

MASAK GENERAL COMMUNIQUE (No. 13)

CHAPTER ONE Purpose, Scope, Legal Basis and Definitions

Purpose and Scope

Article 1 – (1) The purpose of this Communique is to lay down the principles and procedures for suspicious transaction reporting.

Legal Basis

ARTICLE 2 – (1) This communique has been drawn up on the basis of Articles 27 and 28 of Regulation on Measures Regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism put into force by of Council of Ministers Decision No. 2007/13012, dated 10/12/2007.

Definitions and Abbreviations

ARTICLE 3 - (1) In this Communique,

- a) MASAK means Financial Crimes Investigation Board,
- b) MASAK.ONLINE means the system through which suspicious transaction reports can be sent electronically,
- c) STR form means suspicious transaction reporting form,
- ç) Suspicious transaction means that there is information, suspicion or reasonable grounds to suspect that the asset which is subject to transaction carried out or attempted to be carried out with or through the obliged parties has been acquired through illegal ways or used for illegal purposes, used for terrorist activities or by terrorist organizations, terrorists or those who finance terrorism, or connected or linked with them,
- d) Obligated party means those listed in Article 4 of the Regulation and their branches, agencies, representatives, commercial proxies and similar affiliated units,
- e) Regulation means Regulation on Measures Regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism put into force by Council of Ministers Decision No. 2007/13012, dated 10/12/2007.

CHAPTER TWO Principles and Procedures for Suspicious Transaction Reporting

General Principles

ARTICLE 4 – (1) When obliged parties encounter a suspicious transaction, they shall carry out a research on the transaction to the extent of their authority and capability and then report it to MASAK by filling in an STR form pursuant to the information and the findings obtained.

(2) Suspicious transactions shall be reported to MASAK without seeking any monetary limit.

(3) The word “transaction” in the term “suspicious transaction” is not limited to a single transaction and may include more than one transaction. A single STR form shall be filled in for transactions which raise suspicion when assessed with multiple transactions together.

(4) In the reporting process, a more detailed research on the nature of the transaction or customer profile may be necessary. The purpose of the research carried out to the extent of authorities and capabilities is to detect whether there are further findings that support suspicion. While making research, manners and attitudes that lead customer to suspect that he/she will be reported shall be avoided.

(5) In cases where suspicious transaction reporting is necessary, the obliged parties shall carry out the necessary customer identification procedures. The obligation of customer identification shall be carried out as much as possible also in cases where the suspicious transaction subject to reporting was attempted but could not be fulfilled.

(6) In the event that new information and findings in relation to the reported transaction are obtained afterwards, another STR form shall be filled in and sent to MASAK without delay by stating that it is an additional report to the previous one.

(7) Information and documents supporting the suspicion shall be annexed to STR form.

(8) Where there is document or serious indication that the asset subject to the transaction is related to laundering proceeds of crime and terrorist financing, the obliged parties shall avoid performing the requested transaction until MASAK is informed through STR form (by noting that it is “very urgent”). In cases where abstaining from performing the requested transaction is impossible or avoiding it may hinder the efforts for identifying the beneficiaries of the transaction, MASAK may be informed right after the transaction.

Reporting Time for Suspicious Transactions

ARTICLE 5- (1) Suspicious transactions shall be reported to MASAK by the obliged parties within ten workdays starting from the date when the suspicion occurred or immediately in cases where any delay may cause inconveniences.

(2) With regard to the suspicious transaction reports sent to MASAK electronically, entry date into MASAK records shall be deemed as reporting date.

Guidelines of Suspicious Transaction Reporting

ARTICLE 6- (1) MASAK may issue general or sectoral guidelines of suspicious transaction reporting for the obliged parties for the purpose of determination of principles and procedures of suspicious transaction reporting electronically or on paper.

(2) Guidelines shall be announced through official website of MASAK and/or MASAK.ONLINE. Reporting process shall be carried out by the obliged parties pursuant to the principles and procedures stated in the guidelines.

(3) If MASAK projects to make any amendment into the principles and procedures in the guideline, the matters shall be announced through official website of MASAK and/or MASAK.ONLINE and reporting process shall be carried out pursuant to the updated guidelines set out in the framework of the new principles and procedures.

Category of reporting and suspicion category of offence

ARTICLE 7- (1) When filling the STR Form, the category of reporting shall be required to state and proper option or options shall be checked in the suspicion category of the offence set

out in the relevant guideline by MASAK. The aim of the category of reporting is to determine the nature of the related suspicious transaction report in respect of laundering proceeds of crime and financing of terrorism. Suspicion category of offence means that there is any information or suspicion on the illegal activity which is the origin of the value/asset reported in the scope of laundering proceeds of crime or financing of terrorism.

Suspicious Transaction Types

ARTICLE 8- (1) In order to ensure that obliged parties act in a common manner, understanding and cooperation against the risk of being used as a means in laundering proceeds of crime and terrorist financing and to help them in the detection of suspicious transactions, types of suspicious transactions have been determined by MASAK. In this framework, general suspicious transaction types and suspicious transaction types linked with financing of terrorism for all obliged parties and sectoral suspicious transaction types for some obliged parties by taking into account the activity fields of the customers might be determined. The suspicious transaction types determined are stated in the suspicious transaction reporting guidelines issued by MASAK.

(2) General suspicious transaction types determined by MASAK include the types related to customer profile and transactions. In this scope, the types related to customer profile deal with the matters to be taken into account specific to persons. The types related to transactions deal with the nature of the transaction intended to be carried out rather than the customer. Suspicious transaction types linked with financing of terrorism are the ones in the nature of indicator as to financing of terrorism. General suspicious transaction types and suspicious transaction types linked with financing of terrorism shall apply to obliged parties for whom no sectoral suspicious transaction type is determined.

(3) The suspicious transactions types determined by MASAK are in the nature of guidance and thus, obliged parties should not restrict themselves to suspicious transaction types determined and should report suspicious transaction even though the suspected transaction does not correspond to any of the listed types.

(4) In assessing the correspondence of the transactions to the suspicious transaction types, customer due diligence procedures given in the Regulation should be taken into account and the assessment should be made basing on the customer and the transaction. In this framework, with regard to the transaction to be carried out, such matters as customer profile, activity field, activity volume, nature of the transaction and whether it is in the scope of known activities or proportional with the activity of the customer or to whom it confers benefit, characteristics of the sector and previous experiences should be taken into account. In cases where the transaction intended to be carried out has an international nature, it should be checked particularly whether the transaction in question is a part of the customer's business.

Reporting for Obligated Parties Required to Assign Compliance Officer

ARTICLE 9- (1) The obligation of suspicious transaction reporting for obliged parties required to assign compliance officer pursuant to articles 4 and 29 of the Regulation on Program of Compliance with Obligations of Anti-Money Laundering and Combating the Financing of Terrorism published in the Official Gazette No.26999 on 16.09.2008 and the branches, agencies, representatives, commercial proxies and similar affiliated units of the

obliged parties is carried out through compliance officers. Obligation of suspicious transaction reporting of the General Directorate of Post by compliance officer is limited to banking activity and obligation of suspicious transaction reporting of it with regard to other activities may also be carried out by compliance officer.

(2) The compliance officer shall have the duty and power to evaluate the information and findings obtained through researches carried out basing on power and capabilities regarding the possibly suspicious transactions which are sent to him/her or which he/she is informed ex-officio and to report MASAK the transactions which he/she considers to be suspicious.

(3) Where a suspicious transaction is encountered in an obliged party (including its branches, agencies, representatives, commercial proxies and similar affiliated units), the transaction shall be reported to the compliance officer in accordance with the internal procedure to be determined by the obliged party. Internal reporting procedures are determined in written form and all personnel is informed of them. The procedure of reporting to compliance officer within the obliged party may be determined independently. However verbal reporting cannot be established as a procedure. E-mails or software programs that enable internal reporting may be used in this scope.

(4) Where it is detected, in the transactions carried out through interactive applications such as internet banking, telephone banking, ATM, which enable the performance of non-face-to-face transactions within or via obliged parties or during the monitoring and controlling activities, that a suspicious transaction has been carried out, the case shall be reported to compliance officer again in accordance with the procedure to be determined. In that case, the information and documents available within the obliged party shall be predicated on identification.

(5) The compliance officer shall evaluate the suspicious transaction which has been reported to him/her or which he/she has been informed ex-officio by taking into account the other information and documents available within the obliged party and the relevant law, regulation, communiqué and other legislation. The compliance officer may request, during the evaluation process, any information and document related with his/her scope of authority from any unit within the obliged party. In this scope, the units from whom information and document are requested shall be obliged to submit the requested information and documents and provide the necessary convenience for the compliance officer.

Reporting for Obligated Parties not Required to Assign Compliance Officer

Article 10- (1) Regarding the other obliged parties which are not required to assign compliance officers, suspicious transaction reporting shall be carried out personally by natural person who is an obliged party, by legal representatives of legal person who is an obliged party, by managers of unincorporated organizations or officials who are authorized by them through filling in an STR form.

(2) In obliged parties which are not required to assign compliance officers and their branches, agencies, representatives, commercial proxies and similar affiliated units, it shall be essential that suspicious transactions are reported by the related unit where the suspicion occurs depending on its nature. In this scope, in cases where transactions can be monitored by the

headquarters and where there is a suspicion, the headquarters may also report suspicious transactions.

(3) In the event that the units of the institutions headquartered abroad which run activities in Turkey (such as branch, agency) are obliged parties, reporting of suspicious transactions shall be carried out by these units.

Filling in STR Forms

Article 11- (1) Suspicion transaction reporting shall be done by filling in STR forms attached to the general or sector-specific suspicious transaction reporting guidelines prepared as to obliged parties. The STR form shall at least include information on the obliged party who is filling in the form, the report itself, natural and legal persons related with the suspicious transaction and on the transaction reported. The related guidelines shall contain instructions about how to fill in STR forms electronically or in paper form. Additional information and documents, if any, shall be attached to the STR form and sent to MASAK.

Submitting STR Forms by Hand or by Post

Article 12 – (1) The completed STR Form shall be submitted to MASAK by hand or by registered post or by fax. For submissions by post or fax, obliged parties shall find the address or the fax number of MASAK on its official web site. The original copy of the STR Form which has been sent to MASAK through fax machine shall also be delivered to MASAK by hand or by registered post.

(2) The obliged parties who submit STR Forms shall be informed by MASAK that the STR has been recorded.

Sending STR Forms in Electronic Form

Article 13 – (1) Electronic suspicious transaction reporting shall be done by using MASAK.ONLINE system.

(2) Obligated parties who are required to submit STRs electronically and the starting dates of the application shall be determined by MASAK. Guidelines to be published by MASAK shall include procedures and principles related to the accession to and the using of MASAK.ONLINE system by obliged parties.

(3) Obligated parties who are deemed appropriate by MASAK, other than those who are required, may also submit suspicious transaction reports electronically. Guidelines to be published by MASAK shall include information on the form, period and contents related to the application for submission of electronic STRs and on filling in STR forms using MASAK.ONLINE system by obliged parties willing to submit STRs electronically. Obligated parties allowed to submit STR forms electronically shall be required to report suspicious transactions through MASAK.ONLINE system as of the date of authorisation. They shall not submit STRs, any more, in paper form.

(4) In cases where electronic submission is technically impossible, the STR shall be submitted to MASAK by hand, post or fax using the form attached to the related guideline along with explanation on the reason for not sending the STR electronically.

CHAPTER THREE

Miscellaneous and Final Provisions

Penalty to be Imposed in case of Violation of Obligations

Article 14- (1) If obliged parties do not comply with the reporting obligation stated in paragraph one of article 4 of the Law No. 5549 on Prevention of Laundering Proceeds of Crime dated 11.10.2006, and the provisions of confidentiality given in paragraph two of the same article, and the requirements determined with this Communiqué, the penalties set forth by the same Law shall be imposed.

The Abolished Communiqué

Article 15- (1) MASAK General Communiqué No:6 which was published in the Official Gazette 27010 on 27.09.2008 has been abolished as of the date on which this Communiqué is enacted.

Provisions for Transition

PROVISIONAL ARTICLE 1- (1) For banks, which are required to submit STR forms electronically under Masak General Communiqué No.6, the guidelines published on MASAK official website and MASAK.ONLINE system shall be valid on the date of enactment of this Communiqué.

Enforcement

ARTICLE 16- (1) This Communiqué shall enter into force on the date of publication.

Execution

Article 17 – (1) The Minister of Finance shall execute the provisions of this Communiqué.