



December 20, 2020

Restriction on foreign currency credits used in public private partnership projects has been removed

Treasury and Finance Ministry of the Republic of Turkey (“**Ministry**”), through its letter dated 8 December 2020 and numbered 692596, provided a new exemption to the FX loan restrictions, which are applicable to Turkish residents using FX loans either in Turkey or on abroad, by amending the Capital Movements Circular (“**Circular**”) issued by Central Bank of Turkey (“**CBT**”).

In this respect, Turkish resident legal entity shareholders of incumbent companies in charge of the execution of the public-private projects (“**PPP**”) may use FX loans, even such do not generate any FX income, on the condition that such FX loan is added up to the capital of the Turkish incumbent company, as per the amendments on Article 21 and 40 of the Circular (FX Loans Without FX Income Requirement)¹. At this point, we should note that Turkish incumbent companies in charge of executing the PPP projects are already benefiting from this exemption.²

The Circular requires the submission of the following documents to the bank, which will intermediate the use of FX loan, in PPP projects:

- i. The copy of the trade registry gazette in relation to the incorporation of the company in charge of executing the project,
- ii. The original pages of the implementation agreement indicating the parties, subject, amount, date and signature,
- iii. The approval letter of the respective public entity including the contract amount,
- iv. The capital increase decision and
- v. The letter of undertaking stating that the loan amount will be added up to the capital of the company.

Further, we would like to note the following:

- The loan amount that the bank will intermediate cannot exceed the amount of the capital

¹ Capital Movements Circular, Article 21/15/e and Article 40/15/d

² Capital Movements Circular, Article 21/1/d and Article 40/1/e

increase set forth in the capital increase decision or undertaking,

- The loan amount will be held in a blocked account by the intermediary bank until the date the documents regarding capital increase are submitted, and
- The loan amount will be transferred to the account of the incumbent company once the trade registry letter regarding the registration of the capital increase is submitted to the bank of the incumbent company.

With this amendment, Ministry eased the use of FX loans in the scope of PPP projects once again.

For further information on this matter, please contact us via info@sadik-sadik.com

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