
COMMUNIQUE

From: The Capital Markets Board

**Communiqué ON PRINCIPLES REGARDING REPORTING TO
TRADE REPOSITORY (IV-87.1)**

PART ONE

Purpose, Scope, Reference, Definitions and Abbreviations

Purpose

ARTICLE 1 – (1) The purpose of this Communiqué is to establish the principles and procedures regarding reporting to trade repository institutions.

Scope

ARTICLE 2 – (1) This Communiqué covers the principles and procedures regarding reporting to trade repository institutions pertaining to derivative trades.

Reference

ARTICLE 3 – (1) This Communiqué is issued based on Article 87 of the Capital Markets Law No. 6362 dated December 6, 2012.

Definitions and abbreviations

ARTICLE 4 – (1) Terms used in this Directive bear the following meanings;

- a) AII: Alternative Investment Identifier code standardized by the Committee of European Securities Regulators (CESR),
- b) BIC: Business Identifier Code defined in accordance with the ISO 9362 Standard,
- c) Stock Market: Stock markets defined in the Law No. 6362,
- d) CFI: Financial instrument class defined in accordance with the ISO 10692 Standard,
- e) EIC: Energy Identification Code,
- f) General TR member: The institution providing central counterparty services and the institutions authorized to provide reporting services for the trades to which they are a party or the trades they broker. These members also include the institutions who offer reporting services on behalf of third parties, independently of such trades;
- g) The Law: The Law No. 6362,
- h) The CMB: The Capital Markets Board,
- i) LEI: Legal Entity Identifier code assigned in accordance with the ISO 17442 Standard to a legal entity subject to the laws of any country,
- j) MKK: Central Securities Depository,
- k) Central counterparty service: Activities of the Istanbul Settlement and Custody Bank in which they undertake conclusion of clearing by assuming the role of seller toward the buyer and buyer toward the seller by means of open offer, contract renewal or another legally binding method based on capital market instruments admitted by the CMB,
- l) CCP: Central counterparty,
- m) NACE: Code pertaining to statistical classification of economic activities pursuant to European Union regulations,

- n) ISIN: International Securities Identification Number defined in accordance with ISO 6166;
- o) Reporting: Notification to a trade repository institution authorized by the CMB as per Article 87 of the Law;
- p) Capital market instruments: Capital market instruments defined in Article 3 of the Law;
- q) UPI: Unique Product Identifier,
- r) Over-the-counter market: Markets other than stock markets and other organized markets;
- s) Derivative instrument: Derivative instruments listed in Article 3 of the Law;
- t) TR: Trade repository institution authorized by the CMB as per Article 87 of the Law, which collects and centrally stores data pertaining to capital market transactions designated by the CMB.
- u) Investment institution: Brokerage houses, and other capital market institutions and banks authorized to engage in investment services and activities under the establishment and operation principles set by CMB;

PART TWO
Reporting Obligation and Principles

Contracts to be reported to TRs **ARTICLE 5** – (1) Details regarding derivative contracts executed in stock markets and other organized markets as well as over-the-counter markets must be reported to TRs.

(2) Derivative instruments approved by the CMB may be excluded from the scope of reporting obligation.

(3) Upon request by a relevant authority, the CMB may decide that the reporting counterparties can report to a TR about their other trades, which may fall under the scope of this Communiqué.

Obligation to report to the TRs

ARTICLE 6 - (1) The counterparties of derivative contracts and the institutions providing central counterparty services must report the details regarding the said derivative contracts in compliance with the tables in the annexes of this Communiqué and in a manner that will not cause double entry at the TR on the day following the conclusion, amendment, early cancellation or due date of the contract, at the latest.

(2) The reporting obligation of investment institutions with respect to over-the-counter derivative contracts concluded between each other for their respective portfolios is assumed by both investment institutions.

(3) The reporting obligation for derivative contracts concluded between investment institutions and their customers, or intermediated by investment institutions on behalf of their customers where the other counterparty is at home or abroad, and for the derivative contracts concluded by investment institutions in the local over-the-counter markets or foreign organized/over-the-counter markets for their respective portfolios, excluding the second clause, is assumed by the related investment institution. However, the provision in the fourth clause is reserved.

(4) The reporting obligation for over-the-counter derivative contracts intermediated by investment institutions authorized for execution of orders, on behalf of their customers where the other counterparty is an investment institution resident in Turkey, is assumed by the counterparty investment institution authorized for portfolio intermediation.

(5) The reporting obligation for trades settled by a CCP residing in Turkey is assumed by the resident CCP. The reporting obligation for trades settled by a CCP residing abroad is assumed by the related investment institution.

(6) The reporting obligation for derivative contracts concluded by legal entities resident in Turkey other than investment institutions, between each other, or in foreign organized or over-the-counter markets without intermediation of an investment institution authorized by the CMB, is assumed by the legal entities who are resident in Turkey. Within the scope of this paragraph, legal entities are public joint stock companies, collective investment schemes, portfolio management companies, mortgage financing institutions, housing finance and asset financing funds, asset leasing companies, financial institutions authorized as per the Banking Law No. 5411, dated October 19, 2005, insurance and reinsurance companies licensed as per the Insurance Law No. 5684, dated June 3, 2007, pension companies licensed as per the Individual Pension Savings and Investment System Law No. 4632, dated March 28, 2001, financial leasing companies, factoring companies and financing companies authorized as per the Financial Leasing, Factoring and Financing Companies Law No. 6361, dated November 21, 2012, as well as the companies designated by the Central Bank of the Republic of Turkey as per the Regulation on the Principles and Procedures for Monitoring Transactions Affecting Foreign Currency Positions by the Central Bank of the Republic of Turkey, published in the Official Gazette No. 30335 on February 17, 2018.

(7) Excluding the third paragraph, it is not mandatory to report to TRs the derivative contracts concluded between natural persons and the trades concluded between natural persons and legal entities.

Transfer of reporting obligation

ARTICLE 7 – (1) It is possible to transfer the reporting obligation of derivative contracts concluded between two investment institutions and the derivative contracts concluded between legal entities other than investment institutions, to the other counterparty or to a third-party institution who is a general TR member.

(2) The reporting obligation for derivative contracts in which only one of the counterparties is an investment institution, and the contracts intermediated by investment institutions that are not party to the contract, on behalf of their customers as part of a commercial activity where the other counterparty is an institution resident in Turkey or abroad, may only be transferred to a third-party institution who is a general TR member.

(3) Transfer of reporting obligation is authorized by a contract signed by both the transferring and transferee parties. Such transfer does not relieve the counterparty subject to the obligation from its responsibilities.

Reporting principles

ARTICLE 8 – (1) The counterparties subject to reporting obligation as per Article 6 of this Communiqué are required to report in accordance with the charts appended to this Communiqué within the scope of the principles and procedures designated by the TR.

(2) The counterparties subject to reporting obligation must value the contract values and collateral values pertaining to reported open derivative positions, according to daily market prices. If market price-based valuation is not possible, valuation may be conducted according to generally accepted models. Notification for valuation must be reported to the TR within the period specified in the first paragraph of Article 6.

(3) Without prejudice to the applicable legislation provisions, the counterparties subject to reporting obligation must maintain the records of the reported contracts at least ten years from the closure date of a position.

(4) If reporting is conducted for both counterparties, the chart for counterparties in ANNEX/1 is reported for both counterparties separately, and the chart for contract elements in ANNEX/2 is reported only once.

(5) Reporting for derivative contracts consisting of a combination of more than one contract as specified in ANNEX/2, is conducted separately for each contract in a manner agreed by the counterparties.

Reconciliation

ARTICLE 9 – The TR sets the principles and procedures regarding the details to be reported to the TR regarding reconciliation of counterparties.

Reporting of collateral

ARTICLE 10 – (1) The information requested in ANNEX/1 pertaining to collateral, covers all collateral and margins posted and received for the reported contract.

(2) If a trade-based collateral is not calculated for the reported contracts, the net collateral amount calculated on a portfolio basis is reported to the TR. When reporting a portfolio-based net collateral amount, a code defining the portfolio to which the collateral belongs is used for the contract.

(3) The market price-based collateral valuation for the contracts settled by the CCP is conducted by the CCP.

Responsibility and confidentiality obligation

ARTICLE 11 – (1) The counterparties subject to reporting obligation must provide the information even if it is counter to the privacy and confidentiality provisions of their bylaws.

(2) The counterparties subject to reporting obligation are responsible for reporting data in accordance with the real characteristics of the contracts. The institution that took over reporting obligation is responsible for reporting the information presented to it, according to the principles designated in this Communiqué.

(3) In derivative transactions subject to reporting obligation executed with another counterparty residing abroad, if the other counterparty's information may not be reported to the TR due to legal barriers of the related country, the TR is notified about the matter. In this case, until the legal barriers in the related country are removed, the other counterparty's ID information in ANNEX/1 are reported by masking such information according to principles to be determined by the TR.

(4) The institutions reporting to a TR by taking over reporting obligation are obligated to ensure confidentiality of the reported data and to not disclose such data under any circumstances whatsoever to anyone except to the legally - commissioned and authorized persons or offices, and to not use such data to the advantage or detriment of themselves or third parties.

Keeping the book-entry records pertaining to data input

ARTICLE 12 – (1) Modifications regarding the data stored by a TR are recorded by the TR and must include the information pertaining to the person or persons requesting such modification, including the TR, and the nature, reason, date and timestamp of such modification, and the old and new book-entry records, and to cover the information specified in the action type field in ANNEX/2.

Obligation to use ID

ARTICLE 13 – (1) In reports, the LEI code to be obtained within the duration determined in this Communiqué is used to define investment institutions, counterparty legal entities and beneficiaries, institutions reporting to a TR by taking over reporting obligation, and legal entities who are clearing members and CCPs.

(2) In reports, to define legal entity counterparties without a LEI code, the MKK registration number is used until such counterparty acquires a LEI code; the taxpayer ID is used when there is no MKK registration number; in cases when all of the above numbers and codes are missing, the BIC code in compliance with the ISO 9362 Standard is used and if a BIC code is also non-existent, the customer number is used.

(3) To define the natural person counterparties, the MKK registration number is used, and if there is no MKK registration number, the National Identification Number or foreigner identification number is used.

Using product codes

ARTICLE 14 – (1) UPI codes are used to define derivative contracts in reporting to a TR. If a UPI code is non-existent, a derivative contract is defined by ISO 6166 ISIN code or by a combination of AII and ISO 10962 CFI codes.

(2) If reporting in the manner specified in the first paragraph is not possible, a derivative instrument type is defined according to the following principles:

a) A derivative instrument underlying asset class is defined as

1) Commodity and emissions,

2) Credit,

3) Exchange rate,

4) Share,

5) Interest

rate

b) A derivative contract type is defined as;

- 1) Contracts for difference,
- 2) Forward rate contracts,
- 3) Forward contracts,
- 4) Futures contracts,
- 5) Option contracts,
- 6) Swap,
- 7) Swaption,
- 8) Other.

(3) The derivative contracts not fully falling under the scope of one of the asset classes specified in sub-section (a) of the second paragraph, are reported as the closest asset class on which the counterparties agree.

Using trade IDs

ARTICLE 15 – (1) A unique trade ID agreed upon by the counterparties is used for each contract when reporting to a TR.

(2) In reports, the trade IDs are generated by;

- a) The CCP for the contracts settled by the CCP,
- b) The seller investment institution for the contracts concluded by two investment institutions,
- c) The investment institution obligated for reporting for the contracts which investment institutions conclude with their clients or the contracts they intermediate,
- d) The seller legal entity for the contracts concluded by two legal entities other than investment institutions.

(3) Both counterparties should use the identical unique trade ID when the other counterparty resides abroad.

(4) The TR determines the procedures and principles regarding generation of a trade ID.

Code of practice

ARTICLE 16 – (1) In matters that are not included in this Communiqué or that lack clarity, the CMB is authorized to interpret the provisions of this Communiqué, to give decisions and regulate and guide practices by taking into consideration the general provisions.

PART THREE Transitional and Final Provisions

Reporting commencement date

PROVISIONAL ARTICLE 1 – (1) Among the derivative contracts drawn by the counterparties subject to reporting obligation and falling under the scope of Article 5, those entering into effect as of November 30, 2018, are reported to the TR.

(2) Regardless of their effective date, the contracts not yet concluded as of November 30, 2018, and the contracts entering into effect after January 1, 2018, and concluded or terminated as of November 30, 2018, must be reported to the TR by January 1, 2019, at the latest.

(3) The CMB determines the commencement date of reporting by the CCP and the areas to be reported, upon proposal by the CCP.

Transition provision regarding reporting dates

PROVISIONAL ARTICLE 2 – (1) Within the scope of the first paragraph of Article 6, the reporting to the TR which at the latest should be made on the business day following signing, modification, early termination or mature conclusion of a contract, may be conducted on the second following business day until January 1, 2019.

(2) The reporting commencement day designated in the first paragraph of Provisional Article 1, is applied as January 1, 2019, for the legal entities falling under the scope of the sixth paragraph of Article 6. However, regardless of their effective date, the contracts not yet concluded as of January 1, 2019, and the contracts entering into effect after January 1, 2018, and concluded or terminated as of January 1, 2019, must be reported to the TR by January 31, 2019.

Transitional provision regarding LEI code usage

PROVISIONAL ARTICLE 3 – (1) Excluding the investment institutions and CCPs, the legal entities that must obtain a LEI code as per Article 13 must obtain the code within one month from the first reporting to a TR, and must notify the TR of their code within five business days.

(2) TR members must acquire a legal entity identifier code during member application.

Entry into Force

ARTICLE 17 – (1) This Communiqué enters into force at the time of its publishing.

Enforcement

ARTICLE 18 – (1) The Capital Markets Board is responsible for enforcing this Communiqué.