Turkey

Turkey introduces new exceptions on FX loans

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The Turkish Cabinet released a decree on January 25 2018 to restrict foreign exchange loans. Thus, as of May 2 2018, the use of foreign currency loans from abroad has fallen under the conditions of foreign exchange income.

Accordingly, those who have no foreign exchange income will not be able to use loans from residents whether abroad or in Turkey.

As we discussed in a previous article, the Turkish government has been revisiting FX loan restrictions, introducing new exceptions for FX loans from abroad.

What are the new exceptions?

The Central Bank of Turkey has recently amended the circular on the movement of capital and provided a new exception regarding the FX loans of Turkish subsidiaries of foreign companies.

Fully owned Turkish subsidiaries of foreign companies will be able to obtain FX loans from other group companies resident abroad without being subject to the FX borrowing restrictions.

In this regard, direct or indirect control of Turkish subsidiaries will not change the outcome, and such Turkish companies will be able to receive FX loans from their parent companies or sister companies.

However, they must provide the company's share ownership documents to the intermediaries (e.g., banks) as the transactions are concluded.

Conditions required for group companies to benefit from the FX loan exception

To benefit from this new exception, the following conditions must be met:

- The borrowing party must be a Turkish subsidiary of a foreign company;
- The Turkish subsidiary must be directly or indirectly 100% controlled;
- Full ownership can be proved by providing certain required documents (e.g., trade registry records); and
- The requested documents must be submitted to the intermediary financial institution.

Other exceptions introduced

Public institutions, in line with their obligations determined by an international agreement, will be able to extend FX loans to their affiliates in Turkey.

For example, if a public institution obtains an FX loan from an international organisation (e.g., World Bank) and the agreement allows, then that institution will be able extend FX loans to the affiliates without FX restrictions.

However, if there is a loan limit set out in the international agreement, the amount of FX loan to be made available by the public institutions to their affiliates cannot exceed the loan limit determined in the agreement.

Final evaluations

Under the existing legislation, FX loans with a balance of more than $15 million granted to residents in Turkey have no restrictions and Turkish companies can freely obtain such loans.

If the amount of FX loan is less than $15 million, certain restrictions apply. If none of the exceptions are applicable, a Turkish company will not be able obtain an FX loan from abroad unless it has sufficient FX income.

However, this rule has been abolished for companies solely owned by foreign companies under the new amendment, and FX loans from group companies resident abroad will be regarded as being within the exceptions.

Thus, fully owned Turkish subsidiaries of foreign companies will be able to obtain FX loans without being subject to restrictions.

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