



Original Contribution

ACTIVITIES OF TURKISH BANKS IN CAPITAL MARKET

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ABSTRACT

The history of the word Bank; It comes from “Banco” which means counter in Italian. The biggest contribution to the development of Commercial Banking is belonging to Lombard People. Lombard usurers, by giving their services to British entrepreneurs, in the middle of London in England, have served as a foundation to the historical development of Commercial Banking. Banks are the institutions that; canalise the funds to the group who wants fund, supply investment opportunities and undertake important functions in financial system with its effectiveness in economy (1). Banks have an important place in commercial life. Banks which find a place of activity also in capital market are bound by Capital Markets Law and Notifications in terms of capital market activities. For bank’s being organisations of confidence, they have precise contributions to the people to appear in capital market.

Key words: Turkish banks, Turkish capital market.

THE RELATIONSHIPS BETWEEN BANKS AND CAPITAL MARKET

Some developments brought out in capital market at some periods in Turkey made banks worry. When capital market is developed, it was thought that public savings will be reflected directly in the firms and the ones who want to make increase in securities will withdraw their money from banks. It is unthinkable to protect money in the pocket of the people or cases of the companies that is much more than the amount to be kept in such places than keeping it in the banking system. When the people withdraw their money from banks and invest on securities, the deposits exit the bank as savings deposit, will be deposited again to the banks by companies as commercial savings. This situation is a profitable situation from the side of the banks. Here, the main problem is not the money that is withdrawn to be invested on securities to return back to banks but in what bank and branch office it will return back. In this case, it is inevitable for the funds withdrawn from banks to return back to bigger banks (2)

Branches of Bank and Capital Market Law are considered within the framework of financial and economical law. These branches of law are related to the branch of law that supply fund to reel economy. This duty that is about supplying fund to economy originate from the strength of the support the capital markets, administrative structures of banks and the activities they carry out have. Thus, the branches and the capital markets law are close to each other. The operational soundness of this closeness is related to the confidence to investors, these markets and economical structure of the banks. For capital markets and banks have trustworthy legal structure and authority in legal system, it is inevitable for individuals to confide in these institutions (3).

The main source to carry out principles in Capital Market operations is 2499 number Capital Markets Law. Beside this, there are notifications concerning the organisation of the operations in capital market. Banks also are organised in detail by 5411 Banking Law. Banks depend on Banking Law in terms of constitution, audition and supervision. Banks to be active in capital market is made possible by the legislator. In Capital Markets Law, there are preparations about capital market activities of banks.

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BANKS TO BE BASED ON CAPITAL MARKETS LAW

According to 50th article of Capital Markets Law, banks that public offer their securities and banks that carry out capital market activities according to 30th article of the law are within the framework of this law (4).

According to “b” paragraph of 3rd article in Capital Markets Law, securities are valuable paper that; “Enable partnership or creditorship, represent a certain value, can be used as a means of investment, brings in periodical income, serially extractable phrases of which is the same and in kind structure and conditions of what is designed by the committee. Security became a sub concept under the title of capital market means (5).

Capital Markets Law closely relates banks in many ways. They are as follows:

- Banks that public offer their securities, just like other anonymous partnerships, comply with Capital Markets Law. (CMC.50/a)

- On condition that banks that do not public offer their securities get active in capital market activities are subjected to the arrangements stated in Capital Markets Law partly.

- Banks have been carrying out their repurchasing agreements and reverse repurchasing (and buying back or selling back security) activities.

- Banks have been producing Wealth Base Security which is a capital markets means.

- Banks have been constituting and directing investment funds that are arranged in Capital Markets Law (CMC s.37-38).

Because of these aforementioned activities, banks obliged to comply with the preparations, regulations and notifications arranged by Capital Markets Law and Capital Markets Commission.

According to 50/a article of 2499 no Capital Markets Law, banks were bound by Capital Markets Law sentences partly although they only carry out intermediation activities. Because of intermediation activities of security chairmanship’s, Capital Markets Law is applied to banks but for the reasons of bank’s capital increasing and main contract shifts, Turkish Trade Law was applied instead. 50/a article changed by 3794 number Law includes important differences on the part of the banks and banks are divided into two groups which

are banks that public offer their securities generally shares and the banks that does not public offer their securities.

The banks that public offer their securities are subject to Capital Market. According to “c” paragraph of 3rd article in Capital Market Law represents; “Summons to public with any way possible for buying capital market means, public to be invited to take part in or be the founder of an anonymous partnership, shares to be processed in stock markets or other organised markets newer endingly and selling of portions namely shares brought out by capital increase of public anonymous partnerships according to this Law”

According to 50/a article of Capital Markets Law; “Banks that public offer their shares together with the ones that carry out activities stated in V. section are bound by the articles of this law”. According to these sentences, the banks, shares of which are sold in stock market, are subjected to Capital Markets Law according to “a” paragraph of 50th article in Capital Markets Law. Other banks, shares of which are not public offered, can only be bound by Capital Markets Law on condition that their shares are public offered.

The banks being depend on Capital Markets Law and its duration because of the securities they produce varies in accordance with the type of security public offered.

THE BANK’S CAPITAL MARKET ACTIVITIES

The bank’s to be carrying out intermediation activities as a capital market organisation became subject to discussions in turkey. For having a wide web of branch offices, their giving country wide service is useful for the development of capital market. Thus, banks are the predominant actors within the organisations that have gravity in capital market (6). Banks that are institutions of credit and confidence, have a grate role in capital market as their rank and diversity differs from country to country in their application world over.

According to CML article 34; Intermediation activity principles of intermediation companies are arranged by the Commission. The commission is authorised to make arrangements related to intermediation activity to be carried out by separate organisations. Intermediation organisations can

get active in other capital market activities as soon as they get permission.

Banks are present in the market in terms of Capital Markets Law in two ways:

- as organisations to take part in intermediation activities and
- organisations that public offer their shares.

In the 4th article of Banking Law, banks are stated to be carrying out capital market activities.

Activity Area Of Banks That Receive Deposit

- Carrying out the buying and selling of Capital Market Means (CMM) out of the stock market that is processed in second hand market,
- Carrying out buying and selling of CMM except for shares in the stock market that is processed in second hand market,
- Carrying out repurchasing agreement/reverse repurchasing agreement activities and
- Buying selling of similar means.

Banks that receive deposits can not perform only the following activities intermediary organisations do;

- Buying and selling shares in the stock market,
- CMM exporting in first hand market,
- Portfolio administration and
- Investment consultation.

Activity Area Of Banks That Do Not Receive Deposit

- Intermediation to buying and selling of CMM, that is formerly exported, out of the stock market,
- Intermediation to buying and selling of CML in stock market except for shares,
- Carrying out Repurchasing Agreement/Reverse Repurchasing Agreement activities,
- Intermediation to similar means (fixed term operations and option contracts),

- Intermediation to CMM's sale by exporting or public offeringn,
- Carrying out portfolio administration and
- Carrying out investment consultation.

These kinds of banks keep on being forbidden only in buying and selling shares.

In order for banks to keep on capital market activities arranged by V series 46 no notification of Capital Markets Law, they should get certification of authority from Capital Market Commission for each activity within the framework of principles determined.

Activity area of banks that do not receive deposits have more rights in carrying out capital market activities while the ones that receive deposits can not make the use of capital market activities as well as the former. According to Capital Markets Law, the banks acting as an intermediary in buying and selling of similar means and carrying out repurchasing agreement/reverse repurchasing agreement is not arranged clearly. According to V series 46 no notification, banks can act as an intermediary in buying and selling of similar means and carrying out repurchasing agreement/reverse repurchasing agreement.

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