KINSTELLAR

The Turkish Competition Board imposes fines on 12 banks for collusion in the cash deposit, credit and credit card services markets

The Turkish Competition Board (the "TCB") recently concluded an investigation against 12 major banks operating in Turkey and imposed a total fine of TL 1.1 billion (approximately EUR 475 million). This is the highest fine ever imposed by the TCB.

The investigation was initiated following allegations regarding the fixing of interest rates, including credit card and default interest rates. The TCB conducted an in-depth investigation into the cash deposit, credits and credit card services markets. According to the short version of TCB's decision (the TCB will present its reasoning in a couple of months), the TCB decided that the banks had violated the Law on Protection of Competition no. 4054 (the "**Law**") by concluding agreements and/or concerted practices in the respective markets. According to press reports, a number of e-mails between bank managers were discovered during the investigation which indicated collusion in the period 2007-2011 between banks with respect to the fixing of maximum interest rates within the scope of cash deposit services, maximum interest rates regarding credit services, and fees and commissions with respect to credit card services. Further details will be revealed when the reasoned decision is published sometime in the next few months.

The Fines

The fines imposed on the banks range from 0.3 per cent to 1.5 per cent of the banks' 2011 turnover. Under Turkish law, fines mandated for cartels are between 2 per cent and 4 per cent of turnover. Hence, it can be concluded that the violation in question was not deemed to constitute a cartel, which is interesting, considering the nature of the violation. Of the 12 banks, the highest fine was imposed on Turkiye Garanti Bankası A.S. – TL 213 million (approximately EUR 91 million), which is the highest ever imposed on a single undertaking by the TCB to date.

Past investigations into the Turkish banking sector

Two years ago in March 2011, the TCB concluded another investigation against eight banks operating in Turkey. This investigation was initiated following allegations of a "gentlemen's agreement" between the banks regarding their promotional offers to private companies and other entities. As a result, the TCB imposed fines on seven banks in the total amount of TL 72.3 million (approximately EUR 30 million). Although this decision was unpleasant news for the Turkish banking sector, it was still judged to be too low by some critics. The highest fine imposed on a single bank in this investigation was only TL 12.9 million (approximately EUR 5.5 million).

The latest decision of the TCB raised has served to heighten tension in the Turkish banking sector once again and indicates that this sector is being closely watched by the Turkish Competition Authority. Right before the defence hearing, the President of the Banks Association of Turkey stressed the TCB should consider the sui generis features and functioning of the banking sector and follow an approach that was designed to ensure stability rather than increase vulnerability. This was also one of the arguments raised by the banks during the previous investigation. However, as in many jurisdictions, Turkish competition rules are applicable to all sectors, with no exceptions. The banks are expected to appeal the TCB decision before the Ankara administrative courts.

Source: *Gonlusen Yaprak, The Turkish Competition Board imposes highest fine ever against twelve banks for collusion in the cash deposit, credit and credit card services markets (Akbank, Turkiye Garanti Bankasi, Garanti Odeme Sistemleri), 8 March 2013, e-Competitions, N°51291, www.concurrences.com*.

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