in cases of non-fulfilment of obligations.

(2) The detailed provisions regarding the contributions to be made to the guarantee fund by the Members of the CCI that will provide CCP service, the interest to be accrued on such contributions, management and usage of the fund, and the other issues related with the fund shall be specified in the regulation that will be issued upon the approval of the Board after it is prepared by the related CCI.

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

**ARTICLE 27** - (1) Collaterals and guarantee fund contributions held with the Exchanges and the CCIs for the prevention of settlement risks pursuant to the regulations issued by the Board may neither be used for purposes other than that for which they were deposited, nor seized even for collection of public receivables, nor pledged, nor affected from the liquidation decisions of administrative authorities, nor included in the bankruptcy estate, nor be subjected to an interim injunction that may imposed thereon.

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

**ARTICLE 28** - (1) Provisions of Article 79 of the Law shall apply to settlement finality and right of pledge.

## **CHAPTER SIX**

### **Local and foreign CCIs that will provide service as CCPs**

#### **CCP service**

**ARTICLE 29** - (1) The Board may determine that the services to be provided by a CCI in respect of a specific Exchange or market shall be a CCP service where they undertake the settlement finality by assuming the role as a seller against the buyer or the role as a buyer 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 start providing the CCP service for the Capital market instruments traded at their structure.

(3) The local and foreign CCIs shall provide the CCP service in accordance with the CCP Regulation prepared based on the principles defined in Articles 77 and 78 of the Law and those specified in this Regulation. The amendments to be made in the said Regulation and in this Regulation shall be submitted to the Board for evaluation and approval together with the application documents.

#### **Operating permit for the CCP service**

**ARTICLE 30** - (1) A CCI established in Turkey upon the proposal of the Board and the related Minister's permission under the first paragraph of Article 77 of the Law may apply to the Board in order to provide the CCP service for any kind of markets and/or Capital market instruments pursuant to Article 36 of the Regulation; and a foreign CCI providing services as a CCP in a foreign country may apply to the Board in order to provide the CCP service for one or more approved over-the-counter derivatives instruments. The application must be made by the relevant CCI to the Board where the Board has determined that the CCI must provide its services by way of a CCP service for any over-the counter derivative instrument based on this Regulation under the first paragraph of Article 78 of the Law.

(2) The operating permit specified in the first paragraph is granted for the activities related to Central counterparty service only and the services and activities as well as the Capital market instrument or instruments covered under the scope of such authorization shall be separately announced following the authorization by the Board. The provision of this Article shall not apply in case that any CCI serving as CCP in a foreign country applies for rendering CCP services in Turkey. The application of these CCIs shall be evaluated within the scope of 30/Ç.

(3) The CCI that has made an application to the Board to provide the service as a CCP must comply with the following requirements in order to obtain an operating permit;

a) The CCI that will provide service as a CCP must have a minimum paid-in capital at the amount of TL 600.000.000, without prejudice to the obligations specified in the other Laws and regulations,

b) The equity of the CCI that will serve as a CCP, including its retained earnings and reserves, must be:

1) proportional with all risks arising from its central counterparty activities,

2) sufficient for suspension or restructuring of its activities in a sequential order within a specific period as long as its activities are continued,

3) at the amount providing sufficient coverage against credit, counterparty, market, operational, legal, and business risks that cannot be covered by its financial resources specified in Articles 25, 25/A, 26, 26/A and 31 of the Regulation,

c) Any and all information and documents indicating that they have made all the other arrangements stipulated by the laws and that they are in full compliance with all such requirements must be duly submitted to the Board.

(4) If the CCI authorized to provide service as a CCP fails to maintain any of the conditions required to become a CCI or to be authorized as a CCP; the Board shall be informed as of the date such situation has arisen.

(5) The Board shall, before granting a permission for the activities of the CCI that will provide service as a CCP, review all the information related with the CCI's shareholders, regardless of whether such shareholder/s is/are direct or indirect shareholder/s.

(6) The Board shall not give operating permit to the relevant CCI unless it concludes that the relationship between the CCI that will serve as a CCP and a third natural or legal person or entity will not prevent the Board's supervision and audit activities. It is mandatory that such a situation must be proved by the relevant CCI before issuance of its operating permit.

(7) The Board may also stipulate additional conditions in addition to the conditions set forth in the third paragraph of this Article.

(8) The Board is authorized to change the capital amounts specified herein.

(9) The Board shall evaluate whether the application is complete or not within 60 business days upon receipt of the application by the Board. If any deficiency is identified in the application, the relevant CCI is granted a period of not more than 30 business days for submission of additional information and documents to the Board. If the documents are found incomplete again, the application of the CCI that will provide service as a CCP is cancelled. The cancellation of the application does not prejudice the resubmission of another application to the Board for providing service as a CCP.

(10) After the CCI that will serve as a CCP applies to the Board and the Board determines that application documents are complete; the Board requests the related opinions from the CBRT, BRSA and the other public authorities that may be concerned. If the BRSA, the CBRT or other relevant public authority provide a reasoned opinion indicating that the application should be rejected and the Board considers that the issues specified in the rationale of such rejection can be remedied by the CCI that will serve as a CCP; the relevant CCI is given a period of 30 business days following the notification of such deficiencies to such CCI in order to allow it to make the necessary corrections. If the CCI that does not submit the necessary information and documents to the Board within this period, its application shall be deemed rejected by the Board and the relevant CCI shall be informed in writing within 30 business days. If the BRSA, the CBRT or other relevant public authority provide a reasoned opinion indicating that the application should be rejected and the Board considers that the issues specified in the rationale of such rejection cannot be remedied; the application is also rejected by the Board and the relevant CCI is informed in writing within 45 business days following the receipt of such opinion by the Board.

(11) The Board may authorize the CCI that will serve as a CCP to conduct activities in the capital markets providing that the relevant CCI must have fulfilled all of the obligations specified in this regulation.

#### **Extension of operating permit**

**ARTICLE 30/A** - (1) If a CCI authorized to provide service as a central counterparty in a specific market or Capital market instrument applies for providing CCP service in relation to a new market or Capital market instrument not included in its initial operating permit; such application shall be considered as extension of its operating permit.

(2) The applications to be made for extension of operating permit shall also be evaluated under the scope of the other provisions except for the first paragraph of Article 30 of the Regulation.



(3) If the authorized CCI to serve as CCP applies to the Board with a request to conduct any activities in a foreign country not included in its initial operating permit; the Board shall inform the competent authority of the related country.

#### **Reviews and assessments to be made by the Board**

**ARTICLE 30/B** - (1) The Board shall review the regulation, strategy, process and mechanisms to be applied by the CCI authorized to serve as CCP within the framework of this Regulation and the relevant CCI Regulation and assesses the risks that it is exposed to or likely to be exposed to.

(2) The Board is entitled to decide on the frequency and details of such reviews and assessments that will be conducted, considering the relevant CCI's characteristics such as its size, systemic importance, structure, extent, etc.

(3) The Board is entitled to require the CCI authorized to serve as a CCP, that has failed to fulfil its obligations under this Regulation and the other relevant regulations, to urgently take any and all the necessary measures and perform the necessary actions.

(4) The authority of the CBRT and BRSA regarding the operating permit, supervision and audit of the payment and settlement systems are reserved.

#### **Cancellation of operating permit**

**ARTICLE 30/C** - (1) The operating permit of the CCIs authorized to serve as CCP shall be directly cancelled by the Board ex officio in case of existence of any of the conditions listed below:

a) If the relevant CCI has failed to perform its authorized activities within 12 months following the issue of such operating permit or expressed in writing that it has waived its authorization b) If the relevant CCI has provided or made incorrect, inaccurate and misleading information and documents or statements to the Board during the stage of issuance of its operating permit;

c) If the relevant CCI no longer meets one or more of the conditions verified to have been satisfied in relation to issuance of an operating permit or has failed to take the necessary corrective actions specified by the Board and required to be taken in a specific period of time;

ç) If the relevant CCI seriously and repeatedly breaches any of the obligations specified in this Regulation.

(2) In such cases, the Board shall inform all local or foreign authorities required to be informed thereof in writing within 30 business days following the date of its decision.

(3) The Board may restrict the cancellation of the related operating permit to a specific market or Capital market instrument.

## **CHAPTER SEVEN**

### **Foreign Country CCIs that will provide CCP Service in Turkey**

#### **Recognition in Turkey**

**ARTICLE 30/Ç** - (1) CCIs established in a foreign country are required to obtain recognition in Turkey in order to provide CCP and relevant clearing and settlement services for the over-the-counter derivatives transactions which take place between investment institutions, established and operating activities in Turkey, and their clients as well as those which take place among themselves.

(2) The recognition of foreign CCIs as a CCP in Turkey which will provide CCP services in the over-the-counter derivatives instruments in Turkey pursuant to the first paragraph of Article 78 of the Law shall be permitted by the related Minister upon the Board's proposal.

(3) The CCI that will serve as a CCP in the over-the-counter derivatives instruments is responsible for transmitting all the necessary information to the trade repository/data storage institution established pursuant to Article 87 of the Law.

(4) In order for a foreign CCI that will serve as CCP in the over-the-counter derivative instruments in Turkey, to obtain recognition in Turkey, the following requirements must be complied with:

(a) The foreign CCI must have been authorized as a CCP by the relevant authority in its country,

(b) It must have fully complied with all regulations applicable in its own country; it must be subject to effective supervision and at least an annual audit must be conducted by the relevant foreign authorities; and these issues must be certified with official documents,

(c) It must be subject to regulations in its own country that are at least equivalent to the prevention of the laundering of proceeds of crime and financing of terrorism regulations that are applicable in Turkey,

(ç) Its risk assessment must have been carried out by the authority of its country of incorporation,

(d) It must have been established in a country that has completely adopted and is applying CPMI-IOSCO Principles for Financial Market Infrastructures and in this context, it must be verifiable that it is subject to effective supervision and audit within the framework of such principles in the countries where it has been incorporated and/or it provides services,

(e) The agreements to be signed with Members must contain all information that will be requested by the Trade Repository providing services in Turkey, must not contain any unfair clauses against the Members and must have explicit provisions regarding the governing law of the country under which the disputes arising from the agreement will be settled,

(f) It must have established a representative office which is located in Turkey and is comprised at least three officers with sufficient professional experience and the integrity and reputation required by the business.

The related CCI is responsible for submission of such documents to the Board as well as all other information and documents that will be required to be used in the Board's reviews and for the accuracy of the information and documents submitted as such. The Board may impose any other obligations in addition to the requirements specified herein.

(5) The applications for recognition of a foreign CCI as CCP in Turkey shall be made directly by the related CCI to the Board.

(6) In recognition of foreign CCIs that will serve as CCPs in the over-the-counter derivatives instruments in Turkey, the processes specified in paragraphs 9 and 10 of Article 30 shall be followed.

(7) The Board shall, in any event, provide reasoned information with respect to the result of the application for recognition of the relevant foreign CCI within 180 business days after it receives a complete set of information and documentation related to the application.

(8) It is mandatory that there is a cooperation agreement signed between the relevant authority of the country of incorporation of the foreign CCI that will serve as a CCP in the over-the-counter derivatives in Turkey and the Board. The agreement shall at least contain the following conditions:

a) the mechanisms specifying how the information exchange between the Board and the relevant authority will be performed, including access to any and all information that may be requested by the Board,

b) the mechanisms stipulating that the Board should be immediately notified by the relevant authority where it becomes aware of the fact that the related CCI breaches one or more of the regulations to which it is subject in its own country,

c) the mechanisms stipulating that the Board should be immediately informed by the relevant authority if the related CCI will provide CCP services in a different country,

ç) the procedures regarding the coordination of all supervision and audit activities, including onsite audit, in case of occurrence of all the required conditions.

#### **Extension of recognition**

**ARTICLE 30/D** – (1) If the foreign CCI, after its recognition as a CCP in Turkey, wishes to provide CCP services for a new over-the-counter derivative instrument in Turkey which has not been included in the initial operating permit, then, it shall apply to the Board to obtain permission for an extension of its recognition. The provision of any service other than the services permitted by the Board during its recognition by the Board is also considered under the scope of extension of recognition. The Board is entitled to take decision in relation to the application for extension of recognition by considering

the characteristics of the foreign CCI recognized as CCP such as its size, systemic importance, structure, and by evaluating the impact of the new activity to be conducted on such CCI's existing activities.

(2) The Board is entitled to reject the application for extension of recognition of the foreign CCI.

(3) The applications for extension of recognition of foreign CCPs are considered under the scope of other provisions except for the first and second paragraphs of Article 30/Ç.

## **CHAPTER EIGHT**

### **Obligations of CCIs providing service as CCP**

#### **Financial liability of CCIs providing the CCP service**

**ARTICLE 31** - (1) The financial liability of the clearing and settlement institutions in clearing and settlement transactions where they act as CCP shall be determined within the limits to be allocated and in accordance with collaterals and other guarantees to be collected from Members.

(2) If the fulfilment of the obligations has caused impairment in the equity of the central clearing institution; this situation shall be notified to the Board on the same day together with its reasons. The CCI shall urgently take all necessary measures including undertaking a capital increase so as to restore its financial position. Until the required equity is restored, the CCI shall send its statement of changes in the equity which is prepared according to Turkish Accounting Standards to the Board on a weekly basis.

#### **Default**

**ARTICLE 31/A** - (1) Default in the market or Capital market instruments to which the CCP service is provided means that the CCI Members have failed to completely fulfil their obligations to the CCI in the markets or Capital market instruments for which the CCI provides the CCP service within the deadlines specified in this Regulation, the related CCP Regulation and the relevant sub-regulations.

(2) The CCP service comprises the accounts opened at the CCI which provides CCP service and within the scope of this service as well as the transactions executed through such accounts and ends upon the finalization of the clearing and settlement of the relevant transactions.

#### **Default management**

**ARTICLE 31/B** - (1) The following order of priority shall be applied in case of default of the Members of the CCI providing the CCP service when using, the collateral and guarantee fund contributions and the resources of the CCI providing the CCP service:

a) Collaterals held in the accounts of the defaulting CCP Member itself or in the client accounts under itself where a deficit of collateral occurs,

b) The deposited guarantee fund contribution share of the defaulting CCP Member,

c) Compensations to be made from insurance policies, if any,

ç) The capital allocated for the covered risks by the CCI providing the CCP service,

d) Deposited guarantee fund contributions of other CCP Members,

e) Additional guarantee fund contributions that may be requested from the CCP Members,

f) Commitment made from the remaining capital of the CCI providing CCP service.

(2) The order specified in the first paragraph of this Article is for the use of assets that may be applied to cover the losses which may arise due to default. In case of default, the CCI providing CCP service shall ensure the finalization of the clearing and settlement process or liquidation of the debt by making use of borrowing facilities, and any other third party resources (if any), along with the resources stated above, within the limitations specified in the CCP Regulation as well as its priorities related to the management of liquidity. In case there is any delay resulting from the liquidation of collaterals in the fulfilment of the clearing and settlement obligations by the CCI providing CCP service, default interest shall be payable to the entitled party. In case of the request or acceptance by the entitled party, it is possible to fulfil the clearing and settlement obligations by porting the collaterals at the market prices.

(3) In case that separate guarantee funds are established for the markets or Capital market instruments by the CCI providing CCP service, the prioritization made in the first paragraph shall be applied separately for each guarantee fund. In such cases, the capital allocated and committed from the capital of the CCI providing CCP service within the framework of subparagraphs (ç) and (f) of the first paragraph of this Article shall be allocated in proportion to the sizes of the guarantee funds, pursuant to the decision adopted by the Board of Directors.

(4) The guarantee fund contributions belonging to the CCP Member in default established for other markets may be used for the Member's obligations in the market where it has defaulted, subsequent to subparagraph (d) of the first paragraph of this Article, providing that there is no risk in the relevant markets or all positions have been liquidated. In addition to the defaulting CCP Member's collaterals and guarantee fund contributions, other assets of the CCP Member in default held at the CCI providing CCP service, provided that they are free, may be used in the finalization of the clearing and settlement of the obligations as well as liquidation for debt payment.

(5) Any parts of the collaterals and guarantee fund contributions of the defaulting CCP Member which have not been used yet, if any, as well as the resources to be provided from the follow-up of the relevant Member shall be used initially for the debts obtained for the fulfilment of the CCP Member's obligations, if any. If there is any part remaining from the resources to be provided from the follow-up of the CCP Member after liquidation of the debts, these resources shall be initially used for the return of the additional guarantee fund contributions taken before from the non-defaulting CCP Members, and then for the return of the deposited guarantee fund contributions of the CCP Members that have not defaulted. The return shall be made on a pro rata basis. The CCI providing CCP service shall not make any payment or return to the defaulting CCP Member unless all primary and secondary obligations resulting from the default, including also the part covered from the capital of the CCI providing CCP service are discharged.

(6) The CCI providing service as CCP shall update and announce on its website the allocated and committed capital amounts for the subsequent term, except for the additional equity that may be provided within the framework of the fifth paragraph of this Article, pursuant to the subparagraphs (ç) and (f) of the first paragraph of this Article once a year until the first business day of the fourth month of the current year at the latest.

(7) Other issues related with default management shall be regulated in accordance with the international regulations adopted by the Board if any.

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

**ARTICLE 32-** This Article is repealed and rearranged as the Article 25/B.

#### **Other issues related to risk management in the CCP service**

**ARTICLE 33 -** (1) The CCIs providing CCP service have to measure and evaluate the credit and liquidity risks arising from its Members and other interoperable CCIs in relation to CCP services on a near real-time basis. The risk management systems established at the CCI serving as CCP must be capable of showing the total risk of each Member at any time.

(2) The CCI rendering service as a CCP shall, for the positions for which it has undertaken to fulfil the obligations that will arise from the Central counterparty services, require the provision of an initial margin in the amount to be calculated with a specific statistical confidence level from the historical data for a specific time period in order to cover the possible price movements during the period that will elapse from the creation of the positions on the basis of Capital market instrument or markets until the liquidation of these positions; and a variation margin in order to cover any price changes in such positions. It is required that margin requirement calculations should be updated in a period not longer than one day; and margin calls should be made on a daily basis and in any event when the specified maximum or minimum limits are reached.

(3) The statistical confidence level to be used for calculation of initial margin may not be less than 99,5% for over-the-counter derivatives and not less than 99% for other Capital market instruments. The historical data to be used in the calculation of initial margins must cover any and all price movements in

the market, if available, and at least the last 12-month period in any case; and the scenarios to be used in the absence of historical data must be selected with proper prudence. The holding period to be used in the calculation of initial margin shall not be less than 5 business days for over-the-counter derivatives, and not less than 2 business days for other financial instruments.

(4) When determining the risk parameters to be used in the calculation of initial margin, the CCI serving as CCP shall consider the following factors:

- (a) the level of complexity and uncertainty of pricing of the Capital market instrument,
- (b) the risk characteristics of the Capital market instrument (volatility, liquidity, duration, convexity, wrong-way risk, etc.),
- (c) the degree of efficiency of other risk control methods applied,
- (ç) Other important factors specific to the related Capital market instrument (leverage level, concentration, difficulties in closing out the position, margin calculation and fulfilment period, default management periods, etc.).

In order to ensure the stability of the risk parameters and to provide protection against procyclicality, the CCI serving as CCP may, prefer the option of increasing the calculated margin requirement by 25%, assigning at least 25% weight to stressed observations in the historical data or applying the margin requirement calculated using the last ten-year historical data.

(5) The Board is entitled to permit the reduction of the statistical confidence level to 99% and reduction of the holding period to 2 days to be applied for the calculation of initial margin for other over-the-counter derivatives which are considered as not riskier than the OTC derivatives traded at organized markets within the framework of the criteria specified in the fourth paragraph.

(6) The CCI providing service as a CCP shall review the theoretical and empirical properties of the models and parameters used in the calculation of margins, default fund contributions and other margin requirements related with their service or in the other risk control mechanisms at least once a year. Models and methodologies used to maintain their reliability and resilience under extraordinary conditions shall be demonstrated by stress testing, sensitivity tests and analyses and backtesting. The related test results are reported to the risk committee and shared with Members at least quarterly. It shall also be ensured that material changes to be made in the models and parameters are discussed in the risk committee and are also reviewed independently.

(7) In the activities and programmes for testing the reliability and resilience of the risk models created by the CCI providing service as CCP or for the adequacy of financial or liquid resources, the rules specified below shall be complied with.

(a) The coverage rate of the margins for the risks occurred within the period during which such margins have been calculated is analysed via back testing to be performed on daily basis. The adequacy of margin valuation haircuts is tested on a monthly basis.

(b) Sensitivity tests and analyses are conducted to demonstrate the results to be produced by the models used for margin calculations under various market stress conditions that will be determined historically and/or hypothetically. Actual Member portfolios that may set examples must be used in such sensitivity tests and analyses. Sensitivity tests and analyses are performed at least on a monthly basis.

(c) The adequacy of the liquid and/or total financial resources of the CCI providing service as CCP is tested through stress testing on a daily basis.

(ç) Reverse stress tests are conducted at least on a quarterly basis in order to identify the number of defaults and/or market conditions under which default management resources will become insufficient and the Board shall be informed of the results of such tests together with the other testing results.

(d) The CCI providing service as CCP shall use the testing results for review and adjustment of the models in accordance with the policies and procedures, and for re-determination of the margin requirements and/or margin valuation haircuts.

(e) The CCI serving as CCP shall publicly disclose the general characteristics of the models and methodologies used, the parameters used, the tests conducted, the results achieved and the measures taken, if any.

(8) The Board is entitled to request an independent audit of the consistency and validity of the models and parameters used by the CCIs providing service as CCPs. If it is necessary to make a material change in the risk calculation methods used by the CCI providing CCP service, the Board shall be informed thereof. The Board reserves its right to request any changes in relation to such issues.

(9) The CCI providing CCP service shall take the necessary measures in order to limit its cash settlement risk in cases where it does not use central bank accounts.

(10) It is essential to apply delivery versus payment principle as much as possible in the settlement of securities. It is required to obtain the Board's consent for any other practices deemed necessary.

## **CHAPTER NINE**

### **Interoperability Arrangements with other CCP Institutions**

#### **Interoperability with other CCPs**

**ARTICLE 33/A** - (1) The CCI serving as CCP may enter into an Interoperability arrangement with another CCP in relation to the CCP services to be provided in the Capital market instruments and money market instruments providing that the requirements laid down in the Articles 33/B and 33/C are fulfilled. The CCP to be worked with Interoperability arrangement should be recognized by the European Securities and Markets Authority.

(2) The Interoperability arrangements are initially submitted to the approval of the Board and other competent authorities.

(3) The Board shall approve the Interoperability arrangements only if the CCPs that plan to interoperate have each fulfilled the provisions below:

a) It has obtained the operating permit from the Board based on the Article 30 or has been operating as CCP for at least 3 years by being authorized by the competent authority in another country,

b) It has proved to the Board that the provisions of the Regulation on risk management have been met,

c) It has proved to the Board that the financial markets will continue to operate smoothly and regularly and that all technical requirements for the clearing and settlement transactions will be met.

(4) If the Board considers that the conditions set forth in the second paragraph are not fulfilled, the Board requests a written explanation from the relevant public institutions and organizations and foreign authorities as well as from the relevant CCPs and may reject such arrangements by evaluating them to bear risks for the capital markets.

(5) When establishing an Interoperability agreement between two CCPs for the purpose of providing services to/at Exchanges/other organized market places or other markets; both CCPs must have non-discriminatory/equal access to the relevant settlement system and to the data that they need for the performance of their functions, to the extent that they comply with the operational and technical requirements established by the related Exchanges, other organized market places or other markets.

(6) The Board may restrict or reject the access to the data resources or clearing and settlement system as referred to in the first and second paragraphs, directly or indirectly, only in order to control any risk arising from that arrangement or access.

#### **Risk management in Interoperability**

**ARTICLE 33/B** - (1) CCPs that enter into an Interoperability arrangement shall:

a) put in place adequate policies, procedures and systems in order to effectively identify, monitor and manage the risks arising from the Interoperability arrangement so that they can meet their obligations in a timely manner.

b) mutually agree on the respective rights and obligations, including the applicable law governing their Interoperability relationships.

c) identify, monitor and effectively manage credit and liquidity risks so that a default of a CCP Member does not affect the other interoperable CCP.

ç) determine, define and monitor the correlations and potential dependencies resulting from Interoperability arrangement that may affect the credit and liquidity risk associated with the concentration of CCP Members and aggregation of financial resources.

(2) For the purposes of subparagraph (b) of the first paragraph, CCPs are obliged to use the same rules regarding the moment of entry of transfer orders into their respective systems and the moment they become irrevocable.

(3) For the purposes of subparagraph (c) of the first paragraph; the terms of the Interoperability arrangement shall outline the process for managing the consequences of the default in case that one of the interoperable CCPs is in default.

(4) For the purposes of subparagraph (ç) of the first paragraph, the relevant CCPs shall establish robust control mechanisms over the reuse of collaterals held by them under the Interoperability arrangements concluded among CCP Members, if permitted by their competent authorities. Interoperability arrangement shall outline how those risks have been addressed taking into account sufficient coverage and the need to limit contagion.

(5) Where the risk management models used by the CCPs in order to cover the exposure from their Members or their reciprocal exposures are different; the CCPs shall identify such differences and assess the risks that may arise therefrom and take all the necessary measures including securing additional financial resources. Thus, the CCPs limit their impact on the Interoperability arrangement as well as their potential consequences that may arise in terms of contagion risk and ensure that such differences do not affect each CCP's ability to manage the consequences of any Member's default.

#### **Provisions regarding collaterals received by CCPs in Interoperability arrangements**

**ARTICLE 33/C** - (1) A CCP shall segregate the assets and positions held at the accounts of other CCPs with which Interoperability arrangements have been established.

(2) If a CCP that enters into an Interoperability arrangement with another CCP only provides initial margins to that CCP, the receiving CCP shall have no right of use over the margins provided by the other CCP.

(3) Collateral received in the form of securities shall be deposited with the CRA if received within the framework of the transactions related to Capital market instruments under the scope of Board regulations; with an authorized central custody institution if received within the framework of the transactions related to foreign Capital market instruments; if otherwise cash collaterals shall be deposited with banks.

(4) The assets referred to in the first and second paragraphs shall be available to the receiving interoperable CCP only in case of default of the CCP which has provided the collaterals in the contexts of the Interoperability arrangement.

(5) In case of default of the CCP which has received the collaterals in the context of an Interoperability arrangement, the said collaterals shall be readily returned to the CCP which has provided such collaterals.

## **CHAPTER TEN Financial Provisions**

#### **Budget and staff**

**ARTICLE 34-** (1) The CCIs shall determine their budgets and staff by themselves through their Board of Directors.

#### **Investment policy for the CCIs providing service as CCP**

**ARTICLE 34/A** - (1) The investments to be made by the CCI providing CCP service must be capable of being liquidated rapidly with minimal adverse price effect. The amount of capital of the CCI

providing service as CCP which is not used as such shall not be taken into account for default management.

(2) The CCI providing service as CCP shall not invest its capital or any of its resources to be used in default management such as margins received or guarantee fund contributions in the securities issued by itself, its primary shareholders or its affiliates and subsidiaries.

(3) The CCI providing service as CCP shall invest its relevant financial resources in cash, deposits or mutual funds participation shares or highly liquid securities with minimal market and credit risk. The CCI providing service as CCP may invest in derivative financial instruments only if it is necessary during the default management process. Securities on which CCI serving as a CCP will make investments must be issued or their payments must be guaranteed by the state or central banks; be freely and readily transferable; and must have an active market comprising many buyers and sellers and must be regularly announced price information; and the average remaining term of the portfolio should be taken into account in the investments in debt securities to be made.

(4) The cash resources of CCI, which serves as CCP, consist of its own cash resources, cash collateral collected and cash guarantee fund contributions. CCI invests its own cash resources at the CBRT, banks operating in Türkiye, Borsa İstanbul Anonim Şirketi (BİAŞ) Money Market, BİAŞ SWAP Market or BİAŞ Debt Securities Market. CCI invests the cash collateral collected and cash guarantee fund contributions at the CBRT, banks operating in Turkey, BİAŞ Money Market or the Repo-Reverse Repo Market and Committed Transactions Market which are under the BİAŞ Debt Securities Market in a way that ensures that they are collateralized with debt securities that have the features specified in the third paragraph. It is essential that at least 95% of the cash transaction collateral and cash guarantee fund contributions that cannot be invested in these areas are invested in reverse repo transactions in a way that ensures that they are collateralized with debt securities that also have the features specified in the third paragraph.

(5) The CCI providing CCP service shall act within the concentration limits that it will establish considering its total credit risk exposure to any counterparty while taking its investment or placement decisions. In the monitoring of concentration limits, all obligations of the same issuer or counterparty towards the CCI providing CCP service shall be taken into account. The policies and procedures of the CCI providing service as CCP, which are related to investment and placements, must ensure sufficient diversification and risk allocation among financial assets, issuers or counterparties. Such policies and procedures shall be regularly reviewed at least once a year.

#### **Incomes, fees and commissions**

**ARTICLE 35** - (1) The fees and commissions applied by the CCIs 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 as well as their collection periods and methods shall enter into force upon the proposal of their Board of Directors and approval of the Board.

(2) Fees received for other services that are not compulsory to benefit from the CCI's main services, but are rendered in relation to such services to the requesting participants shall be determined by the CCIs and submitted to the Board for information. Even if compulsory for Members, the training services provided by the CCIs shall be considered within the scope of this paragraph.

(3) Fees received for other activities that are not related to the core or ancillary services shall be submitted to the Board for information collectively and in a detailed manner by the end of each accounting period.

## **CHAPTER ELEVEN**

### **Other Provisions**

#### **Recordkeeping**

**ARTICLE 35/A** - (1) The CCI shall maintain all records on the services and activities provided for a period of at least 10 years so as to enable the Board to audit and monitor its compliance with the provisions specified in this Regulation as well as other relevant regulations.

(2) The CCI shall maintain, for a period of at least 10 years, all information on all contracts it has



processed, including the original versions, the transaction records that will clearly demonstrate each step of the clearing and settlement process, the records related to positions and collaterals and details that will demonstrate its Members and, where necessary, its clients' account details and its risk exposures and the detailed records of its reports submitted to the trade repositories. Such information must be sufficient for

determination of at least the original terms and conditions of the related transaction before execution of the clearing/settlement by the CCI.

### **Outsourcing**

**ARTICLE 35/B** - (1) Where a CCI outsources operational functions, services or activities, it shall remain fully responsible for discharging all of its obligations under this Regulation and all other regulations; and the CCI shall ensure at all times that:

- a) The outsourcing does not result in the delegation of its responsibilities,
- b) The relationship and obligations of the CCP towards its clearing Members or, where relevant, towards their clients are not altered,
- c) The conditions for authorisation of the CCP do not effectively change
- ç) The outsourcing does not prevent the exercise of supervisory and oversight functions, including on-site access to acquire any relevant information needed to fulfil those mandates,
- d) The outsourcing does not result in depriving the CCP of the necessary systems and controls to manage the risks it faces,
- e) The service provider implements equivalent business continuity requirements to those that the CCP must fulfil under this Regulation,
- f) To evaluate the quality of the services provided and the organisational and capital adequacy of the service provider, , the related service provider must have the necessary expertise and resources and effectively supervises the outsourced services and manage the risks associated with the outsourcing and supervises the outsourced functions and manages the related risks on an ongoing basis,
- g) The CCI has direct access to the information of the outsourced function,
- ğ) The service provider cooperates with the competent authority/authorities in connection with the outsourced service,
- h) The service provider will protect any confidential information relating to the CCI and its clearing Members and clients in compliance with the regulation on protection and non-disclosure of personal data which are applicable in Turkey as well as the highest international standards.

(2) The CCCI shall not outsource its activities linked to risk management unless such outsourcing is approved by the competent authority.

(3) The respective rights and obligations of the CCI and of the service provider shall be clearly allocated and set out in a written agreement.

(4) The CCI shall make all information necessary to enable the Board to assess the compliance of the performance of the outsourced activities with this Regulation available on request in order to obtain the authorization.

(5) Foreign CCIs serving as CCP for over-the-counter derivatives instruments in Turkey shall be subject to the provisions of this Article regarding outsourcing; and shall submit all information and documents to the Board that will be requested by the Board, indicating the fields for which services are outsourced at the application for recognition. The Board is entitled to request changes if it determines that such outsourcing adversely affects the CCI's functionality and it may reject the application for recognition if such requests are not fulfilled.

### **Authority of the CCIs to request information and documents and to conduct inspection**

**ARTICLE 36** - (1) The CCIs are entitled and authorized to request information and documents from their Members and to 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 at its sole discretion, to apply sanctions for the regulatory divergences related to the clearing/settlement operations identified during such activities.

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

(3) The CCIs are entitled and authorized to make regulations in relation to the powers and duties assigned to them by the Law and other legislation and to execute such regulations accordingly.

(4) The CCIs shall make a notification to the Board in case of gross negligence or intended breach of their rules detected during their inspections carried out within the scope of this Article.

#### **Audit of the CCIs**

**ARTICLE 37** - (1) The Board is the authority for regulation, supervision and control of the CCIs related to their operations within the scope of the Law. The Board is authorized to make supervision and audits or to procure the performance of independent audits in relation to the clearing and settlement operations, the risk management processes, internal control mechanisms, accounts, and collateral management systems at the CCIs and all other issues related with their operations within the scope of the Law where it deems necessary. The CCIs have to provide a suitable working environment to the personnel authorized to conduct such audits. The Board is authorized to request the CCIs and their Members to fulfil certain matters that it deems necessary in relation to central clearing operations and to send any and all information and documents upon its request or on a regular basis.

(2) The CCIs are subject to the provisions of the Communiqué on the Management of Information Systems with respect to the principles and procedures regarding the audit of information systems and to the institutions that will conduct such audits.

(3) The audit of risk management systems of the CCI providing CCP service shall be conducted by the CCI internal audit, internal control or its unit having similar description of duties and the Board is notified at specific periods specified under paragraph 5 of Article 78 of the Law. The Board reserves its other rights specified in Article 78 of the Law on governing risk management.

(4) The independent audit of the CCIs' annual financial reports shall be conducted by the independent audit companies included in the list announced by the Board. The report prepared as a result of such independent audit shall be sent to the relevant CCI and the Board simultaneously.

(5) The CCIs that 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 regulations on independent auditing. The report prepared as a result of such independent audit function shall be sent to the relevant CCI and the Board simultaneously. The Board may, if it deems necessary, demand an independent audit assessment on the issues it determines.

#### **Financial reporting**

**ARTICLE 38** - (1) The CCIs publicly disclose their financial statements and reports on their websites. The CCIs must prepare such financial statements and reports in the form and content within the framework of the Turkish Accounting Standards and according to the regulations specified by the Board, by considering the features of CCI operations, in a timely, complete and accurate manner and submit them to competent authorities accordingly.

(2) The reports related to financial statements of the CCI providing service as CCP shall contain detailed explanations about the capital amount allocated for default management as well as the assets of the collateral and guarantee fund accounts.

#### **Information to be disclosed to the public**

**ARTICLE 38/A** - (1) The CCIs shall make at least the following information available to the public through their websites on a free of charge basis:

(a) The corporate governance arrangements of the CCI,

(b) All of their operational rules including default management procedures, risk management systems, rights and obligations of their Members and clients, conditions required to have access to Central counterparty services, criteria related with admission to, retirement from and suspension of membership, agreements to be signed with their clients, terms for Interoperability arrangements with the other CCIs, and the principles for the use of collateral and guarantee fund contributions,

(c) a list of assets accepted as collaterals and valuation haircuts,

- (ç) a list of clearing Members,
  - (d) Commissions and fees applied by the categories or markets to which services are rendered together with discounts and discount conditions, if any,
  - (e) Volumes of clearing operations by each class of instruments for which Central counterparty service is provided,
  - (f) Technical requirements regarding system communication protocols,
  - (g) Members' breaches of conditions for membership to the extent that the Board does not consider that they will jeopardize the confidence and stability in the markets or cause those concerned to incur disproportionate damage.
- (2) The CCI shall provide access to the special services it renders by its Members or clients; inform its Members or clients about the risks related to such services; and disclose the end-of-day prices used in calculation of its Members' risk exposures to it.

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

**ARTICLE 39-** This Article is repealed and rearranged as Article 41/A.

### **Supervision system and cooperation**

**ARTICLE 40 -** (1) The CCIs are authorized to request information and documents from their Members and natural persons and legal entities who perform transactions or give instructions and to conduct inspections in respect of the matters that the CCIs deem necessary in relation to their activities covered under this Regulation. Parties from whom information and documents are requested may not refrain from providing information based on non-disclosure and confidentiality provisions specified in their exclusive legislation about the issues in the CCIs' field of responsibilities.

(2) The CCIs are responsible for providing and exchanging all technical support, assistance, and information with the Exchanges and other related institutions, within the framework of the principles and procedures specified by the Board, for the prevention, supervision or control of market disruption and other offences stipulated by the Law and the efficient application of the regulations issued based on the Law. The CCIs shall perform the duties to be assigned to them by the Board and make the necessary cooperation arrangements. Transactions and actions conducted in this context do not constitute a breach of the nondisclosure obligation and the confidentiality rules specified in the Law and other legislation. The CCIs 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 101 of the Law.

(3) The CCIs are entitled to exchange information and cooperate with the Exchanges and capital market institutions located in this country and abroad as well as other related organizations and entities according to the principle of reciprocity, for the purpose of providing the efficiency of clearing and settlement and Central counterparty services and risk monitoring.

(4) The CCI shall provide support to relevant Exchanges for the settlement of disputes which occur among their Members or with their clients in relation to clearing and settlement and the related transactions.

(5) The information and registration requests of the public institutions authorized by the law or the legislation explicitly authorized by the law are met by the CCI. The information and registration requests of the foreign authorities shall be forwarded to the Board by the CCI and such requests shall be evaluated by the Board under bilateral or multilateral agreements.

### **Business continuity**

**ARTICLE 40/A -** (1) The CCIs must operate within an organizational structure that will allow them to conduct their services and activities continuously and in a regular manner. The CCIs shall establish and maintain a business continuity policy ensuring protection of functions, recovery of

operations and fulfilment of obligations and incorporating the actions to be taken in case of extraordinary circumstances, within the framework of this policy, shall prepare a business continuity plan to allow for the recovery of all transactions, without any error, at the time of disruption to allow the CCP to continue to operate with certainty and to complete settlement on the scheduled date. (2) The business continuity plan must be approved by the Board of Directors and reviewed and revised at least annually. The business continuity plan defines all critical functions including outsourced or subcontracted services; and takes into account the related systems with links and interdependencies with the CCI, including the platforms providing clearing/settlement service, custodian institutions, payment systems, banks worked with and other CCIs. The business continuity plan identifies the maximum acceptable downtime of critical functions. It is essential that this period shall not exceed two hours and that the end-of-day procedures and payments shall be completed within the planned day in all circumstances.

(3) The CCI must conduct business impact analyses in order to identify its critical functions and to demonstrate the sustainability of such functions under various disaster scenarios. It is required that the backup systems to be used for recovery of the CCI's critical functions must be located in a secondary business site that will be established in a different place outside the primary business site. The scenarios to be used for testing of the business continuity policy and the disaster recovery plan must also involve the switchovers between primary and secondary sites.

(4) The CCI must have a crisis management function that will act in case of emergencies. It must be planned how to establish internal and external communication during a crisis and how to inform the management and stakeholders throughout the crisis. The crisis management function must be monitored and reviewed by the Board of Directors.

#### **Corporate governance**

**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 CCIs by analogy.

(2) The CCIs operating within a capital group must analyze the impact of this group on the CCI's corporate governance principles, whether it has the sufficient level of independence to meet its regulatory obligations as a distinct legal entity and whether the CCI's independence could be compromised by the current group structure or by any board Members that are also taking office in the other legal entities of the same capital group and take the necessary measures including the informing of the related public authorities in case of existence of any negative situation.

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

**ARTICLE 41/A** - (1) The Board is authorized to impose the measures specified in Article 96 of the Law against the CCIs' illegal activities and operations; and the measures in Article 97 of the Law in case of deterioration of their financial position.

#### **Application principles**

**ARTICLE 42** - (1) The Board is entitled and authorized 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, and 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 sixth paragraph of Article 9 of this Regulation shall not apply.

#### **Temporary provisions regarding Istanbul Settlement and Custody Bank Inc.**

**PROVISIONAL ARTICLE 1** - (1) For the independent audit of Istanbul Settlement and Custody Bank Inc., the provisions of the eleventh paragraph of Article 138 of the Law shall apply. The report

prepared as a result of such independent audit shall be sent to the Ministry of Treasury and Finance, the relevant CCI and the Board simultaneously.

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

**PROVISIONAL ARTICLE 2** - (1) The changes made by Istanbul Settlement and Custody Bank Inc. in 1 year following the date of publication of this Regulation shall be complied with. This period may be extended if deemed appropriate by the Board.

(2) The provisions of the CCI Regulation and the Central Counterparty Regulation, which are not contrary to this Regulation, shall be continued to be applied until a new arrangement is made.

**Entry into Force**

**ARTICLE 44** - (1) The Article 12 of this Regulation shall enter into force on 30/6/2020 and other articles on the date of publication. The members of the Board of Directors who are still on duty on 30/6/2020 shall continue their duties until the end of their term of office without requesting any information and documents.

**Execution**

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