

## CHAPTER 9 FINANCIAL SERVICES

### Priority 9.1 Continuing alignment with the new capital requirements for credit institutions and investment firms and with the other related directives (deposit guarantee scheme, winding up and reorganisation, financial conglomerates, bank accounts)

#### 1 Schedule of legislative alignment

**Table 9.1.1**

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
1	Directive No. 84/641/EEC	Communiqué on the Implementing Principles of Tourist Assistance Insurance	Identification of Tourist Assistance Insurance rules	Undersecretariat of Treasury	2009
2	Directive No. 2003/41/EEC	Implementing Regulation on the Actuarial Supervision of Occupational Pension Plans Established within Supplementary Trusts and Provident Funds	Regulation regarding the rules and regulations on the actuarial supervision of occupational pension plans established within supplementary trusts and provident funds	Undersecretariat of Treasury	2009
3	Directive No. 84/5/EEC	Council of Ministers' Decision on Guarantee Fund Cover for Physical Damages Arising from Traffic Accidents with Serious Physical Injury	Including physical damages arising from traffic accidents with serious bodily injuries among traditional payments of the Guarantee Fund corresponding Compulsory Third Party Liability Insurance for Highway Motor Vehicles	Undersecretariat of Treasury	After 2011 <sup>1</sup>

<sup>1</sup> In current practice, only physical injuries are covered within the context of the traditional functions of the Guarantee Fund. Covering the damage to property at the same time may cause not allocating adequate funds for physical injuries which is the main objective of this Fund.

**Table 9.1.1 (Continued)**

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
4	Directive No. 72/166/EEC	Law Amending the Road Traffic Law	Making more flexible checks removing systematic checks on insurance within Turkey's borders concerning Compulsory Third Party Liability Insurance for Highway Motor Vehicles	Undersecretariat of Treasury	After 2011 <sup>2</sup>
5	Directive No. 84/5/EEC	Implementing Regulation on Implementing Principles for the tariffs of Compulsory Third Party Liability Insurance for Highway Motor Vehicles	Increasing the minimum limits of coverage for Motor Insurance	Undersecretariat of Treasury	To be considered within the framework of full membership perspective <sup>3</sup>
6	Directive No. 2000/26/EC	Implementing Regulation on Establishment of Certain Institutions Regarding Compulsory Third Party Liability Insurance for Highway Motor Vehicles	Transfer of certain institutions that exist in EU regarding Motor Insurance for Highway Motor Vehicles to our national insurance legislation	Undersecretariat of Treasury	After 2011 <sup>4</sup>

<sup>2</sup> In the EU, within the scope of the chapters such as free movement of goods, services and persons, non-systematic checks on motor insurance at the border can only be applied in the accession process. According to the system established by the EU Acquis, motor insurance provides coverage for travelling across Member States and member states citizens. Without our membership to the EU, in other words, without falling under the coverage for this insurance, removing systematic checks on motor insurance at the border may result in uninsured entrances to our country.

<sup>3</sup> Increasing the minimum limits of coverage for Motor Insurance gradually during the accession period is a necessity for our insurance sector. The difference between the minimum limits of coverage foreseen by the Directives and the minimum limits of coverage in our sector is not at a negligible level. Therefore, it is not possible for our sector to apply such coverage at once.

<sup>4</sup> In the EU, within the scope of the chapters such as free movement of goods, services and persons, the precondition of the system established to provide easier coverage for visiting victims is being a member of the EU. Because that system requires international reciprocity and cooperation regarding handling of the claims within the scope of the EU Acquis, Otherwise, even if we establish claims institutions to protect the rights of tourists who travel from our country to EU Member States, these institutions will not be recognized by the Member States.

**Table 9.1.1 (Continued)**

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
7	Directives No. 2002/83/EC, 73/239/EEC, 73/240/EEC, 88/357/EEC, 90/618/EEC, 92/49/EEC, 95/26/EC and 2000/64/EC	Law Amending the Insurance Law <sup>5</sup>	Harmonization with rules such as the EU passport and Home Member State supervision.	Undersecretariat of Treasury	<sup>6</sup>
8	Directives No. 2002/83/EC, 73/239/EEC, 73/240/EEC, 88/357/EEC, 90/618/EEC, 92/49/EEC, 95/26/EC, 2000/64/EC, 2005/68/EC, 64/225/EEC and 87/334/EEC	Implementing Regulation Amending the Implementing Regulation on the Establishment and Operation Principles of Insurance and Reinsurance Companies <sup>7</sup>	Harmonization with rules such as the EU passport and Home Member State supervision.	Undersecretariat of Treasury	<sup>8</sup>
9	Directives No. 2002/83/EC, 73/239/EEC, 73/240/EEC, 88/357/EEC, 90/618/EEC, 92/49/EEC, 95/26/EC and 2000/64/EC	Decision of Council of Ministers on the Operation of Foreign Insurance and Reinsurance Companies in Turkey <sup>9</sup>	Harmonization with rules such as the EU passport and Home Member State supervision. <sup>10</sup>	Undersecretariat of Treasury	<sup>11</sup>

<sup>5</sup> It is also mentioned under "Priority 4.1 Continuing to remove restrictions affecting foreign direct investments originating from the EU".

<sup>6</sup> Required arrangements for legislative alignment will be made two years prior to membership and enter into force upon accession.

<sup>7</sup> It is also mentioned under "Priority 4.1 Continuing to remove restrictions affecting foreign direct investments originating from the EU".

<sup>8</sup> Required arrangements for legislative alignment will be made two years prior to membership and enter into force upon accession.

<sup>9</sup> It is also mentioned under "Priority 4.1 Continuing to remove restrictions affecting foreign direct investments originating from the EU".

<sup>10</sup> In order to make the necessary amendments regarding the acceptance of EU Passport principle rapidly, devolution of authority is given to the Council of Ministers to determine the rules and regulations on the Operation of Foreign Insurance and Reinsurance Companies in Turkey with Article 3 of the Insurance Law No.5684.

<sup>11</sup> Required arrangements for legislative alignment will be made two years prior to membership and enter into force upon accession.

**Table 9.1.1 (Continued)**

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
10	Directives No. 2001/24/EC and 94/19/EC	Amendment to the Banking Law No. 5411	Providing stability and confidence in financial markets which is the general aim of the law, enabling effective functioning of credit system and protecting rights and interests of savers.	Savings Deposit Insurance Fund	2009-2010
11	Directive No. 94/19/EC	Implementing Regulation on Deposits subject to Insurance and the Premium to be Collected by the Savings Deposit Insurance Fund <sup>12</sup>	-Inclusion of legal persons to the types of deposits and profit sharing funds subject to insurance. -Re-specification of the types of deposits and profit sharing fund accounts to be excluded from the scope of insurance. - Harmonization of the scope of deposits subject to insurance by considering the home-host relation that has been applied in the framework of the EU banking directives	Savings Deposit Insurance Fund	2010
12	Directives No. 2001/24/EC and 94/19/EC	Implementing Regulation on the Procedures and Principles regarding the Payment of Insured Deposits and Profit Sharing Funds in the Banks, Official Authorization of which have been Revoked, and on the Bankruptcy and Liquidation of such Banks <sup>13</sup>	Increasing the confidence in the banking system by elaborating the steps taken in paying the insured deposits in a bank, the official authorization of which has been revoked, and the liquidation of such bank.	Savings Deposit Insurance Fund	2010
13	Directive No. 94/19/EC	Amendment to the Implementing Regulation on the Sources of the SDIF and the Use of these Sources <sup>14</sup>	Harmonizing sources of the Fund and the use of these sources with the EU directives and reviewing in accordance with foreseen amendments in legislation.	Savings Deposit Insurance Fund	2010

<sup>12</sup> It will be enacted after the adoption of Law Amending the Banking Law No. 5411 (Table 9.1.1, Line 14)

<sup>13</sup> It will be enacted after the adoption of Law Amending the Banking Law No. 5411 (Table 9.1.1, Line 14)

<sup>14</sup> It will be enacted after the adoption of Law Amending the Banking Law No. 5411 (Table 9.1.1, Line 14)

**Table 9.1.1 (Continued)**

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
14	Directive No. 2002/87/EC	Law on Consolidated Supervision of Financial Conglomerates	Ensuring coordination among administrations which are in charge of the supervision of conglomerates.  (Specification of procedures and principles on the financial conglomerates by Banking Regulation and Supervision Agency, Undersecretariat of Treasury and Capital Markets Board, because regulated entities in financial conglomerates, credit institutions, insurance undertakings and investment firms are regulated and supervised by different authorities in Turkey.)	Banking Regulation and Supervision Agency, Undersecretariat of Treasury, Capital Markets Board	After 2011
15	Directives No. 2006/48/EC and 2006/49/EC	Implementing Regulation Amending the Implementing Regulation on Banks' Internal Systems	Making the principles of proportionality and significance operative, enhancing the risk management responsibilities of boards of directors, defining risk management principles (regarding counter party risk, market risk, liquidity risk, operational risk, interest rate risks in banking accounts, and country and transfer risks) and measures to be taken by banks against such risks, establishing principles and processes regarding data collection and reporting in risk management.	Banking Regulation and Supervision Agency	2009
16	Directives No.2006/48/EC and 2006/49/EC	Implementing Regulation on Measurement and Assessment of Capital Adequacy of Banks	Harmonization with the Capital Measurement and Capital Standards (Basel II) established by the Basel Banking Supervision Committee and adapted to the EU acquis by the mentioned directives	Banking Regulation and Supervision Agency	2009
17	Directives No.98/26/EC and 2000/46/EC	Payment Systems Law <sup>15</sup>	Specification of procedures and principles on electronic money institutions. Ensuring that netting and settlement are final and irrevocable in the payment systems.	The Central Bank of the Republic of Turkey	2009-2011

<sup>15</sup> It is also mentioned under "Priority 4.2 Starting to align payment systems legislation with the acquis

**Table 9.1.1 (Continued)**

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
18	Directive 2006/49/EC	Amendment to the Communiqué Regarding the Capital and Capital Adequacy of Brokerage Firms	Alignment with EU legislation on capital adequacy.  (Since it is necessary in this respect to ensure the consistency of the regulations with regard to banks and brokerage houses, it will be enacted after the adoption of Implementing Regulation on Banks' Capital Adequacy)	Capital Markets Board	2010-2011

**2 Schedule of institutional capacity building requirements necessary for legislative approximation and implementation****Table 9.1.2**

No	Requirements	Year
<b>(Banking Regulation and Supervision Agency)</b>		
1	Ensuring that all experts and sworn bank auditors in audit and risk management departments attend necessary educational and consultancy services regarding risk focused supervision and Basel II applications	2009
2	Ensuring that experts and sworn bank auditors in audit and risk management departments obtain internationally accepted certificates	2009-2011
3	Setting up infrastructure for risk focused supervision and Basel II	2009

**3 Financial requirements and resources**

No financial requirement is envisaged under this priority at this stage.

## Priority 9.2 Strengthening prudential and supervisory standards both in banking and in the non-bank financial sector including establishment of an independent regulatory and supervisory authority

On the other hand, 2008 Accession Partnership Document signifies “establishment of an independent regulatory and supervisory authority in the insurance and pension sector within the scope of the second priority under the chapter “Financial Services””. As known, insurance sector in Turkey is being regulated and supervised by Undersecretariat of Treasury. Regulation of the insurance sector and implementation and surveillance of corresponding policies are being carried out by Directorate General of Insurance under Undersecretariat of Treasury whereas the supervision task is being performed by Insurance Supervisory Board. Both units are affiliated to and operate under Undersecretariat of Treasury in order to provide maximum harmonization between regulation and supervision. Expert Supervisors and actuaries that are supervisory staff of the Insurance Supervisory Board are being appointed upon joint decision and any authority can not give them instructions concerning supervision. From this aspect, supervisory staff is independent on their supervision. Therefore, any legislative measure has not been stated in the tables regarding “establishment of an independent regulatory and supervisory authority in the insurance and pension sector”.

### 1 Schedule of legislative alignment

**Table 9.2.1**

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
1	Directive No. 2003/125/EC	Communiqué on the Principles Concerning Presentation of Financial Recommendations and Disclosure of Conflicts of Interest	Alignment with EU legislation on the presentation of financial recommendations.	Capital Markets Board	2009
2	Directives No. 2004/109/EC, 2003/6/EC, 2003/124/EC and 2004/72/EC	Amendment to the Communiqué on Principles Regarding Public Disclosure of Material Events	Alignment with EU legislation on market abuse and transparency requirements in public disclosure by publicly held companies.	Capital Markets Board	2009
3	Directive 91/674/EEC	Communiqué regarding Preparation of Consolidated Financial Statements	Specification of the rules in drawing up consolidated financial statements	Undersecretariat of Treasury	2009

**Table 9.2.1 (Continued)**

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
4	Directives No. 85/611/EEC, 97/9/EC, 2003/6/EC, 2003/71/EC, 2004/39/EC and 2004/109/EC	Capital Markets Law <sup>16</sup>	<p>Ensuring the legislation on capital markets is ready for membership by drawing up a law and related communiqués harmonised with EU legislation after the adoption of Turkish Commercial Code.</p> <p>(EU legislations on issues such as prospectus requirements, collective investment institutions and investment services adopt the single passport principle. In case of provisions such as the single passport rule, alignment shall be achieved by taking into account reciprocity and third country rules. In cases where amendments in the Law create an undue burden on markets, programs and transition periods shall be adopted for the gradual completion of amendments. Full alignment in this context shall be achieved one year prior to full membership; however the related provisions shall enter into force upon full membership. Amendments in secondary regulations on issues covered by the Capital Markets Law shall also be completed in this context)</p>	Capital Markets Board	2009

<sup>16</sup> It is also mentioned under “Priority 6.3 Strengthening disclosure requirements. In particular, adoption of a general requirement for companies to file audited legal entity and consolidated financial statements in order to make them publicly available”.



**Table 9.2.1 (Continued)**

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
5	Directives No. 2001/34/EC and 2004/39/EC	Law Amending the Decree Law No.91 on Stock Exchanges <sup>17</sup>	<p>Alignment with EU legislation on exchanges.</p> <p>(In cases where EU legislation on exchanges includes provisions that can only be implemented upon full membership, such as provisions based on the single passport principle, alignment shall be achieved by taking into account reciprocity and third country rules. In cases where amendments create an undue burden on markets, programs and transition periods shall be adopted for the gradual completion of amendments. Full alignment in this context shall be achieved one year prior to full membership; however the related provisions shall enter into force upon full membership. Amendments in secondary regulations in relation to exchanges shall also be completed in this context)</p>	Capital Markets Board	2009-2010

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<sup>17</sup> It is also mentioned under “Priority 4.1 Continuing to remove restrictions affecting foreign direct investments originating from the EU”

**Table 9.2.1 (Continued)**

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
6	Directive No. 2003/71/EC	Amendment to the Communiqué on the Principles Regarding Issuers' Exemption Conditions and Deregistration from the Board <sup>18</sup>	Alignment with EU legislation on prospectus requirements in public offerings	Capital Markets Board	2010
7	Directive 2003/71/EC and Regulation (EC) No. 809/2004	Amendment to the Communiqués on Principles Regarding Registration with the Board and Sale of Securities <sup>19</sup>	Alignment with EU legislation on prospectus requirements in public offerings	Capital Markets Board	2010
8	Directives No. 2004/109/EC, 2003/6/EC, 2003/124/EC and 2004/72/EC	Amendment to the Communiqué on Principles Regarding Public Disclosure of Material Events <sup>20</sup>	Alignment with EU legislation on market abuse and transparency requirements in public disclosure by publicly held companies.	Capital Markets Board	2010
9	Directives No. 2003/6/EC and 2003/124/EC	Communiqué on the Principles in relation to the Identification of Manipulative Orders and Operations, and Accepted Market Practices <sup>21</sup>	Alignment with EU legislation on market abuse.	Capital Markets Board	2010
10	Directive 2003/6/EC Regulation No. 2273/2003	Communiqué on Exemptions for Buy-Back Programs and Maintaining the Price Stability of Financial Instruments <sup>22</sup>	Alignment with EU legislation on market abuse, buy-back programs and price stability.	Capital Markets Board	2010

<sup>18</sup> Related studies are going to be carried out in parallel with amendments after the new Capital Markets Law enters into force.

<sup>19</sup> Related studies are going to be carried out in parallel with amendments after the new Capital Markets Law enters into force.

<sup>20</sup> Related studies are going to be carried out in parallel with amendments after the new Capital Markets Law enters into force.

<sup>21</sup> Related studies are going to be carried out in parallel with amendments after the new Capital Markets Law enters into force.

<sup>22</sup> Related studies are going to be carried out in parallel with amendments after the new Turkish Commercial Code and Capital Markets Law enters into force.

**Table 9.2.1 (Continued)**

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
11	Directives 2001/34/EC and 2004/39/EC Regulation No 1287/2006	Amendments to Implementing Regulations on Exchanges <sup>23 24</sup>	Alignment with EU legislation on investment services and exchanges.	Capital Markets Board	2010
12	Directives 2004/39/EC and 2006/73/EC Regulation No 1287/2006	Amendment to the Communiqué Series V.,No. 46 on Principles Regarding Intermediary Activities and Intermediary Institutions <sup>25 26</sup>	Alignment with EU legislation on investment services and markets	Capital Markets Board	2010
13	Directive No. 85/611/EEC	Amendment to the Communiqué on Principles Regarding Investment Funds <sup>27</sup>	Alignment with EU legislation on collective investment undertakings.	Capital Markets Board	2010
14	Directive 85/611/EEC	Amendment to the Communiqué Regarding Principles and Rules Concerning Financial Statements and Reports of Investment Funds <sup>28</sup>	Alignment with EU legislation on collective investment undertakings.	Capital Markets Board	2010
15	Directives No. 85/611/EEC, 2004/39/EC and 2006/73/EC	Amendment to the Communiqué on Principles Regarding Portfolio Management Activity and the Institutions to Undertake this Activity <sup>29</sup>	Alignment with EU legislation on portfolio management in the scope of collective investment undertakings and investment services	Capital Markets Board	2010

<sup>23</sup> It is also mentioned under “Priority 4.1 Continuing to remove restrictions affecting foreign direct investments originating from the EU”

<sup>24</sup> Related studies are going to be carried out in parallel with amendments after the adoption of new Capital Markets Law and amendments in the Decree Law No 91.

<sup>25</sup> It is also mentioned under “Priority 4.1 Continuing to remove restrictions affecting foreign direct investments originating from the EU”

<sup>26</sup> Related studies are going to be carried out in parallel with amendments after the new Capital Markets Law enters into force.

<sup>27</sup> Related studies are going to be carried out in parallel with amendments after the new Capital Markets Law enters into force.

<sup>28</sup> Related studies are going to be carried out in parallel with amendments after the new Capital Markets Law enters into force.

<sup>29</sup> Related studies are going to be carried out in parallel with amendments after the new Capital Markets Law enters into force.

**Table 9.2.1 (Continued)**

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
16	Directives 2004/39/EC and 2006/73/EC	Amendment to the Communiqué Regarding Principles on Investment Advice and Institutions Engaging in Investment Advice <sup>30</sup>	Alignment with EU legislation on investment advice in the scope of investment services and markets	Capital Markets Board	2010
17	Directives No. 98/26/EC and 2002/47/EC	Amendment to the Capital Markets Law	Shall be done, if necessary after the enactment of the Payment Systems Law by the Central Bank to ensure that legislation on capital markets is ready for accession by drawing up a law harmonised with EU legislation concerning payment systems and financial collateral.	Capital Markets Board	After 2011
18	Directive No. 97/9/EC	Implementing Regulation on the Investor Protection Fund <sup>31</sup>	Alignment with EU legislation on investor compensation.	Capital Markets Board	After 2011
19	Directive No. 97/9/EC	Amendment to the Implementing Regulation on the Gradual Liquidation of Intermediary Institutions <sup>32</sup>	Alignment with EU legislation on investor compensation in relation to gradual liquidation.	Capital Markets Board	After 2011

<sup>30</sup> Related studies are going to be carried out in parallel with amendments after the new Capital Markets Law enters into force.

<sup>31</sup> Related studies are going to be carried out in parallel with amendments after the new Capital Markets Law enters into force.

<sup>32</sup> Related studies are going to be carried out in parallel with amendments after the new Capital Markets Law enters into force.

## 2 Schedule of institutional capacity building requirements necessary for legislative approximation and implementation

Table 9.2.2

No	Requirements	Year
<b>(Capital Markets Board)</b>		
1	Completion of project activities with the objective of legislative alignment and establishing implementing measures <sup>33</sup>	2009-2011

## 3 Financial requirements and resources

Table 9.2.3

(Euro)

Requirements (Capital Markets Board)	Year	National Budget	EU sources	Other	Total
<b>I- Investment</b>	2009-2011	324,000	972,000		<b>1,296,000</b>
<b>II- Legislative approximation and implementation</b>					
- Personnel					
- Training	2009-2011	18,081	289,548		<b>307,629</b>
- Consultancy	2009-2011	228,454	2,456,176		<b>2,684,630</b>
- Translation	2009-2011	4,909	76,278		<b>81,187</b>
- Other					
<b>Total</b>		<b>575,444</b>	<b>3,794,002</b>		<b>4,369,446</b>

<sup>33</sup> Refers to the activities envisaged within the scope of financial services components of the projects titled "Strengthening the Capital Markets Board (CMB)- TR 08 02 07" under Pre-Accession Financial Assistance 2008 Programme and "Strengthening Supervisory Capacity of Capital Markets Board" under SEI. Financial requirements with regard to both projects are provided for in Table 9.2.3.