

**COMMUNIQUE RELATING TO THE PRINCIPLES FOR  
SECURITIES INVESTMENT COMPANIES  
(III-48.5)**

**(Published in the Official Gazette edition 29368 on 27/05/2015)**

**FIRST SECTION  
General Provisions**

**FIRST CHAPTER  
Purpose, Scope, Grounds, Abbreviations and Definitions**

**Purpose and Scope**

**ARTICLE 1 – (1)** The purpose of this Communiqué is to set down:

- a) principles with regard to the establishment and founders of fixed capital securities investment companies, and public offering of their shares, transfer of shares, qualifications to be sought for in shareholders and managers, management principles, principles of operations, portfolio limitations, assessment and valuation of assets in portfolio, custody of assets, buyback of shares, public disclosure and investor information obligations, exit from securities investment company status, profit distribution and other obligations and liabilities thereof;
- b) principles with regard to establishment and founders of variable capital securities investment companies, and issuance of their shares, their prospectuses and publication of prospectuses, transfer and redemption of founder's shares, redemption of investor's shares, qualifications to be sought for in shareholders holding founder's shares and in managers thereof, management principles, principles of operations, portfolio limitations, assessment and valuation of assets in portfolio, custody of assets, public disclosure and investor notification obligations, profit distribution, liquidation and dissolution, and conversion of fixed capital securities investment companies to variable capital securities investment companies, and other obligations and liabilities thereof.

**Grounds**

**ARTICLE 2 – (1)** This Communiqué is prepared and issued in reliance upon Articles 48, 49, 50 and 51 of the Capital Markets Law no. 6362 dated 6/12/2012.

**Definitions and Abbreviations**

**ARTICLE 3 – (1)** For the purposes and in the context of this Communiqué:

- a) **“Minimum net asset value”** refers to minimum amount net asset value of a variable capital securities investment company must reach within the period of time specified in this Communiqué starting from the date of registration of its articles of association;
- b) **“Ministry”** refers to the Ministry of Customs and Trade;

- c) **“Bank”** refers to banks as defined in Article 3 of the Banking Law no. 5411 dated 19/10/2005;
- ç) **“Initial capital”** refers to minimum capital amount required to be paid by holders of founder’s shares in a variable capital securities investment company;
- d) **“BİAŞ”** refers to Borsa İstanbul A.Ş.;
- e) **“Information documents”** refers to the articles of association, prospectus, issue document and key investor information document;
- f) **“Association”** refers to the Association of Capital Markets of Turkey;
- g) **“Stock exchange”** refers to the systems, marketplaces and foreign exchanges as defined in sub-paragraph (ç) of first paragraph of Article 3 of the Capital Markets Law no. 6362;
- ğ) **“Variable capital company”** refers to securities investment companies with variable capital;
- h) **“Group”** refers to all of companies which are directly or indirectly under management control of the same natural person or legal entity;
- ı) **“Publicly held shares”** refers to shares registered in Central Registry Agency Inc. as shares tradable in stock exchange;
- i) **“Issue”** refers to issuance and sales of capital market instruments as defined in subparagraph (ğ) of first paragraph of Article 3 of the Capital Markets Law no. 6362;
- j) **“Issuer”** refers to legal entities issuing capital market instruments or capital market instruments of which are offered to public, and investment funds subject to and governed by the Capital Markets Law no. 6362;
- k) **“Law”** refers to the Capital Markets Law no. 6362 dated 6/12/2012;
- l) **“PDP”** refers to the Public Disclosure Platform;
- m) **“Board”** refers to the Capital Markets Board;
- n) **“Leading Shareholder”** refers to shareholder or shareholders meeting the conditions cited in Articles 7 and 8;
- o) **“Net asset value”** refers to a value found by deduction of total debts and liabilities of company from total assets of company;
- ö) **“Qualified investor”** refers to persons defined in the regulations of the Board pertaining to sales of capital market instruments;
- p) **“Company”** refers to a securities investment company with fixed or variable capital;

- r) **“Portfolio”** refers to a set of properties consisting of assets investable according to the provisions of this Communiqué;
- s) **“Portfolio value”** refers to a value found upon valuation of assets in the company’s portfolio under the principles set forth in this Communiqué and other relevant legislation;
- ş) **“Portfolio custody services”** refers to services defined in first paragraph of Article 56 of the Law;
- t) **“Portfolio custodian”** refers to a firm offering portfolio custody services and authorized within the frame of Article 56 of the Law;
- u) **“Portfolio management company”** refers to a joint-stock company the main fields of business of which cover the establishment and management of investment funds, and management of portfolio of investment companies, as further defined in the regulations of the Board pertaining to portfolio management companies;
- ü) **“Fixed capital company”** refers to securities investment company with fixed capital;
- v) **“SPL”** refers to and stands for Sermaye Piyasası Lisanslama Sicil ve Eğitim Kuruluşu A.Ş. (Capital Markets Licensing Registry and Training Agency Inc.);
- y) **“Takasbank”** refers to İstanbul Takas ve Saklama Bankası A.Ş. (Istanbul Settlement and Custody Bank Inc.);
- z) **“CBRT”** refers to Türkiye Cumhuriyet Merkez Bankası Anonim Şirketi (Central Bank of the Turkish Republic);
- aa) **“TCC”** refers to and stands for the Turkish Commercial Code no. 6102 dated 13/1/2011;
- bb) **“TTRG”** refers to and stands for the Turkish Trade Registry Gazette;
- cc) **“Derivative instruments”** refers to futures and option contracts deemed fit to be included in the portfolio of the company by the Board;
- çç) **“Investment firm”** refers to intermediary institutions, and other capital market institutions and banks the establishment and operating principles of which are determined by the Board for investment services and activities;
- dd) **“Key Investor information Document”** refers to a summary document indicating the structure, investment strategy and risks of the portfolio;
- ee) **“Manager”** refers to a portfolio management company deemed fit by the Board;
- ff) **“Management control”** refers to the holding of more than fifty percent of voting rights of a company, or the holding of majority of privileged shares granting the right to nominate a number of members of the board directors corresponding to simple majority of full number of members of the board of directors in the general assembly meetings, directly or indirectly, alone or jointly with other persons acting in concert.

**SECOND SECTION**  
**Principles Relating to Fixed Capital Companies**

**FIRST CHAPTER**  
**General Principles**

**Definition of Fixed Capital Company**

**ARTICLE 4 – (1)** Fixed capital company is a type of capital market institution which is established in the form of a joint-stock company according to the authorized capital system for the purpose of managing a portfolio composed of the assets and instruments listed below in accordance with the pertinent provisions of the Law and which may engage in other activities permitted in this Communiqué, within the limits of activities delineated in Article 48 of the Law:

- a) Shares of issuers established in Turkey, also including those within the scope of privatization, as well as private and public debt instruments;
- b) Foreign private and public debt instruments and issuer's shares tradable pursuant to the provisions of the Governmental Decree on Protection of Value of Turkish Currency no. 32 issued and enacted by a Decree of Council of Ministers no. 89/14391 dated 7/8/1989;
- c) Time deposits and participation accounts, not having a maturity longer than 12 months;
- ç) Gold and other precious metals as well as capital market instruments issued on the basis of such metals, providing that they are listed and traded in exchange;
- d) Investment fund participation units;
- e) Repo and reverse repo transactions;
- f) Lease certificates;
- g) Real estate certificates;
- ğ) Covered warrants and certificates;
- h) Takasbank money market transactions;
- ı) Cash collaterals and premiums of derivatives traded in stock exchanges;
- ii) Specially designed foreign investment instruments and loan participation notes deemed fit to be included in the portfolio by the Board;
- j) Other assets and investment instruments deemed fit to be included in the portfolio by the Board.

## **Activities and Transactions**

**ARTICLE 5 – (1)** Main activities and functions of a fixed capital company are:

- a) To create and operate, and if required, make changes in, portfolio of the company;
- b) To distribute so as to minimize investment risk according to fields of business and standing of companies through portfolio diversification;
- c) To continuously monitor developments affecting capital market instruments, financial markets and institutions, and corporations, and to take the required measures with regard to portfolio management;
- ç) To conduct studies aimed at protecting and enhancing the value of the portfolio.

## **SECOND CHAPTER Principles on Establishment**

### **Conditions for Establishment**

**ARTICLE 6 – (1)** In order for the Board to approve establishment of a fixed capital company:

- a) the company must have been established in the form of a joint-stock company with authorized capital;
- b) founders of the fixed capital company must have committed to the Board that shares equal to minimum 49% of its issued capital will be offered to public within the term and under the principles set forth in this Communiqué;
- c) its initial capital must not be less than 20 million TL;
- ç) its shares must be issued against cash payment, and the price thereof must have been fully paid in cash at the time of establishment;
- d) its title must contain the phrase “Securities Investment Company”;
- e) at least one of its founders must be the leading shareholder;
- f) its general manager and members of the board of directors must have been appointed, and these persons must meet the conditions set forth in this Communiqué;
- g) its founding partners must meet the conditions set forth in this Communiqué;
- ğ) its articles of association must be in compliance with TCC, the Law and this Communiqué;
- h) an institution authorized by the Board must have been designated to provide portfolio custody services to the company.

## **Qualifications of Founders and Shareholders**

**ARTICLE 7 – (1)** Natural person and legal entity founding partners of a fixed capital company:

- a)** must not have been adjudged bankrupt, or entered into composition with their creditors, or been subject to a court order for postponement of bankruptcy;
- b)** must not be among the persons held liable for the event necessitating this sanction, in institutions one of the operating licenses of which was cancelled by the Board;
- c)** must not have been convicted of any one of the offences and crimes listed in the Law by a final court verdict;
- ç)** must not be the subject matter of an order of liquidation issued about them or an institution where they were shareholders pursuant to the repealed Governmental Decree in Force of Law About Transactions of Insolvent Bankers, no. 35, dated 14/1/1982;
- d)** must not have been sentenced to imprisonment for five years or more due to a crime committed maliciously, and been convicted of crimes against security of state or crimes against constitutional order and its modus operandi, or of embezzlement, extortion, bribery, theft, fraud, forgery, abuse of trust, fraudulent bankruptcy, bid rigging, rigging in performance of obligations, prevention or distortion of information system, destruction or alteration of data, abuse of debit or credit cards, laundering of proceeds of crime, smuggling, tax evasion or unjust acquisition of properties, even if the periods referred to in Article 53 of the Turkish Criminal Code no. 5237 dated 26/09/2004 have elapsed;
- e)** must have obtained resources needed for establishment from their own commercial, industrial and other legal activities free from any kind of collusion, and must have financial power to fund the subscribed capital amount;
- f)** must have honesty and reputation required for the business;
- g)** must not have any overdue tax debts;
- ğ)** must not have been convicted of crimes and offences regulated by the Law on Prevention of Financing of Terrorism no. 6415 dated 7/2/2013;
- h)** must not have been banned for transactions pursuant to subparagraph (a) of the first paragraph of Article 101 of the Law.

The conditions specified in subparagraph (a) of this paragraph shall not be considered in enforcement of the decision relating to removal or closure of bankruptcy or approval of proposal for composition with creditors, and the conditions specified in subparagraph (b) shall not be considered in the implementation of this paragraph after lapse of 10 years following the date the relevant decision is finalized.

(2) In applications for establishment, natural persons indirectly and ultimately holding 20% or more of capital shares of the fixed capital company, and in the case of privileged shares, natural persons indirectly holding privileged shares providing management control in the fixed capital company are required to meet the conditions specified in all subparagraphs, but subparagraph (e), of first paragraph of this Article.

(3) As for the legal entity leading shareholders, other than banks:

a) natural persons directly or indirectly and ultimately holding management control of the company;

b) in the case of privileged shares, natural persons holding more than 20% of privileged shares;

c) in the case of privileged shares, natural persons directly or indirectly and ultimately holding more than 20% of privileged shares of legal entity shareholders holding more than 20% of privileged shares in the leading shareholder

are required to meet the conditions specified in all subparagraphs, with the exception of subparagraph (e), of the first paragraph of this Article.

(4) In applications for establishment, if the founder or indirect partner is a bank, it is sufficient to submit to the Board the information and documents proving that the bank has the qualifications specified in subparagraph (g) of first paragraph of this Article, and the Board is required to receive a prior consent of the Banking Regulation and Supervision Agency. The provisions of second paragraph of this Article are not applicable on persons who indirectly hold shares in the fixed capital company through indirect and direct shareholding in the bank.

### **Leading Shareholder and Special Conditions Relating to Leading Shareholder**

**ARTICLE 8 – (1)** Leading shareholder refers to shareholder or shareholders who alone or jointly hold shares equal to minimum 25% of capital of a fixed capital company, except for acquisition of shares after public offering. If the initial public offering is made through capital increase, the minimum amount of capital required to be held by leading shareholder shall be calculated according to the pre-public offering capital. In the case of presence of more than one shareholder meeting the said minimum capital shareholding condition in the fixed capital company, it shall be adequate to determine only one of them as a leading shareholder. If and when more than one natural persons and/or legal entities are determined as leading shareholders in fixed capital companies, the conditions sought for in the leading shareholder are required to be met separately by each of such leading shareholders, without prejudice to the provisions of the fifth paragraph of this Article.

(2) Leading shareholder must meet not only the conditions listed in Article 7, but also the conditions enumerated in this Article.

(3) Natural person or legal entity shareholders whose name or title is directly used in the trade name of the fixed capital company or even if indirectly, about whom the trade name of the fixed capital company contains a phrase giving the impression of association with them are required to be leading shareholders for the purposes of this Communiqué.

(4) Natural persons or legal entities to be designated as a leading shareholder in a fixed capital company must have the financial power and adequate past experience in financial markets field as required for being a founder and shareholder of a fixed capital securities investment company.

(5) Current value of total movable and immovable assets of a natural person leading shareholder of a fixed capital company must be minimum 10 million TL, and more than one natural persons are leading shareholders, total current value of movable and immovable assets of natural person leading shareholders must be minimum 20 million TL.

(6) Legal entity leading shareholders of a fixed capital company must have been in operation for a minimum of three years; and its consolidated and solo financial statements of the last accounting period prior to the date of application to the Board must have been audited by an independent audit firm, and its shareholders' equity shown in these financial statements must be at least equal to twice the issued capital of the fixed capital company to be established, and its total assets must be at least equal to three times the issued capital of the fixed capital company to be established. In calculations under this paragraph, a ceiling of 100 million TL shall be applied for the shareholders' equity condition, and a ceiling of 200 million TL shall be applied for the total assets condition. If more than one legal entities are determined as leading shareholders, the conditions described above are sought for separately for each legal entity.

(7) For public institutions and legal entities and for legal entities operating for public benefit, other than the conditions sought for in the laws specifically related to them, the financial capability conditions relating of leading shareholders may not be sought for.

(8) Financial statements to be issued pursuant to this Article must have been issued in accordance with the regulations of the Board, and must have been audited by an independent audit firm.

### **Establishment Procedures**

**ARTICLE 9 – (1)** Applications for establishment of a fixed capital company are required to be filed by founders to the Board with an establishment application form the format and principles of which will be determined by the Board, and with other documents enumerated in that form.

(2) The Board shall examine the application in terms of compliance with the provisions of the Law and this Communiqué.

(3) If the application is found acceptable by the Board, then an application shall be made to the Ministry with a request of approval of establishment, and together with documents proving



that the capital has been paid in accordance with provisions of this Communiqué and with other required documents.

(4) A fixed capital company shall become a separate legal entity upon registration of the company in trade registry in accordance with the pertinent provisions of TCC, following receipt of an establishment permit from the Ministry.

(5) During establishment, articles of association must be registered in the trade registry within no later than 30 days following the date of receipt of the relevant approval of the Board, and an application must be filed for announcement thereof in TTRG. A copy of TTRG edition containing this announcement shall be sent to the Board within six business days following the date of announcement.

### **THIRD CHAPTER**

#### **Issue and Sales of Shares**

#### **Sales of Company Shares**

**ARTICLE 10 – (1)** Issue and sales of company shares are governed by not only the special provisions specified in this Communiqué, but also the regulations of the Board pertaining to issue and sales of shares and approval of prospectus.

(2) Fixed capital companies may make a capital increase through sale of shares only if the exchange price of shares of the fixed capital company found as a result of a calculation to be made by considering the average weighted average prices in the exchange during 30 days prior to the date of public disclosure of the decision of capital increase through sale of shares is above 1 TL. Provided, however, that:

a) if privileges were granted to certain share groups in the said fixed capital company, the company may make a capital increase through sale of shares below the nominal value thereof, if privileges are terminated by an amendment to the articles of association prior to delivery to the issuer of the prospectus or issue document relating to capital increase approved by the Board,

b) the fixed capital company may make a capital increase through private placement over a price to be determined on the condition of not being less than the average of net asset unit values per share disclosed to public during 30 days prior to the date of public disclosure of the decision of capital increase and in any case, less than the nominal value of shares.

(3) In capital increase through private placement to be made pursuant to subparagraph (b) of second paragraph, the person or persons purchasing the shares covered by capital increase through private placement may not sell these shares in the exchange for a period of one year following the date of acquisition of such shares. Buyers of these shares to be sold by these persons in the over-the-counter market are also subject to this limitation.

## **Public Offering**

**ARTICLE 11 – (1)** Fixed capital companies may, upon completion of their establishment process, sell their shares via public offering only if and when they, within three months following the date of registration of their establishment in the trade registry, procure the required spaces, equipment and personnel and build the required organization, and appoint a general manager pursuant to subparagraph (f) of first paragraph of 6, and fill in the public offering application form the format and principles of which shall be determined by the Board and complete the documents enumerated in the form, and apply to the Board with a request of approval of their prospectus relating to public offering of shares representing minimum 49% of their issued capital.

(2) Fixed capital companies may not make a capital increase before public offering.

(3) Fixed capital companies which fail to fill in the public offering application form and complete other documents stated in the form and file an application to the Board, within the period of time set forth in the first paragraph, or whose application is not approved by the Board due to failure to meet the required conditions shall lose their right to operate as a fixed capital company. Such fixed capital companies must, within no later than three months following the end of said period of time or following the date of receipt of the negative opinion of the Board, apply to the Board in order to amend their articles of association so as to exclude the fixed capital company activities and operations therefrom. A fixed capital company which does not make these amendments is deemed to have been dissolved pursuant to provisions of subparagraphs (b) and (c) of the first paragraph of Article 529 of TCC.

(4) Also after reaching the minimum public float rate of 49% as a result of a public offering to be made within the period of time set forth in the first paragraph, shares corresponding to at least 49% of issued capital must continuously remain in publicly held status.

## **Listing in BİAŞ**

**ARTICLE 12 – (1)** Fixed capital companies offering their shares to public shall, within 15 days following the end of the sales period, apply to the Board for delivery of the document required for listing of their shares in BİAŞ. Within 15 days following receipt of this document, they are liable to file an application to BİAŞ for listing of their shares.

## **FOURTH CHAPTER**

### **Kind and Characteristics, and Transfer of Shares**

#### **Kind and Characteristics of Shares**

**ARTICLE 13 – (1)** Fixed capital company shares may be issued as registered shares or bearer shares.

(2) Fixed capital companies may not issue any securities granting privileges.

(3) Fixed capital companies which have already issued shares granting privileges prior to the date of publication of this Communiqué may not create any additional privileges whatsoever. Without prejudice to reasonable or required cases due to regular conduct of their activities, in publicly held fixed capital companies which incur losses in five consecutive annual periods according to their financial statements prepared in accordance with the regulations of the Board, the privileges relating to voting rights and representation in the board of directors shall be abolished by a decision of the Board. The provisions of this paragraph shall not be implemented if the relevant privileged shares belong to public administrations and entities.

(4) The provisions of the first paragraph of Article 414 of TCC are not applicable on registered shares traded in the exchange.

### **Transfer of Shares**

**ARTICLE 14 – (1)** Before public offering, the transfer of shares representing 10% or more of the capital, and transfer of privileged shares, regardless of the rate thereof, are subject to a prior permission of the Board. For share transfers as above, new shareholders acquiring shares in the fixed capital company are required to be in compliance with the conditions specified in all subparagraphs of the first paragraph of Article 7, with the exception of subparagraph (e). In case of acquisition of shares representing less than 10% of the capital, new shareholders acquiring shares in the fixed capital company are required to submit to the Board within 10 business days following the date of transfer of shares, documents verifying that they meet the conditions sought for in all subparagraphs of first the paragraph of Article 7, with the exception of subparagraph (e).

(2) After public offering of shares of the fixed capital company, shareholders holding shares providing management control in the fixed capital company are obliged to meet the conditions specified in all subparagraphs of first paragraph of Article 7, with the exception of subparagraph (e). Transfer of privileged shares providing management control in the fixed capital company is subject to a prior permission of the Board. In case of acquisition of management control with unprivileged shares, the shareholders holding such shares are required to submit to the Board and to SPL within 10 business days following the date of acquisition of shares, the documents verifying that they are in compliance with the mentioned conditions.

(3) In transfer of privileged shares providing management control in the fixed capital company, if and when the shareholders who will take over the privileged shares become liable to make a takeover bid pursuant to regulations of the Board pertaining thereto, these shareholders must have and must prove that they have adequate financial strength for purchasing shares of other shareholders. The provisions of regulations of the Board pertaining to exemption from mandatory takeover bids are, however, reserved.

(4) After public offering of shares of the fixed capital company, if shareholders holding shares providing management control in the fixed capital company fail to meet the conditions specified in all subparagraphs of first paragraph of Article 7, with the exception of subparagraph, then they are under obligation to dispose of their shares providing management control in the fixed

capital company within maximum three months following the date of their failure in meeting the said conditions.

(5) In share acquisitions by banks under this Article, the conditions specified in the fourth paragraph of Article 7 are required to be satisfied.

(6) Transfers realized in conflict with the principles specified in the first, second and fifth paragraphs hereinabove shall not be registered in the share register. Registrations made in the share register in contradiction with provisions of the said paragraphs shall be null and void.

(7) Leading shareholder may not transfer shares providing management control in the fixed capital company to anyone, within two years following the end of the sale period in public offering of shares representing the minimum free float rate required to be reached pursuant to the first paragraph of Article 11. After expiration of said period of time, the transferees of such shares are not required to meet the special conditions applicable to the leading shareholder as sought for in this Communiqué.

## **FIFTH CHAPTER**

### **Management Structure**

#### **Members of the Board of Directors**

**ARTICLE 15 – (1)** Members of the board of directors shall be elected and shall work in accordance with the pertinent regulations of the Board and the relevant articles of TCC.

(2) Members of the board of directors of fixed capital companies are required to meet the conditions specified in all subparagraphs of the first paragraph of Article 7, with the exception of subparagraph (e), and natural persons designated by a legal entity member of board of directors pursuant to second paragraph of Article 359 of TCC are required to meet the conditions specified in all subparagraphs of the first paragraph of Article 7, with the exception of subparagraphs (e) and (g). Furthermore, majority of the members of board of directors must be graduates of four-years' universities, and must have minimum past experience of five years in financial markets field. In terms of compliance with this condition, natural persons designated by legal entity members of board of directors pursuant to second paragraph of Article 359 of TCC shall also taken into consideration.

(3) Members of the board of directors, and natural persons designated by legal entity members of the board of directors pursuant to the second paragraph of Article 359 of TCC, to be appointed to committees established in accordance with corporate governance regulations of the Board, are required to have graduated from four-years' universities.

(4) It is the responsibility of the board of directors of the fixed capital company or the relevant executive director if authorized as such by the board of directors, to fulfill obligations relating to portfolio limitations and public disclosure as stipulated in this Communiqué. This liability continues also in the case of outsourcing of services under Article 19.

(5) In the case of a new appointment to the board of directors, the decision of appointment is sent to SPL within no later than 10 business days following the date of appointment, together with documents proving that the appointed person meets the conditions set forth in second paragraph hereof. Natural persons designated by legal entity directors pursuant to second paragraph of Article 359 of TCC are also named to SPL within no later than 10 business days following the date of announcement relating to registration made pursuant to second paragraph of Article 359 of TCC, together with documents proving that the appointed person meets the conditions set forth in second paragraph hereof.

### **Bans on Members of the Board Directors**

**ARTICLE 16 – (1)** If and when a member of the board of directors is not independent, within the meaning ascribed thereto in corporate governance regulations of the Board, from persons being a party to the decisions to be taken by the board of directors, then they must inform the board of directors thereabout, together with reasons thereof, and in any case, to have this information recorded in the meeting minutes. The provisions of Article 393 entitled “Ban on Participation in Negotiations” of TCC are, however, reserved.

### **General Manager**

**ARTICLE 17 – (1)** General manager of a fixed capital company must have been employed exclusively for this position on full-time basis, must be a graduate of four-years’ universities, must meet the conditions specified in all subparagraphs of the first paragraph of Article 7, with the exception of subparagraph (e), must have minimum past experience of seven years in financial markets field, and must hold a Capital Market Activities Level 3 License Certificate issued pursuant to regulations of the Board pertaining to licensing.

(2) A person may not deputize general manager for more than three months within the last 12 month period. At the end of this period, a deputy may not be appointed again for this job position.

(3) General manager may serve as a director in other entities and institutions, provided that it is not an executive post and it does not lead to failures in performance of his duties in the fixed capital company. Appointment of general manager as a portfolio manager in the fixed capital company does not preclude him from continuing his general manager duties exclusively and on full-time basis.

(4) In the case of a new appointment to the general manager post, the decision of appointment shall be sent to the Board and to SPL within no later than 10 business days following the date of appointment, together with documents verifying that the appointed person meets the conditions set forth in the first paragraph.

### **Other Personnel**

**ARTICLE 18 – (1)** It is required to employ an adequate number of qualified personnel for effective performance of activities of the fixed capital company, and to comply with the

pertinent regulations of the Board in election of specialized personnel who will perform tasks stipulated in capital market legislation. Appointment and resignation of personnel serving as a member in committees required to be established pursuant to the pertinent regulations of the Board shall also be notified to SPL within no later than 10 business days following the date of appointment or resignation as the case may be.

(2) Manager of investor relations department of a fixed capital company, who is in charge of communications between fixed capital company and its investors, is not required to work on full-time basis.

(3) Personnel covered by this Article must meet the condition specified in subparagraph (h) of the first paragraph of Article 7.

## **SIXTH CHAPTER**

### **Principles on Activities and Portfolio**

#### **Principles Relating to Portfolio Management and Outsourcing of Services**

**ARTICLE 19 – (1)** Fixed capital companies may manage their own portfolios by employing at least one portfolio manager, or may outsource portfolio management services to a portfolio management company with prior consent of the Board and under a contract to be signed therefor. In the case of change of portfolio management company contracted as above, it shall be duly notified to the Board by sending the relevant decision of the board of directors. Principles of portfolio management services to be outsourced as above shall be regulated by a contract containing the minimum contents specified in the regulations of the Board pertaining to portfolio management companies. A copy of this contract must be sent to the Board within six business days following the date of signature, and name of the contracted portfolio management company and term of agreement must be published in PDP.

(2) Where portfolio management services are not outsourced to a portfolio management company, the fixed capital company must recruit at least one portfolio manager having a minimum past experience of three years and holding a license certificate as required under the regulations of the Board pertaining to licensing, a written procedure must be established with respect to portfolio management decision making process, and information and documents relied upon in decisions must be kept in the fixed capital company's head offices for a minimum period of five years. Also in the case of outsourcing of portfolio management services, the relevant portfolio managers are required to meet the aforementioned license and experience conditions. Where portfolio management services are not outsourced, subject to receipt of prior consent of the Board, investment advice services may also be outsourced under a contract signed with a portfolio management company holding an investment advice authorization certificate received from the Board and within the framework of the regulations of the Board pertaining to investment advice. Within six business days following the date of signature of the agreement, name of the portfolio management company contracted for investment advice services, and term of investment advice agreement must be published in PDP.

(3) Fixed capital companies may outsource services such as accounting and operations, as well as personnel in charge of internal control, from investment firms, and services relating to risk management system from investment firms and from other specialized institutions deemed fit and eligible by the Board, provided that such services are controlled and monitored by the board of directors. Fixed capital companies outsourcing portfolio management services to a portfolio management company may also outsource risk management system services to the same portfolio management company. Name of the company contracted as per this paragraph and term of contract signed therewith must be disclosed in PDP within six business days following the date of agreement. If a fixed capital company outsources risk management services, the functions of control and monitoring of risk management system shall be performed by the board of directors or if authorized so by the board of directors, by the relevant executive director.

(4) Total sum of annual commissions and fees paid by fixed capital companies for outsourced services and personnel mentioned in the first, second and third paragraphs may not exceed 2% of average daily net asset value of the company calculated for the relevant year. The board of directors or if authorized so by the board of directors, the relevant executive director shall be held responsible for any transactions in violation of the provisions of this paragraph.

(5) In the case of signature of a contract during the year for outsourcing services stipulated in this Article, the rate referred to in the fourth paragraph shall be calculated by considering the time remaining until the year-end.

(6) Services and personnel mentioned in the first, second and third paragraphs may be outsourced only if and to the extent the articles of association of the fixed capital company contains a separate clause and its board of directors takes a decision in relation therewith. Prior consent of the Board for outsourcing of services from a portfolio management company shall be obtained through receipt of prior consent of the Board for the relevant provisions of the articles of association.

### **Internal Control System**

**ARTICLE 20 – (1)** The internal control system must be established with the organizational plan implemented with the purpose of conducting all activities and operations of the fixed capital company regularly, efficiently and effectively in accordance with its management strategy and policies and within the framework of applicable legislation, and ensuring the integrity and reliability of accounting and record-keeping systems, and the accessibility of all information needed in the data management system accurately and in a timely manner, and preventing and detecting any error, fraud and irregularity, as well as:

a) the conduct of all company activities in compliance with legal provisions, and the functions, objectives and fields of business of the fixed capital company, and its articles of association;

- b)** the execution of all transactions in reliance upon general and special authorization and in accordance relevant legislation and contracts, and the issuance of all documents required for fixed capital company activities;
  - c)** effective operation of the fixed capital company's accounting, documentation and record-keeping systems;
  - ç)** identification of risks and taking of required measures with a view to minimizing the risks arising out of any error, fraud and irregularity;
  - d)** determination of whether transactions effected by the fixed capital company's personnel in their own names lead to a conflict of interest with the portfolio managed by the fixed capital company or not;
  - e)** determination of whether the expenditures paid out of the fixed capital company's portfolio are substantiated by documents and in conformity with the current market rates or not;
  - f)** control of valuation of the fixed capital company's portfolio, and determination of net asset value per share of the fixed capital company, and conformity of portfolio ratios with relevant legislation, articles of association and prospectus;
  - g)** determination of principles to be adhered to in the course of business and transactions with related parties.
- (2)** All policies and procedures relating to the internal control system needed to be established in the fixed capital company must be documented in writing and put into effect by a decision of the board of directors. The same principles and procedures will be adhered to also with respect to changes in these policies and procedures.
- (3)** Internal control activities of the fixed capital company shall be arranged and performed as an integral part of daily activities and operations in such manner to allow the monitoring of the identified risks as well. In order to ensure an efficient and effective internal control, the obligations of all personnel to perform their own tasks in accordance with written procedures, and their tasks and authorities relating to presentation to senior level management of acts in conflict with principles of professional conduct, against corporate policies, in breach of laws, shall all be formulated in writing, and shall be delivered to the relevant personnel against a signed acknowledgement of receipt relating thereto. Similarly, changes in the tasks and authorities of personnel and in written procedures pertaining thereto shall also be notified to the personnel against a signed acknowledgement of receipt. Procedures shall be established so as to ensure that all levels of personnel are encouraged to actively participate in the internal control system. Reports to be issued about internal control activities are required to be submitted to the fixed capital company's board of directors on a monthly basis.
- (4)** The fixed capital company's board of directors shall appoint one of its members to whom no executive units or departments report as a "Director in Charge of Internal Control". The director in charge of internal control is liable:



- a) to take actions for operation of the internal control system in accordance with relevant legislation, professional rules and written procedures, and for detection and management of probable risks, and to keep the board of directors informed thereof;
- b) to determine acceptable risk levels, and prepare internal control policies and procedures, and present the same to the board of directors for approval, under the regulations of the Board and the fixed capital company's own policies;
- c) for suitability of internal control goals, and traceability of control results, and independent and objective conduct, and reliability of, internal control activities.

(5) At least one internal control personnel shall be employed for performance of activities required under internal control system. Internal control personnel is required to have a minimum past experience of three years in capital markets, accounting, tax, foreign exchange, information systems audit, business administration analysis, organization and audit or law, and to hold a license certificate demonstrating their professional qualifications and skills pursuant to the regulations of the Board pertaining to licensing. Also in the case of procurement of internal control personnel from outside the company, the relevant personnel are required to meet the aforementioned knowledge, experience and licensing conditions. Without prejudice to provisions of the sixth paragraph, internal control personnel may not assume any duty or liability other than internal control.

(6) Duties and responsibilities of internal control personnel of the fixed capital company may also be performed by inspectors meeting the experience and license conditions.

### **Risk Management System**

**ARTICLE 21 – (1)** If fixed capital companies do not outsource the risk management system services pursuant to the third paragraph of Article 19, they are under obligation to build risk management systems, to document the relevant procedures in writing, and to take a decision of board of directors in connection with these procedures. The same principles and procedures will be adhered to also with respect to changes in these procedures.

(2) The director in charge of internal control shall be responsible for the establishment of the risk management system, and documentation of its procedures in writing, and submission of the same to approval of the board of directors, and robust operation of risk management system.

(3) The risk management system must ensure the creation of a risk measurement mechanism covering definition of basic risks that may be encountered by the fixed capital company's portfolio, regular review of risk definitions, their updating in line with material developments, and consistent assessment, determination, measurement and control of risk exposures. Risk management system must be organized in conformity with the fixed capital company portfolio's investment strategy, and structure and risk level of investment assets, and should be in unity with the fixed capital company's internal control system.

(4) Organization unit of the fixed capital company assigned for risk management services must be independent from the unit in charge of portfolio management. Personnel of the risk management unit must hold Capital Market Activities Level 3 License Certificate and Derivative Instruments License Certificate, and must not assume any other duty in the fixed capital company. If the fixed capital company's articles of association contains a clause precluding the fixed capital company from entering into derivative instrument transactions, personnel of the risk management unit are not required to hold a Derivative Instruments License Certificate. Risk management personnel shall report to the director in charge of internal control.

(5) Risk management unit is entrusted with the tasks of:

a) determining and identifying risks that are or may be exposed to by the fixed capital company and by the portfolio managed by it;

b) determining together with their superior manager and presenting to the board of directors risk measurement methods and the risk measurement model to be used therefor, implementing the risk measurement model approved by the board of directors, regularly reviewing and revising the model in line with changing operating and market conditions, and reporting to its superior manager the requests of changes or revisions deemed necessary in the model, if any;

c) daily monitoring of compliance with risk limits determined by the board of directors, reporting any excess of limits to their superior manager in the same day, and if and when required, requesting changes in limits in line with market and corporate conditions;

ç) monitoring risks arising out of all transactions on a daily basis, and presenting daily written reports to their superior manager and weekly written reports to the board of directors about the said risks, probable results thereof, and actions required to be taken therefor;

d) in case of detection of any event which may lead to extraordinary results with regard to the financial standing of the fixed capital company, submitting their relevant report to the board of directors as soon as possible.

### **Auditing Unit, and Monitoring of Internal Control System**

**ARTICLE 22 – (1)** The fixed capital company must establish an auditing unit, independent from its daily routine activities, assigned for monitoring and auditing functions covering all activities and units of the fixed capital company, especially operation of internal control system and risk management system, also including the audits of compliance with legislation and fixed capital company's policies, in line with the needs of management and the structure of fixed capital company.

(2) It is required to employ in the fixed capital company's auditing unit an adequate number of auditors holding a license certificate indicating their professional competence pursuant to the regulations of the Board pertaining to licensing. Fixed capital companies included in the same group may employ auditors working part-time in not more than two fixed capital companies of the same group.

(3) The auditing unit shall be directly liable towards and shall report to the board of directors. The board of directors may delegate its powers relating to the auditing unit to the directors in charge of internal control or to the audit committee.

(4) Procedures and principles relating to the operation of the auditing process shall be determined by the fixed capital company and submitted to the board of directors for its approval.

(5) Reports issued by auditors as a result of auditing works conducted for each accounting period shall be presented to the fixed capital company's board of directors within no later than three months following the end of the accounting period, and the board of directors shall make a decision on said reports. These reports are required to be kept for a minimum period of five years, or those being the subject matter of a legal dispute at any time during this period are required to be kept in the fixed capital company until settlement of the dispute.

(6) Upon detection of any circumstance which may weaken the fixed capital company's financial standing or lead to extraordinary results, or upon detection of breaches of law which may cause suspension or termination of activities of fixed capital company, the auditing unit shall present its report to the board of directors as soon as possible, and shall submit a copy thereof to the Board in the same day.

(7) The fixed capital company is under obligation to facilitate the access of the auditor or auditors to all kinds of information and documents for the performance of their duties.

(8) Fees and other personal rights and benefits of auditors shall be determined by the board of directors.

(9) Auditors are required to act objectively and to comply with their confidentiality and secrecy obligations in the performance of their duties.

(10) The Board shall be authorized to impose additional obligations on the auditing unit, and to grant exemptions from obligations mentioned in the preceding paragraphs, upon consideration of the activities of the fixed capital company.

(11) Auditor may also assume and perform the duties and liabilities of internal control personnel, provided that related experience and license conditions are satisfied.

### **Activities that may not be Conducted**

**ARTICLE 23 – (1)** Fixed capital companies are not allowed:

- a) to engage in money lending business;
- b) to collect deposits or participation funds or to enter into acts and transactions leading to collection of deposits or participation funds as further defined in the Banking Law no. 5411;
- c) to deal with commercial, industrial and agricultural fields of business;

- c) to perform intermediary services;
- d) to conduct short selling and margin trading transactions;
- e) to pledge the assets in their portfolio, and to show them as a guarantee except for the portfolio-related transactions. However, they are allowed to show 10% of their portfolio as a guarantee in order to borrow loans under the principles set forth in Article 31;
- f) to keep cash funds in an amount in excess of the amount required for daily operations and for margining of transactions in derivative instruments;
- g) to acquire movable and immovable assets in excess of the amount and value needed for their business activities;
- ğ) to purchase assets above current market value for, or sell assets below current market value from, their portfolio. Current market value refers to the exchange price for the assets traded in the exchange, and the lowest price in case of purchase and the highest price in case of sales in favor of the fixed capital company in the market of transactions in the transaction day, for the over-the-counter market deals and transactions of the assets traded in the exchange.

## **SEVENTH CHAPTER**

### **Portfolio Restrictions**

#### **Restrictions on Assets To Be Included in Fixed Capital Company's Portfolio, and on Issuers Thereof**

**ARTICLE 24 – (1)** Restrictions on assets to be included in fixed capital company's portfolio and on issuers thereof are as listed below:

- a) More than 10% of net asset value of the fixed capital company may not be invested in money and capital market instruments of an issuer, and in derivatives based on these instruments. In calculation of this percentage, mortgage and asset-backed securities shall not be taken into consideration. Investments made in mortgage and asset-based securities of an issuer may not exceed 25% of net asset value of the fixed capital company, and the restriction set forth in subparagraph (b) shall not be applied on these investments.
- b) Total value of money and capital market instruments of issuers in which more than 5% of net asset value of the fixed capital company is invested may not exceed 40% of net asset value of the fixed capital company.
- c) More than 20% of net asset value of the fixed capital company may not be invested in money and capital market instruments of the same group within the meaning ascribed thereto by the regulations of the Board pertaining to financial reporting standards.
- ç) More than 10% of the amount of issuance in circulation of debt securities of the same issuer may not be included in the fixed capital company's portfolio. Calculation of this percentage shall be based upon the market values of the amount of issuance in circulation of all debt

securities of the issuer current as of the date of inclusion of debt securities in the fixed capital company's portfolio.

**d)** Restrictions listed in this paragraph are not applicable on money and capital market instruments issued by the CBRT and the Republic of Turkey, Prime Ministry, Undersecretariat of Treasury and mortgage finance companies. The investment made in a single asset under this subparagraph may not exceed 35% of net asset value of the fixed capital company.

**e)** For capital market instruments issued by asset lease companies, the 10% restriction specified in subparagraph (a) shall be applicable as 25%. The restriction in subparagraph (b) shall be inapplicable. On the other hand, the restrictions specified in this paragraph shall not be applied on capital market instruments issued by asset lease companies established under the Law on Regulation of Public Finance and Debt Management no. 4749 dated 28/3/2002.

**(2)** The fixed capital company may not individually hold more than 10% of all shares or all voting rights of an issuer.

**(3)** Total value of money and capital market instruments issued by:

**a)** issuers holding the management control of portfolio management companies from which fixed capital companies receive portfolio management or investment advice services;

**b)** legal entities holding the management control of portfolio management companies from which fixed capital companies receive portfolio management or investment advice services, and issuers the management control of which is held by duly authorized officers of said entities;

**c)** issuers the management control of which is held by natural persons holding the management control of portfolio management companies from which fixed capital companies receive portfolio management or investment advice services

may not exceed 20% of net asset value of the fixed capital company.

**(4)** Fixed capital companies may invest in capital market instruments the public offering of which is underwritten:

**a)** by portfolio management companies from which they receive portfolio management or investment advice services, and by intermediary institutions and banks which have direct or indirect shareholding relations with said portfolio management companies;

**b)** by intermediary institutions and banks holding a privilege in the election of the board of directors;

**c)** if and when the holder of privileges in the election of the board of directors is not an intermediary institution or a bank, by intermediary institutions and banks more than 10% of capital of which is held by the privilege holder;

ç) in fixed capital companies where no privilege is granted in the election of the board of directors, by intermediary institutions and banks more than 10% of capital of which is held jointly or separately by shareholders holding more than 10% of capital of the fixed capital company

by maximum 10% of the amount of issuance and by maximum 5% of net asset value of the fixed capital company.

(5) Total amount of investments made in covered warrants and certificates may not exceed 10% of net asset value of the fixed capital company. Total amount of warrants and certificates issued by a single issuer may not exceed 5% of net asset value of the fixed capital company. In calculation of short positions of the fixed capital company, with respect to transactions in warrants and derivatives, reverse positions taken in futures contracts with the same underlying asset shall be offset.

(6) Maximum 10% of net asset value of the fixed capital company may be invested in deposit and participation accounts opened in banks, provided that their maturity is not longer than 12 months. However, amount investable in a single bank may not exceed 3% of net asset value of the fixed capital company.

(7) Fixed capital companies may not invest in the shares of other investment companies with fixed capital.

(8) Fixed capital companies may include foreign assets in their portfolio only if and when their types, characteristics, and the exchange or over-the-counter organized markets to be used are clearly stated in their articles of association.

(9) Total amount of capital market instruments of companies more than 20% of capital of which is directly or indirectly, individually or jointly held by shareholders holding privileged shares in fixed capital companies, by shareholders holding more than 10% of capital of fixed capital company, by chairperson and members of board of directors, and by general manager and deputy general managers may not exceed 20% of net asset value of the fixed capital company.

(10) Maximum 20% of net asset value of the fixed capital company may be invested in gold and other precious metals traded in the exchange, and in capital market instruments issued against precious metals.

### **Restrictions on Fund Units to Be Included in the Fixed Capital Company's Portfolio**

**ARTICLE 25 – (1)** Maximum 20% of net asset value of the fixed capital company may be invested in investment fund units permitted to be issued by the Law. However, amount of investment in a single investment fund may not exceed 5% of net asset value of the fixed capital company. Entry, exit or early exit commissions may not be paid for investment funds the units of which are included in the fixed capital company's portfolio.

(2) Only units of investment funds the prospectus for the sale of units of which is approved by the Board should essentially be included in the fixed capital company's portfolio. However, this condition shall not be sought for units of exchange traded funds traded in foreign exchanges, insofar as they are within the restrictions set forth in the preceding first paragraph.

### **Restrictions on Principles of Trading of Fixed Capital Company's Portfolio Assets in the Exchange**

**ARTICLE 26 – (1)** It is required to include in the fixed capital company's portfolio only assets traded in the exchange, and trading on these assets must be conducted through the exchange. In first issuances, capital market instruments deemed fit for trading in the exchange may be included in the fixed capital company's portfolio.

(2) Foreign debt instruments traded in the exchange may be included in or excluded from the fixed capital company's portfolio through over-the-counter transactions.

### **Restrictions on Repo and Reverse Repo Transactions of Fixed Capital Company**

**ARTICLE 27 – (1)** Fixed capital companies may enter into repo transactions in the exchange or in over-the-counter market up to 10% of current market value of their portfolio assets eligible for repo transactions.

(2) Reverse repo contracts may also be included in fixed capital company's portfolio.

(3) Up to 10% of net asset value of the fixed capital company may be invested in reverse repo contracts entered into in over-the-counter markets. The counterparty of these contracts must have the rating stipulated in regulations of the Board pertaining to investment funds.

(4) Maturity and interest rate of over-the-counter repo and reverse repo transactions shall be determined under the relevant regulations of the Board. It is the responsibility of the fixed capital company's board of directors or if authorized so by the board of directors, of the relevant executive director to determine the interest rate, provided that the interest rates of contracts having a similar maturity structure and traded in the exchange are also taken into consideration. If such contracts are entered into, in no later than the first business day immediately after the date of contract, the contract maturity, interest rate, counterparty and counterparty's rating shall be disclosed in PDP, and the relevant information and documents shall be separately kept in the fixed capital company for a period of five years following the date of contract.

### **Restrictions on Lending Transactions of Fixed Capital Companies**

**ARTICLE 28 – (1)** By a contract to be entered into under the relevant regulations of the Board, the fixed capital company may lend capital market instruments up to 50% of total market value of capital market instruments included in its portfolio at any time.

(2) Lending from the fixed capital company's portfolio may be executed for a maximum period of 90 business days. Lending from the fixed capital company's portfolio may be effected against blocking in the Takasbank in the name of fixed capital company of the assets accepted as margin in the relevant regulations of the Board in an amount at least equal to 100% of the lent capital market instruments. Principles relating to valuation of margin and failure to meet margin calls are subject to the relevant regulations of the Board.

(3) The fixed capital company may, under a contract to be entered into as per the relevant regulations of the Board, lend in exchanges in Turkey, precious metals up to maximum 75% of total market value of precious metals included in its portfolio at any time. Furthermore, certificates issued to represent resulting receivables against lending transactions in the market may also be included in the portfolio up to the same rate. Precious metal lending transactions and precious metal lending certificate transactions shall be executed in accordance with the trading principles and under the margin system of the relevant market.

(4) Capital market instrument lending contracts entered into by the fixed capital company are required to contain a clause certifying that the agreement may be unilaterally terminated in favor of the fixed capital company.

### **Other Restrictions**

**ARTICLE 29 – (1)** For hedging and/or investment purposes, and in accordance with the fixed capital company's investment strategy and benchmarking criteria, and under principles to be determined by the Board, derivative instruments traded in the exchange and/or in the over-the-counter market may be included in the fixed capital company's portfolio. In this case, all portfolio managers must hold a Capital Market Activities Level 3 License Certificate and a Derivatives License Certificate. Amount of short positions exposed to due to derivative instruments may not exceed net asset value of the fixed capital company. In calculation of short positions of the fixed capital company, reverse positions in derivative contracts with the same underlying asset and in warrants and certificates shall be offset.

(2) Maximum 20% of net asset value of the fixed capital company may be invested in Takasbank money market transactions.

(3) If and when the value of portfolio assets falls below minimum limits or exceeds maximum limits set forth in the fixed capital company's articles of association and in this Communiqué due to price movements or dividend distribution or use of rights of option, then and in this case, the relevant rate should be brought within the limits specified in the articles of association and in this Communiqué within no later than 30 days thereafter. Should it be determined that disposal of such assets within the aforementioned period is impossible or will cause major damages, this period of time may be extended by the Board upon an application of the fixed capital company.



## **EIGHTH CHAPTER**

### **Other Principles on Portfolio**

#### **Valuation Principles**

**ARTICLE 30 – (1)** As for the assets included in portfolios of fixed capital companies, the valuation principles specified in regulations of the Board pertaining to financial reporting by investment funds shall be complied with.

#### **Borrowing Limit**

**ARTICLE 31 – (1)** With the intention of meeting their short-term cash needs, fixed capital companies may take out credits up to 20% of total shareholders' equity shown in their publicly disclosed annual financial statements for the most recent accounting period, or may issue bonds within the same limits and pursuant to the capital market legislation.

#### **Custody of Fixed Capital Company's Portfolio**

**ARTICLE 32 – (1)** Assets in the fixed capital company's portfolio are required to be kept in custody by a portfolio custodian under the Communiqué Relating to Principles on Portfolio Custody Services and Portfolio Custodians (III-56.1) published in the Official Gazette edition 28695 on 02.07.2013.

#### **Performance Presentation**

**ARTICLE 33 – (1)** Fixed capital companies are required to prepare and issue a performance presentation report in accordance with regulations of the Board pertaining to performance presentation activities of portfolios belonging to collective investment schemes.

**(2)** With respect to performance presentation report, the current year periods set forth in the relevant regulations shall be applied as January-June and January-December for fixed capital companies.

**(3)** Performance presentation reports are required to be audited by an independent audit firm within one month following the end of the relevant period.

#### **Transactions of Purchase by Fixed Capital Companies of Their Own Capital Shares**

**ARTICLE 34 – (1)** Fixed capital companies may purchase their own shares and accept them as pledge in accordance with the regulations of the Board pertaining to share buy-backs by publicly held corporations. Throughout the purchasing process, it is required to comply with the restrictions set down in the Seventh Chapter.

## **NINTH CHAPTER**

### **Public Disclosure and Investor Notification**

#### **Weekly Report**

**ARTICLE 35 – (1)** Fixed capital companies shall issue weekly reports.

(2) Weekly reports are reports, which indicate calculations of net asset value per share and are composed of portfolio value and net asset value statements referred to in regulations of the Board pertaining to financial reporting by mutual funds.

(3) Shares included in the fixed capital company's portfolio shall be listed on sectoral basis in weekly reports to be issued during the relevant month and detailed information pertaining thereto shall be provided in weekly reports to be issued at the end of each month.

#### **Notification and Public Disclosure**

**ARTICLE 36 – (1)** Without prejudice to regulations of the Board pertaining to public disclosures of material events, fixed capital companies are under obligation to publicly disclose on PDP:

- a) their financial statements and board of directors' annual reports, within the periods of time specified in the relevant regulations of the Board;
- b) their weekly reports, on the first business day following the end of the relevant period;
- c) information such as name of intermediary institutions, amount of commissions paid to said intermediary institutions in the name of the fixed capital company during the relevant period, average rate of commissions, and ratio of the paid commission amount to the average net asset value of the fixed capital company in the same period, cumulatively starting from the beginning of calendar year, within 10 business days following the end of each quarterly period;
- ç) ratio of total sum of annual commissions and fees referred to in the fourth paragraph of Article 19 to average net asset value of the fixed capital company calculated for the relevant year, cumulatively starting from the beginning of calendar year, within 10 business days following the end of each quarterly period;
- d) their interim and year-end performance presentation reports audited by an independent audit firm, on their website, within one month following the end of the relevant period, and;
- e) all premium, bonus and similar payments, other than monthly wage, made employees, together with the title of the recipient and amount of payment, within three business days following the date of payment.

(2) If and when weighted average price of fixed capital company shares in BİAŞ exceeds twice the net asset value per share, starting from the first business day immediately thereafter until it

is restored, the fixed capital company's portfolio and net asset value statements issued on sectoral basis are required to be published in PDP in every business day.

(3) The fixed capital company's board of directors is under obligation to formulate a notification policy for public disclosure purposes, and to present the same to the information of shareholders in the general assembly meeting, and to publish in PDP. Information policy shall indicate which information, other than those stipulated in relevant legislation, will be disclosed to public, in which frequency, how and through which channels such information will be disclosed to public, in which frequency the board of directors or managers will meet with press, in which frequency meetings will be organized for public information purposes, which method will be followed in answering questions posed to the fixed capital company, and similar other issues. In the case of a change in notification policy, following approval by the board of directors, such changes and their reasons shall be presented to the general assembly of shareholders for information purposes, and published in PDP.

(4) One copy of each of the documents mentioned in the first paragraph shall be kept in the fixed capital company's head offices and on its website ready for examination by investors, and shall also be sent to shareholders, upon request, in the sole cost of the requesting shareholder.

(5) All kinds of information and documents to be requested by the Board for monitoring and supervision of the fixed capital company and for effective notification of public must be sent to the Board within the period and under the conditions to be determined by the Board, and all information deemed necessary by the Board must be publicly disclosed.

### **Announcements for Promotion and Advertisement**

**ARTICLE 37 – (1)** Relevant regulations of the Board are applicable in announcements for promotion and advertisement to be published by fixed capital companies in the course of approval of prospectus relating to public offering and sales of shares.

(2) Information contained in advertisements and announcements to be published during or outside the public offering period must not be false, misleading, ungrounded, exaggerated or incomplete, must not lead to misconception in the minds of savers with regard to the existing conditions of the fixed capital company, must not contain misleading expressions about efficiency, profitability and financial standing of fixed capital company, and such advertisements and announcements must not use any wording, picture, photograph or image which does not reflect the actual standing of assets included in the fixed capital company portfolio.

(3) Actions in violation of this Article shall be under the responsibility of the board of directors of the fixed capital company or if authorized so by the board of directors, of the relevant executive director.

## **TENTH CHAPTER**

### **Miscellaneous Provisions**

#### **Exit from Fixed Capital Securities Investment Company Status**

**ARTICLE 38 – (1)** A company may exit from a fixed capital company status only through conversion to variable capital company.

**(2)** In order for the Board to give its consent to proposed amendments to articles of association of publicly held securities investment companies with fixed capital which intend to be converted to a variable capital company, person or persons from outside the fixed capital company must make a takeover bid to purchase shares held by all shareholder other than the shareholders who have cast an affirmative vote in the general assembly meeting with respect to proposed amendments to the articles of association leading to conversion to a variable capital company shall be purchased at a price equal to the averages of daily weighted average exchange prices recorded within 30 days and six months prior to the date of publication of the public disclosure of material events with regard to the decision of the board of directors relating to said conversion, or equal to the weighted average of net asset value per share disclosed to public with regard to said period of six months, whichever is higher.

**(3)** The board of directors shall prepare report containing as a minimum; the reasons for conversion to variable capital company, projections as to portfolio types and investments planned to be managed after conversion, and an analysis of effects of conversion on the fixed capital company, and this report shall be published in PDP no later than the date of filing the application to the Board.

**(4)** A copy of TTRG edition where the general assembly decision approving conversion to variable capital company are published must be sent to the Board within six business days following the date of announcement.

**(5)** If, within three months following the date of receipt by the fixed capital company of the permission of the Board relating to conversion to a variable capital company, proposed amendments to the articles of association leading to conversion to a variable capital company are not decided on in the general assembly meeting of the fixed capital company, then the permission of the Board relating to conversion to a variable capital company shall become null and void.

**(6)** The appraisal right does not arise with regard to transactions covered by this Article.

#### **Principles on Dividend Distribution**

**ARTICLE 39 – (1)** Fixed capital companies are required to distribute in cash as first dividend at least 20% of their net distributable profit. Principles determined by the Board for publicly held joint-stock corporations shall be complied with in dividend distributions of fixed capital companies.

(2) Net distributable profit is the amount calculated by subtracting reserve funds legally required to be set aside, and taxes, funds and other fiscal liabilities, and if any, losses of past years, from the profit of the accounting period.

(3) Net losses of the current period and past years shown in financial statements of fixed capital companies are required to be set off from appropriate shareholders' equity items. However, losses of past years which cannot be set off as a requirement of laws or due to leading to a tax liability may be subject to deduction in calculation of net distributable profit.

### **Notification Obligations**

**ARTICLE 40 – (1)** Fixed capital company is under obligation to inform the Association about:

a) board of directors' decisions relating to appointment of executive directors for fixed capital company and determination of their powers and responsibilities, and any changes therein, within 10 business days following the date of relevant decision of the board of directors;

b) the communication information, website, tax identity number and trade registry number information, and any changes therein, within 10 business days thereafter;

c) information about independent audit firm chosen by the fixed capital company in accordance with regulations of the Board pertaining to independent audit, and any changes therein, within 10 business days thereafter;

ç) address of its head offices, and any changes therein, within 10 business days thereafter;

d) its current list of authorized signatures and in the case of any change therein, its updated list of authorized signatures, within 10 business days following the date of decision of the board of directors with regard thereto;

e) lawsuits and legal proceedings commenced by it against its shareholders, managers, personnel and other institutions, and lawsuits and legal proceedings commenced by mentioned parties against the company, and results thereof, within 10 business days following the date of learning;

f) newspapers where the announcements required under this Communiqué are published, within 10 business days following the date of announcement.

(2) The Association and SPL will create a database of notifications sent by fixed capital companies pursuant to this Communiqué, and keep such database open to access by each other and by the Board instantaneously. All notifications addressed to the Association and SPL may also be sent with electronic signature.

(3) If SPL detects a breach of provisions of this Communiqué with regard to the relevant fixed capital company or the members of its board of directors, and personnel in the light of notifications sent by fixed capital companies pursuant under this Article, it shall send a written notice to the Board thereabout within three business days.

**THIRD SECTION**  
**Principles Relating to Variable Capital Companies**

**FIRST CHAPTER**  
**General Principles**

**Definition and Activities and Operations of Variable Capital Company**

**ARTICLE 41 – (1)** Variable capital company is a capital market institution the capital of which is at all times equal to its net asset value, which is established in the form of a joint-stock corporation for the purpose of managing a portfolio composed of assets and instruments listed below in accordance with the pertinent provisions of the Law, and which may engage in other activities permitted in this Communiqué:

- a) Shares of issuers established in Turkey, also including those included in the scope of privatization, as well as private sector and public debt instruments;
- b) Foreign private sector and public debt instruments and issuer's shares tradable pursuant to the provisions of the Governmental Decree on Protection of Value of Turkish Currency no. 32 issued and enacted by a Decree of Council of Ministers no. 89/14391 dated 7/8/1989;
- c) Time deposits and participation accounts, not having a maturity longer than 12 months;
- ç) Gold and other precious metals as well as capital market instruments issued against such metals, provided that they are traded in the exchange;
- d) Investment fund units;
- e) Repo and reverse repo transactions;
- f) Lease certificates;
- g) Real estate certificates;
- ğ) Covered warrants and certificates;
- h) Takasbank money market transactions;
- ı) Cash collaterals and premiums of derivatives traded in stock exchanges;
- i) Specially designed foreign investment instruments and loan participation notes deemed fit by the Board to be included in the portfolio;
- j) Other investment instruments deemed fit to be included in the portfolio by the Board.

**(2)** Basic activities and functions of a variable capital company are to create and operate, and if required, make changes in, portfolio of company consisting of assets listed in the first

paragraph, by also taking into consideration the provisions of this Communiqué pertaining to outsourcing of services.

### **Principles Relating to Portfolio of Variable Capital Company**

**ARTICLE 42 – (1)** A variable capital company’s portfolio must be managed by portfolio managers having adequate knowledge about the assets that may be included in the portfolio, and an at least three years’ past experience in capital markets field, in line with the company’s management strategy, in favor of investors, in such manner to protect the interests of investors, and under the regulations of the Board pertaining to portfolio management companies.

**(2)** Assets in the portfolio must be kept in custody by a portfolio custodian under the regulations of the Board pertaining to portfolio custody services.

**(3)** A variable capital company’s portfolio may not be pledged or shown as a collateral for any purpose whatsoever, other than borrowing a credit facility, or engaging in trading of derivatives, or entering into similar other transactions in the name of the portfolio, provided that such transactions are effected in the name and account of the portfolio, and it is duly allowed in the articles of association and the prospectus. Obligations that may arise out of collateralization and pledging transactions to be effected under this paragraph are limited by the company’s portfolio.

**(4)** Debts and obligations of the portfolio towards third parties, or debts of the same third parties to the portfolio may not be set off against each other.

### **Types of Portfolio**

**ARTICLE 43 – (1)** A variable capital company’s portfolios may be formed in the following types, provided that it is clearly specified in the articles of association:

**a)** Portfolios at least 80% of net asset value of which is permanently invested:

**1)** in Turkish and/or foreign public and/or private sector debt instruments and securities are named as “Debt Instruments Portfolio”;

**2)** in shares of Turkish and/or foreign issuers are named as “Share Portfolio”;

**3)** in gold and other precious metals and in capital market instruments based on precious metals traded in the exchange are named as “Precious Metals Portfolio”;

**b)** Portfolios which are fully and permanently composed of highly liquid money and capital market instruments with maximum 184 days to the end of maturity and the weighted average maturity calculated on daily basis of which is maximum 45 days are named as “Money Market Portfolio”;

**c)** Portfolios which are fully and permanently composed of lease certificates, participation accounts, company shares, gold and other precious metals, and other non-interest-based money and capital market instruments deemed fit by the Board are named as “Participation Portfolio”;

c) Portfolios which are not covered by any one of the types listed above with regard to portfolio restrictions are named as “Variable Portfolio”;

d) Portfolios which are created for sale of investor shares only to qualified investors are named as “Free Portfolio”;

e) Portfolios which are fully composed of at least two of company shares, lease certificates, debt instruments and securities, gold and other precious metals, and capital market instruments issued against these metals, and the value of each of which is not less than 20% of fund total value are named as “Balanced Portfolio”.

(2) If derivatives are included in a variable capital company’s portfolio, regulations of the Board pertaining to investment funds shall be applied in calculation of the rate of 80% mentioned in subparagraph (a) of the first paragraph of this Article.

(3) New portfolio types, other than those listed in first paragraph, may also be created with prior consent of the Board.

### **Principles Relating to Portfolio Types**

**ARTICLE 44 – (1)** Expressions describing the type of a variable capital company’s portfolio are required to be in compliance with the portfolio’s investment strategy.

(2) Name of the portfolio shall not cause misleading of investors by making reference to unverifiable attributes of variable capital company or portfolio manager, or containing similar subjective expressions implying that the variable capital company’s portfolio is superior than other portfolios, or by similar means.

(3) The principles set forth in the first paragraph of Article 68 shall be complied with where the portfolio’s maturity structure is included in expressions describing portfolio type,.

(4) The word “Index” is required to be included in the name portfolio types composed of all of the assets included in an index deemed fit by the Board or of a part thereof selected by sampling.

(5) The word “Foreign” is required to be included in the name of portfolio types investing at least 80% of net asset value thereof in foreign money and capital market instruments. In share and debt instrument portfolios which do not include this word in expressions describing the portfolio type, foreign money and capital market instruments equal to maximum 20% of net asset value may be included in the portfolio.

(6) It is required to include the word “Subsidiary” in expressions describing portfolio types composed of money and capital market instruments of subsidiaries covered by the regulations of the Board pertaining to financial reporting standards.



## **SECOND CHAPTER**

### **Principles on Establishment**

#### **Conditions of Establishment**

**ARTICLE 45 – (1)** In order for the Board to approve establishment of a variable capital company:

- a) the company must have been established in the form of a joint-stock company;
- b) founders of the variable capital company must have committed to the Board that the company will increase its net asset value to minimum 4 million TL through issue of investor shares within the term and under the principles set forth in this Communiqué;
- c) its initial capital must not be less than 2 million TL;
- ç) its shares must be issued against cash payment, and the price thereof must have been fully paid in cash at the time of establishment;
- d) its name must contain the phrase “Securities Investment Company”;
- e) without prejudice to the provisions of the second paragraph of Article 59, its general manager and members of board of directors must have been appointed, and these persons must meet the conditions set forth in this Communiqué;
- f) its founders must meet the conditions set forth in this Communiqué;
- g) its articles of association must be in compliance with the Law, this Communiqué and relevant legislation;
- ğ) an institution authorized by the Board must have been appointed to provide portfolio custody services to the company.

(2) If a variable capital company intends to use a company name, its company name must contain the company portfolio type and the abbreviation “DSYO”.

(3) If needed, the maximum capital amount may be referred to in the articles of association.

#### **Qualifications of Founders**

**ARTICLE 46 – (1)** Natural person and legal entity shareholders holding founder’s shares of a variable capital company:

- a) must not have been adjudged bankrupt, or entered into composition with their creditors, or been subject to a court order for postponement of bankruptcy;

- b)** must not be among persons held liable for the event necessitating this sanction, in institutions one of the operating licenses of which is cancelled by the Board;
- c)** must not have been convicted of any one of the offences and crimes listed in the Law by a final court verdict;
- ç)** must not be the subject matter of an order of liquidation issued about them or about an institution where they hold shares, pursuant to the repealed Governmental Decree in Force of Law About Transactions of Insolvent Bankers, no. 35, dated 14/1/1982;
- d)** must not have been sentenced to imprisonment for five years or more due to an intentional offence, and been convicted of crimes against security of state or crimes against constitutional order and its modus operandi, or of embezzlement, extortion, bribery, theft, fraud, forgery, abuse of trust, fraudulent bankruptcy, bid rigging, rigging in performance of obligations, obstruction of information system, destruction or alteration of data, abuse of debit or credit cards, laundering of proceeds of crime, smuggling, tax evasion or unjust acquisition of properties, even if the periods referred to in Article 53 of the Turkish Criminal Code no. 5237 dated 26/09/2004 have elapsed;
- e)** must have obtained resources needed for establishment from their own commercial, industrial and other legal activities free from any kind of collusion, and must have financial power to fund the subscribed capital amount;
- f)** must have honesty and reputation required for the business;
- g)** must not have any overdue tax debts;
- ğ)** must not have been convicted of crimes and offences regulated by the Law on Prevention of Financing of Terrorism no. 6415 dated 7/2/2013;
- h)** must not have been banned for transactions pursuant to subparagraph (a) of the first paragraph of Article 101 of the Law.

The conditions specified in subparagraph (a) of this paragraph shall not be considered in enforcement of the decision relating to removal or closure of bankruptcy or approval of proposal for composition with creditors, and the conditions specified in subparagraph (b) shall not be considered in implementation of this paragraph after lapse of 10 years following the date the relevant decision is finalized.

**(2)** In applications for establishment, natural persons indirectly and ultimately holding 20% or more of shares of the variable capital company, and in the case of privileged shares, natural persons indirectly holding privileged shares providing management control in the variable capital company are required to meet the conditions specified in all subparagraphs of first paragraph of this Article, with the exception of subparagraph.

(3) In applications for establishment, if the founder or indirect shareholder is a bank, it is sufficient to submit to the Board the information and documents proving that the bank has the qualifications specified in subparagraph (g) of first paragraph of this Article, and the Board is required to receive prior consent of the Banking Regulation and Supervision Agency. The provisions of the second paragraph of this Article are not applicable on persons who indirectly hold shares in the variable capital company through indirect and direct shareholding in the bank.

### **Establishment Transactions**

**ARTICLE 47 – (1)** Applications for establishment of a variable capital company are required to be filed by its founders to the Board with an establishment application form the format and principles of which will be determined by the Board, and with other documents enumerated in that form.

(2) The Board shall check the application in terms of compliance with the provisions of the Law and this Communiqué.

(3) If the application is found acceptable by the Board, then an application shall be made to the Ministry with a request of approval of establishment, and together with documents proving that the subscribed initial capital has been paid in accordance with provisions of this Communiqué and with other required documents.

(4) A variable capital company shall become a separate legal entity upon registration of the company in trade registry in accordance with the pertinent provisions of TCC, following receipt of an establishment permit from the Ministry

(5) During establishment, the articles of association must be registered in the trade registry within no later than 30 days following the date of receipt of the relevant consent of the Board, and an application must be filed for announcement thereof in TTRG. A copy of TTRG edition containing this announcement must be sent to the Board within six business days following the date of announcement.

## **THIRD CHAPTER**

### **Issue of Shares**

#### **Issue of Founder's Shares**

**ARTICLE 48 – (1)** If new founder's shares are intended to be issued after establishment of a variable capital company, an application is required to be filed with the Board with an application form the format and principles of which will be determined by the Board, and with other documents referred to in the form.

(2) If the shares mentioned in the first paragraph are issued to persons other than shareholders holding the existing founder's shares, and these issues lead to a change in management control

in the variable capital company, then the persons purchasing these founder's shares are required to meet the conditions set forth in the first paragraph of Article 46.

### **Issue of Investor Shares**

**ARTICLE 49 – (1)** Investor shares are required to be offered to public or to be allocated to a particular investor group on the basis of workplaces or certain professional groups or industries and within the frame of similar other criteria or to be sold to qualified investors.

**(2)** For issue of investor shares, a prospectus and a key investor information document shall be issued in accordance with the standards determined by the Board, and an application shall be filed with the Board by the variable capital company, together with prospectus and key investor information document and other information and documents requested by the Board, within 30 days following the date of registration of the company's articles of association in the trade registry. In sales of shares through allocation to a particular investor group or directly to qualified investors, an issue document shall be issued instead of the prospectus, but it is optional to issue a key investor information document.

**(3)** Shares may be issued only if and when the prospectus/issue document is approved by the Board. Minimum elements of a prospectus are listed in Annex-1. Prospectus/issue document standards shall be determined by the Board.

**(4)** The following principles shall be applied at the stage of approval of the prospectus:

**a)** Prospectus shall be reviewed within 20 business days within the frame of information and documents submitted to the Board; and shall be approved if and when the information contained in the prospectus is determined to be consistent, understandable, and complete according to prospectus standards stipulated by the Board; and the approval shall notified to relevant parties.

**b)** If the submitted information and documents are incomplete, or if additional information and documents are needed, the applicant shall be informed thereof within 10 business days following the date of application. Missing information and documents are required to be completed within a period of time to be determined by the Board. In this case, the period of 20 business days specified in subparagraph (a) of this paragraph shall start as of the date of delivery of the missing information and under per subparagraph (a) of this paragraph, it will be notified to the applicant, together with reasons thereof.

**(5)** Approval of the prospectus shall not be construed as a representation or warranty given by the Board as to accuracy of all information contained therein, nor may it be considered as a recommendation relating to variable capital company shares.

**(6)** Within 10 business days following the date of receipt of the letter of approval by the relevant variable capital company, prospectus and key investor information document shall be published in PDP and on the variable capital company's official website, and shall not be separately registered in the trade registry and announced in TTRG. However, the place of

publication of the prospectus shall be duly registered in the trade registry and announced in TTRG. Said date of registration shall be stated on the key investor information document.

(7) Following the date the investor information form is published in PDP, investor shares shall be offered to investors under principles set forth in the document, starting from the starting date of sales, and through the distribution channels specified in the document.

(8) Money and other assets collected from investors against investor shares are required to be invested in the assets and transactions specified in the prospectus in the first business day immediately thereafter.

(9) Issue document shall be prepared and submitted to the Board for approval in accordance with the provisions of this Article pertaining to prospectus.

(10) It is required to reach the minimum net asset value within six months following the date of registration of the variable capital company's articles of association in the trade registry, otherwise, the variable capital company will be deemed to have been dissolved pursuant to the provisions of subparagraph (b) of first paragraph of Article 529 of TCC.

### **Key Investor Information Document**

**ARTICLE 50 – (1)** Key investor information document shall be prepared so as to enable investors to understand the portfolio structure, investment strategy and risks of the variable capital company to a reasonable extent and to make their investment decisions based on information. This document shall contain basic information the minimum elements and standards of which shall be determined by the Board, and which may be influential in the investment decision making process. Variable capital company shall be responsible for the consistency of this document with the articles of association and the prospectus, and for accuracy of its contents, and for the currentness thereof, and for damages and losses that may be caused by false, misleading or missing information in this document.

(2) Key investor information document must at least contain the following information with regard to basic characteristics of the portfolio of the company:

- a) Introductory information about variable capital company;
- b) Brief description of its investment objectives and investment policy, as well as the distribution of its portfolio;
- c) Past performance, if any, of the company's portfolio;
- ç) Management fee, commissions and other expenses, and total expense ratio, of the company's portfolio;
- d) Risk and return profile containing appropriate explanations and warnings about risks exposed to by the company's portfolio;

e) Principles of trading of shares thereof.

(3) The document shall also indicate how and where the investors may access the articles of association, prospectus, financial reports and other additional information about the variable capital company.

(4) The document shall be prepared with 12 font size in maximum two pages in a short, concise and comprehensible manner. Information contained in the document must be clear, adequate, and consistent with the articles of association and prospectus of the variable capital company, and not be misleading for investors.

### **Amendments to Information Documents**

**ARTICLE 51 – (1)** Amendments to articles of association require prior consent of the Board.

(2) If proposed amendments to the prospectus / issue document:

a) may affect investment decisions of investors and require investors to be informed thereabout in advance, they shall be reviewed and approved by the Board pursuant to the provisions of the fourth paragraph of Article 49, and shall be announced in accordance with the provisions of the sixth paragraph of the same Article. Text of announcement relating to amendments to the prospectus shall be published in PDP and on the variable capital company's official website in no later than the business day following the date of receipt of the Board's letter of approval by the variable capital company. Effective date of new provisions shall also be stated in the text of announcement, not being less than 10 business days; or

b) are outside the scope of subparagraph (a), they shall be made by the variable capital company without prior consent of the Board, and shall be published in PDP and on the founder's official website, and shall be collectively reported to the Board within six business days following the end of each calendar year.

(3) Amendments to be made in the key investor information document do not require prior consent of the Board. However, amendments are required to be notified to the Board at least six business days in advance, to be in compliance with the articles of association and the prospectus, and to be announced and published in PDP and on the variable capital company's official website in the business day following the amendment.

(4) If an amendment made to the key investor information document also requires an amendment in the prospectus, the provisions of the second paragraph of this Article are separately applicable, and if it also requires an amendment in the articles of association, the provisions of first paragraph of this Article are separately applicable.

(5) The explanations made in the information documents may not contain an explicit or implicit statement, which may cause the approval of the Board to be interpreted as a warranty provided by the Board or the public.

## **Value of Shares**

**ARTICLE 52 – (1)** Shares of a variable capital company do not have a nominal value.

(2) Net asset value per share of a variable capital company shall be calculated by addition of liquid assets, receivables and other assets to the company's portfolio value, and by subtraction of total debts therefrom, and by division of the resulting amount by the total number of investors' and founders' shares.

(3) Net asset value per share shall be the base price used in trading of shares.

(4) Net asset value per share is essentially required to be calculated and announced on a daily basis. Two prices may be declared in the same day, provided that it is provided as such in the information documents. The Board may create an exemption to daily calculation and announcement of share prices also in cases other than the events mentioned in this Communiqué.

(5) In portfolios of companies other than money market portfolios and short-term debt instrument portfolios, share trading orders shall be executed over the share price to be found in the first calculation following the date of order. In money market portfolios and short-term debt instrument portfolios, share trading orders shall be executed over the most recently announced unit share price. However, provided that it is specified as such in the information documents, in money market portfolios and short-term debt instrument portfolios, share purchasing and share sale transactions may be executed over different unit share prices.

(6) Net asset value per share calculated according to the principles set forth in the information documents shall be announced in the trading places of shares.

(7) In the events mentioned in the third paragraph of Article 74, if it is deemed fit and acceptable by the Board, net asset value per share may not be calculated, and trading of shares may be suspended.

(8) It is possible to distribute dividends to shareholders. In distribution of dividends and in setting aside of reserve funds, the provisions of TCC pertaining to the setting aside of reserve funds are not enforceable.

## **FOURTH CHAPTER**

### **Characteristics, Transfer and Redemption of Shares**

#### **Type and Characteristics of Shares**

**ARTICLE 53 – (1)** Variable capital company shares are composed of investor shares that may be issued as registered or bearer shares, and of founder's shares that are required to be issued as registered shares.

(2) Founder's shares provide their owners with the rights of dividend, taking share from liquidation, attending general assembly meetings, voting in general assembly meetings, obtaining and inspecting information, requesting a special audit, filing a lawsuit for cancellation of general assembly decisions, and minority interests. Each founder's share grant to its owner one right of vote in the general assembly meeting.

(3) Investor shares provide their owners only with the rights of dividend and taking a share from liquidation, and do not provide any other rights, also including the rights of attending general assembly meetings and voting in general assembly meetings.

(4) Founder's shares and investor shares do not have any rights of option on newly issued shares.

### **Transfer of Founder's Shares**

**ARTICLE 54 – (1)** Founder's shares shall be allocated to those who establish a variable capital company by fulfilling their capital subscriptions.

(2) Transfer of founder's shares before the investor shares are issued is subject to a prior permission of the Board, regardless of the rate thereof. In the case of such transfers of shares, the conditions listed in all subparagraphs of first paragraph of Article 46, with the exception of subparagraph (e), shall be sought for the new partners who will acquire shares in variable capital company.

(3) Also after establishment, the founder's shares may be issued for allocation to existing founding shareholders or third parties by a decision of the general assembly of shareholders and with prior consent of the Board.

(4) During the period after issue of investor shares, transfer of founder's shares in an amount leading to acquisition of management control is subject to prior permission of the Board. Shareholders holding founder's shares providing management control are required to satisfy the conditions set forth in all subparagraphs of the first paragraph of Article 46, with the exception of subparagraph (e). During the period after issue of investor shares, other than transfer of founder's shares in an amount leading to acquisition of management control, all transfers are subject to prior notification. All shareholders, other than the existing shareholder holding these shares, are required to satisfy the conditions set forth in all subparagraphs of the first paragraph of Article 46, with the exception of subparagraph (e), and shareholders holding these shares are liable to submit to the Board within 10 business days following the date of transfer of shares, the documents verifying that they have satisfied the said conditions.

(5) During the period after issue of investor shares, if shareholders holding shares providing management control fail to satisfy the conditions set forth in all subparagraphs of the first paragraph of Article 46, with the exception of subparagraph (e), they are under obligation to dispose of their shares providing management control within maximum three months following the date they fail to satisfy the conditions.



(6) In acquisition of shares by banks under this Article, the banks are under obligation to meet the conditions set forth in the third paragraph of Article 46 hereof.

(7) Transfer of founder's shares affected under this Article without prior permission of the Board shall not be registered in the share register, and registrations made in the share register in contradiction with this provision shall be null and void.

### **Redemption of Founder's Shares**

**ARTICLE 55 – (1)** For redemption of founder's shares, it is required to obtain prior consent from other shareholders holding founder's shares, and to ensure that the amount of founder's shares after redemption does not fall below the initial capital set forth in subparagraph (c) of the first paragraph of Article 45.

(2) Redemption price of founder's shares is the net asset value per share valid as of the date of redemption.

### **Trading of Investor Shares**

**ARTICLE 56 – (1)** Variable capital companies are, under obligation to redeem investor shares and to reimburse the price of shares corresponding thereto in the capital, upon request of the shareholder. Variable capital company shall authorize an investment firm or a portfolio management company to perform this obligation.

(2) Shares may be purchased through delivery of shares of investors and full payment in cash of the net asset value per share in accordance with the principles stipulated in the information documents, and shares may be sold through liquidation of shares of investors upon their delivery to the variable capital company in accordance with the principles stipulated in the information documents.

(3) Shares are essentially required to be traded on a daily basis. The Board may create an exemption to daily trading of shares by considering the kind and characteristics of the portfolio of the company. Entry and exit commissions may be applied in trading of shares by investors, provided that the conditions thereof are clearly specified in the prospectus/issue document and key investor information document. The resulting amount of commissions may be allocated among portfolio manager, institutions dealing with trading of investor shares or portfolio custodian. Commissions applied as above shall be published in PDP and on the variable capital company's official website, in addition to the prospectus/issue document and key investor information document. The announcement shall contain detailed information on the conditions under which commissions will be from investors. In the case of inclusion in the portfolio of the company of units of funds founded or managed by a variable capital company and its portfolio manager and those who are directly or indirectly affiliated to them in terms of management or capital, the entry and exit commission may not be paid in the trading of units of these funds.

(4) Investor shares shall be traded by investment firms and portfolio management companies under the pertinent regulations of the Board.

(5) In order to ensure that shares of a variable capital company may be traded also through a central distribution platform deemed fit by the Board and established as a part of organization of exchanges and/or clearing institutions, the Board may take action for inclusion of variable capital companies deemed fit by the Board in this platform, and for trading by investment firms and portfolio management companies of the shares of variable capital companies traded in this platform.

(6) For portfolios of companies investing at least 80% of their net asset value in foreign money and capital market instruments, shares of variable capital companies may be traded over foreign currencies the daily selling and buying exchange rates of which are announced by CBRT, in due consultation with CBRT and the Undersecretariat of Treasury and with prior consent of the Board.

### **Creating Groups of Shares**

**ARTICLE 57 – (1)** Different groups of shares may be created by applying a portfolio management fee, a marketing sales distribution fee and/or a portfolio entry and exit commission. These fees and commissions may be allocated among variable capital company, portfolio manager, institutions dealing with trading of shares of variable capital companies, and portfolio custodian.

(2) Principles and standards specified in the regulations of the Board pertaining to investment funds shall be applied with regard to public disclosure obligations of variable capital companies creating groups of shares.

## **FIFTH CHAPTER Management Structure**

### **Members of the Board Directors**

**ARTICLE 58 – (1)** Members of the board of directors shall be elected and shall work in accordance with the pertinent regulations of the Board and the relevant articles of TCC.

(2) Members of boards of directors of variable capital companies are required to meet the conditions specified in all subparagraphs of the first paragraph of Article 46, with the exception of subparagraph (e), and natural persons designated by legal entity members of the board of directors pursuant to second paragraph of Article 359 of TCC are required to meet the conditions specified in all subparagraphs of the first paragraph of Article 46, with the exception of subparagraphs (e) and (g). Furthermore, majority of the members of the board of directors must be graduates of four-years' universities, and at least one of them must have a past experience of minimum five years in financial markets or business administration fields. In terms of compliance with this condition, natural persons designated by legal entity members of the board of directors pursuant to second paragraph of Article 359 of TCC also be taken into consideration.

(3) It is the responsibility of the board of directors of the variable capital company or the relevant executive director if authorized so by the board of directors to fulfill the obligations relating to portfolio restrictions and public disclosure as stipulated in this Communiqué. This liability continues also in the case of outsourcing of services under Article 60.

(4) In the case of a new appointment to the board of directors, the decision of appointment shall be sent to SPL within no later than 10 business days following the date of appointment, together with documents verifying that the appointed person meets the conditions set forth in the second paragraph. Natural persons designated by legal entity members of the board of directors pursuant to the second paragraph of Article 359 of TCC shall also be named to SPL within no later than 10 business days following the date of announcement relating to registration made pursuant to the second paragraph of Article 359 of TCC, together with documents verifying that the appointed person meets the conditions set forth in the second paragraph.

### **General Manager and Other Personnel**

**ARTICLE 59 – (1)** The provisions of Article 17 shall be applied by analogy with regard to the general manager to be appointed for a variable capital company.

(2) If a variable capital company outsources all services pursuant to Article 60, a general manager may not be separately employed in the company.

(3) Appointment of general manager also as a member of the board of directors or a portfolio manager of the variable capital company does not preclude them from functioning and working as a general manager exclusively and on a full-time basis.

(4) The provisions of the first sentence of the first paragraph, and the third paragraph of Article 18 shall be applied by analogy with regard to other personnel of a variable capital company.

(5) If a variable capital company outsources all services pursuant to Article 60, personnel may not be separately employed in the company.

## **SIXTH CHAPTER**

### **Principles on Activities and Portfolio of Company**

#### **Principles Relating to Portfolio Management and Outsourcing of Services**

**ARTICLE 60 – (1)** Variable capital companies must outsource portfolio management services to a portfolio management company with prior consent of the Board and under a contract to be signed. Consent of the Board shall be received through receipt of prior consent of the Board for the relevant article of the articles of association. In the case of change of portfolio management company contracted as above, it shall be duly notified to the Board by sending the relevant decision of the board of directors. Principles of portfolio management services to be outsourced as above shall be regulated by a contract containing the minimum contents specified in the regulations of the Board pertaining to portfolio management companies. A copy of this contract is required to be sent to the Board within six business days following the date of signature, and

name of the contracted portfolio management company and term of agreement should be published in PDP.

(2) Variable capital companies may outsource such services as auditing services, internal control services and accounting and operations services to investment firms, and services relating to risk management system to investment firms and from other specialized institutions deemed fit by the Board, provided that such services are controlled and monitored by the board of directors. Duties and responsibilities of internal control officer may be performed also by an auditor, provided that they meet the experience condition. Variable capital companies outsourcing portfolio management services to a portfolio management company may also outsource other services permitted to be outsourced under this Article from the same portfolio management company, provided that the said portfolio management company is established as a part of their own organization. Name of the company contracted as per this paragraph and term of contract signed therewith are required to be disclosed in PDP within six business days following the date of contract. If the variable capital company outsources risk management services, the functions of control and monitoring of risk management system shall be performed by the board of directors or if authorized so by the board of directors, by the relevant executive director.

(3) Services and personnel covered by the first and second paragraphs may be outsourced only if and when the variable capital company's articles of association contains a separate clause relating thereto, and the board of directors takes a decision in connection therewith.

### **Internal Control System**

**ARTICLE 61 – (1)** The internal control system must be established with the organizational plan implemented with the purpose of conducting all activities and operations of the variable capital company regularly, efficiently and effectively in accordance with its management strategy and policies and within the framework of applicable legislation, and ensuring the integrity and reliability of accounting and record-keeping systems, and the accessibility of all information needed in the data management system accurately and in a timely manner, and preventing and detecting any error, fraud and irregularity, as well as:

- a) the conduct of all company activities in compliance with legal provisions, and the functions, objectives and fields of business of the variable capital company, and its information documents;
- b) the execution of all transactions in reliance upon general and special authorization and in accordance with relevant legislation and contracts, and the issuance of all documents required for variable capital company activities;
- c) effective operation of the variable capital company's accounting, documentation and record-keeping systems;
- ç) identification of risks and taking of the required measures with a view to minimizing the risks arising out of any error, fraud and irregularities;

- d)** determination of whether the transactions effected by the variable capital company's personnel in their own names lead to a conflict of interests with the portfolio managed by the variable capital company or not;
- e)** determination of whether the expenditures paid out of the variable capital company's portfolio are substantiated by documents and in conformity with the current market rates or not;
- f)** control of valuation of the variable capital company's portfolio, and determination of net asset value per share of the variable capital company, and conformity of portfolio restrictions with relevant legislation and information documents;
- g)** determination of principles to be adhered to in the course of business and transactions with related parties;
- g̃)** control of efficient and effective functioning of the outsourced services.

**(2)** All policies and procedures relating to the internal control system needed to be established in the fixed capital company must be documented in writing and put into effect by a decision of the board of directors. The same principles and procedures will be adhered to also with respect to changes in these policies and procedures. **(3)** Internal control activities of the variable capital company are arranged and performed as an integral part of daily activities and operations in such manner to allow the monitoring of the identified risks as well. In order to ensure an efficient and effective internal control, the obligations of all personnel to perform their own tasks in accordance with written procedures, and their tasks and authorities relating to presentation to senior level management of the acts in conflict with principles of professional conduct, or against corporate policies, or in breach of laws, shall all be formulated in writing, and shall be delivered to the relevant personnel against a signed acknowledgement of receipt relating thereto. Similarly, changes in the tasks and authorities of personnel and in the written procedures pertaining thereto shall also be notified to the personnel against a signed acknowledgement of receipt. Procedures shall be established so as to ensure that all levels of personnel are encouraged to actively participate in the internal control system. Reports to be issued about internal control activities are required to be submitted to the variable capital company's board of directors on monthly basis.

**(4)** The variable capital company's board of directors shall appoint one of its members to whom no executive units or departments report as a "Director in Charge of Internal Control". The director in charge of internal control is liable:

- a)** to take actions for operation of the internal control system in accordance with relevant legislation, professional rules and written procedures, and for detection and management of probable risks, and to keep the board of directors informed thereabout;
- b)** to determine acceptable risk levels, and prepare internal control policies and procedures, and present the same to the board of directors for approval, under the regulations of the Board and the variable capital company's own policies;

c) for suitability of internal control goals, and traceability of control results, and independent and objective conduct of, and reliability of, internal control activities.

### **Risk Management System**

**ARTICLE 62 – (1)** If variable capital companies do not outsource the risk management system services pursuant to second paragraph of Article 60, they are under obligation to build risk management systems, and document the relevant procedures in writing, and take a decision of board of directors in connection with these procedures. The same principles and procedures will be adhered to also with respect to changes in these procedures.

(2) The director in charge of internal control shall be responsible for the establishment of the risk management system, and documentation of its procedures in writing, and submission of the same to approval of the board of directors, and robust operation of risk management system.

(3) The risk management system must ensure the creation of a risk measurement mechanism covering definition of basic risks that may be encountered by the variable capital company's portfolio, and regular review of risk definitions, and their updating in line with material developments, and consistent assessment, determination, measurement and control of risk exposures. Risk management system must be organized in conformity with the variable capital company portfolio's investment strategy, and structure and risk level of investment assets, and must be in unity with the variable capital company's internal control system.

(4) Organization unit of the variable capital company assigned for risk management services must be independent from the unit in charge of portfolio management. Personnel of the risk management unit must hold Capital Market Activities Level 3 License Certificate and Derivative Instruments License Certificate, and must not assume any other duty in the variable capital company. If the variable capital company's articles of association contains a clause precluding the variable capital company from entering into derivative instrument transactions, personnel of the risk management unit are not required to hold a Derivative Instruments License Certificate. Risk management personnel shall report to the director in charge of internal control.

(5) Risk management unit is entrusted with the tasks of:

a) determining and identifying the risks that are or may be exposed to by the variable capital company or by the portfolio managed by it; and

b) determining together with their superior manager and presenting to the board of directors risk measurement methods and the risk measurement model to be used therefor, and implementing the risk measurement model approved by the board of directors, and regularly reviewing and revising the model in line with changing operating and market conditions, and reporting to its superior manager the requests of changes or revisions deemed necessary in the model, if any;

- c) daily monitoring of compliance with risk limits determined by the board of directors, and reporting any excess of limits to its superior manager in the same day, and if and when required, requesting changes in limits in line with market and corporate conditions;
- ç) monitoring risks arising out of all transactions on a daily basis, and presenting daily written reports to their superior manager and weekly written reports to the board of directors about the said risks, probable results thereof, and actions required to be taken therefor;
- d) in case of detection of any event which may lead to extraordinary results with regard to financial standing of the variable capital company, submitting their relevant report to the board of directors as soon as possible.

### **Unit of Inspectors, and Supervision of Internal Control System**

**ARTICLE 63 – (1)** If a variable capital company does not outsource auditing services pursuant to the second paragraph of Article 60, it is obligated to establish an auditing unit, independent from its daily routine activities, assigned for monitoring and auditing functions covering all activities and units of the variable capital company, especially operation of internal control system and risk management system, also including the audits of compliance with legislation and variable capital company's policies, in line with the needs of management and the structure of variable capital company.

**(2)** It is required to employ in the variable capital company's auditing unit an adequate number of inspectors holding a license certificate indicating their professional competence pursuant to the regulations of the Board pertaining to licensing.

**(3)** The auditing unit shall be directly liable towards and shall report to the board of directors. The board of directors may delegate its powers relating to the unit of inspectors to the director in charge of internal control.

**(4)** Procedures and principles relating to the operation of the auditing process shall be determined by the variable capital company and submitted to the board of directors for its approval.

**(5)** Reports issued by auditors as a result of auditing works conducted for each accounting period shall be presented to the variable capital company's board of directors within no later than three months following the end of the accounting period, and the board of directors shall make a decision on said reports. These reports are required to be kept for a minimum period of five years, or those being the subject matter of a legal dispute at any time during this period are required to be kept in the variable capital company until settlement of the dispute.

**(6)** Upon detection of any circumstance which may weaken the variable capital company's financial standing or lead to extraordinary results, or upon detection of breaches of law which may cause suspension or termination of activities of variable capital company, the auditing unit

shall present its report to the board of directors as soon as possible, and shall submit a copy thereof to the Board in the same day.

(7) The variable capital company is under obligation to facilitate the access of the auditor or auditors to all kinds of information and documents for the performance of their duties. .

(8) Fees and other personal rights and benefits of auditors shall be determined by the board of directors.

(9) Auditors are required to act objectively and to comply with their confidentiality and secrecy obligations in the performance of their duties .

(10) The Board shall be authorized to impose additional obligations on the auditing unit, and to grant exemptions from obligations mentioned in the preceding paragraphs, upon consideration of the activities of the variable capital company.

(11) The auditor may also assume and perform the duties and liabilities of internal control personnel, provided that related experience and license conditions are satisfied.

#### **Activities that may not be Conducted**

**ARTICLE 64 – (1)** Variable capital companies are not allowed:

- a) to engage in money lending business;
- b) to collect deposits or participation funds or to enter into acts and transactions leading to collection of deposits or participation funds as further defined in the Banking Law no. 5411;
- c) to deal with commercial, industrial and agricultural fields of business;
- ç) to perform intermediary services;
- d) to conduct short selling and margin trading businesses;
- e) to keep cash funds in an amount in excess of the amount required for daily operations and trading and for margining of transactions in derivative instruments;
- f) to acquire movable and immovable assets in excess of the amount and value needed for their business activities;
- g) to purchase assets above the then-current market value for, or sell assets below the then-current market value from, their portfolio. Current market value refers to the exchange price for assets traded in stock exchange, and the lowest price in case of purchase and the highest price in case of sales in favor of the variable capital company in the market of transactions in the transaction day, for over-the-counter market transactions of the assets traded in the exchange.



**SEVENTH CHAPTER**  
**Restrictions on Variable Capital Company's Portfolio**

**Restrictions on Assets To Be Included in Variable Capital Company's Portfolio, and on Issuers Thereof**

**ARTICLE 65 – (1)**

**a)** More than 10% of net asset value of the variable capital company may not be invested in money and capital market instruments of an issuer, and in derivatives based on these instruments. In calculation of this percentage, mortgage and asset-backed securities shall not be taken into consideration and the rate specified in the first sentence shall be applied as 25% for these assets, and the restriction set forth in subparagraph (b) of this paragraph is not applied on these investments.

**b)** Total value of money and capital market instruments of issuers in which more than 5% of net asset value of the variable capital company is invested may not exceed 40% of net asset value of the variable capital company.

**c)** More than 20% of net asset value of the variable capital company may not be invested in money and capital market instruments of the same group within the meaning ascribed thereto by the regulations of the Board pertaining to financial reporting standards.

**ç)** More than 10% of the amount of issuance in circulation of debt securities of the same issuer may not be included in the variable capital company's portfolio. Calculation of this percentage shall be based upon the market values of the amount of issuance in circulation of all debt securities of the issuer current as of the date of inclusion of debt securities in the variable capital company's portfolio.

**d)** Limitations listed in this paragraph are not applicable on money and capital market instruments issued by the CBRT and the Republic of Turkey, Prime Ministry, Undersecretariat of Treasury and mortgage finance companies. The investment made in a single asset under this subparagraph may not exceed 35% of net asset value of the variable capital company.

**e)** For capital market instruments issued by asset lease companies, the 10% restriction specified in subparagraph (a) shall be applicable as 25%. The restriction in subparagraph (b) shall be inapplicable. On the other hand, the restrictions specified in this paragraph shall not be applied on capital market instruments issued by asset lease companies established under the Law on Regulation of Public Finance and Debt Management no. 4749.

**(2)** The variable capital company may not individually hold more than 10% of all shares or all voting rights of an issuer.

**(3)** Total value of investments made in money and capital market instruments issued by:

- a) issuers holding the management control of variable capital company and its portfolio manager;
- b) legal entities holding the management control of variable capital company and its portfolio manager, and issuers the management control of which is held by duly authorized officers of variable capital company and its portfolio manager;
- c) issuers the management control of which is held by natural persons holding the management control of variable capital company and its portfolio manager

may not exceed 20% of net asset value of the variable capital company.

(4) Total amount of investments made in covered warrants and certificates may not exceed 10% of net asset value of the variable capital company. Total amount of warrants and certificates issued by a single issuer may not exceed 5% of net asset value of the variable capital company.

(5) Maximum 10% of net asset value of the variable capital company may be invested in deposit and participation accounts opened in banks, providing that their maturity is not longer than 12 months. However, amount investable in a single bank may not exceed 3% of net asset value of the variable capital company. In participation portfolios, the rate specified in first sentence of this paragraph shall be applied as 25%, and the rate specified in second sentence shall be applied as 10%.

(6) Maximum 10% of the amount of issuance and maximum 5% of net asset value of the variable capital company may be invested in shares of a corporation where an investment firm which is a related party under the regulations of the Board pertaining to financial standards, to shareholders holding founders' shares or the portfolio manager, has provided intermediary services in the public offering of shares outside the exchange, provided that such shares are traded on the exchange.

(7) Maximum 20% of net asset value of the variable capital company may be invested in Takasbank money market transactions.

### **Restrictions on Shares of Collective Investment Schemes to Be Included in the Variable Capital Company's Portfolio**

**ARTICLE 66 – (1)** Total value of units of investment funds and exchange traded funds the units of which are issued under an umbrella fund, and of shares of other fixed and variable capital companies may not exceed 20% of net asset value of the variable capital company.

(2) Only units of funds the prospectus/issue document relating to sales of units of which are approved by the Board, and shares of other fixed and variable capital companies are essentially required to be included in the portfolio. However, that said condition shall not sought for the shares of exchange traded funds traded in foreign exchanges, insofar as they are within the restrictions set forth in the first paragraph of this Article.

## **Restrictions on Principles of Trading of Variable Capital Company's Portfolio Assets in the Exchange, and on Contracts Executed Outside the Exchange**

### **ARTICLE 67 – (1)**

a) It is required to include in the variable capital company's portfolio only assets traded in the exchange, and trading on these assets must be conducted through the exchange. In first issuances, capital market instruments deemed fit for trading in the exchange may be included in the variable capital company's portfolio.

b) The conditions set forth in subparagraph (a) of this paragraph shall not be sought for shares of other variable capital companies and for fund units included in the portfolio.

c) If, in the course of trading of shares, it is required to buy shares for the portfolio or to sell shares from the portfolio in the relevant market of BİAŞ with the same day value and outside the same day value trading hours, then it is required to comply with the trading rules determined by BİAŞ.

(2) Foreign public sector debt instruments traded in the exchange may be included in or excluded from the variable capital company's portfolio through over-the-counter transactions.

(3) Contracts executed by a variable capital company outside the exchange are required:

a) to be in compliance with the portfolio investment strategy;

b) to be conducted with counterparties that have the rating specified in Article 75;

c) to contain objective terms and conditions and cover a fair price in such manner not to be affected from any relationship;

ç) to be capable of being liquidated over the fair value of the portfolio in price declaration periods.

(4) General principles on contracts, and reliable methods to be applied in order to ensure compliance of contract executed outside the exchange with principles set down in subparagraph (c) of the third paragraph of this Article shall be determined in and regulated by articles of association and prospectuses and published in PDP.

### **Restrictions on Maturity Structure of Assets to Be Included in Portfolio**

**ARTICLE 68 – (1)** If it is intended to refer to maturity structure in the statements of the articles of association defining the debt instruments and securities portfolios, and if the monthly weighted average maturity of portfolio is:

a) 25 to 90 days, it shall be named as “short-term”;

b) 91 to 730 days, it shall be named as “medium-term”;

- c) more than 730 days, it shall be named as “long-term”.
- (2) Assets the number of days to the end of maturity of which cannot be calculated may not be included in money market portfolios and short-term debt instruments portfolios.
- (3) Assets the number of days to the end of maturity of which cannot be calculated can be included in medium-term and long-term debt instruments portfolios, up to 20% of the net asset value.
- (4) Weighted average maturity of portfolio is calculated by separately considering the maturities of capital market instruments. Assets the number of days to the end of maturity of which cannot be calculated shall not be taken into consideration in this calculation in medium-term and long-term debt instruments portfolios.

### **Limitations on Loan Transactions and Repo and Reverse Repo Transactions of Variable Capital Companies**

**ARTICLE 69 – (1)** Repo contracts may be executed in the exchange or over-the-counter market up to 10% of current market value of assets that are included in the portfolio, credits may be taken out in the account of the portfolio up to 10% of net asset value, and/or Takasbank Money Market transactions may be executed for borrowing purposes. In the case of taking out a credit, in no later than the business day following the date of agreement, the loan amount, interest rate, date of borrowing, lending institution, and date of repayment shall be announced in PDP, and thereafter reported to the Board.

(2) With respect to reverse repo contracts:

a) Reverse repo contracts executed in the exchange or in over-the-counter market may be included in the portfolio.

b) Up to maximum 10% of net asset value may be invested in reverse repo contracts executed in over-the-counter market.

(3) Maturity and interest rate of repo and reverse repo contracts executed in the over-the-counter market shall be determined under the pertinent regulations of the Board. Determination of interest rate is under the responsibility of the variable capital company and its portfolio manager, provided that interest rates of other contracts having a similar maturity structure and traded in the stock exchange are taken into consideration. If and when such contracts are entered into, in no later than the business day following the date of contract, the maturity, interest rate and counterparty of the agreement and the rating of counterparty shall be disclosed in PDP, and the relevant information and documents shall be kept in the head offices of the variable capital company or the portfolio manager for a period of five years following the date of contract.

(4) Variable capital companies investing at least 80% of their net asset value in foreign money and capital market instruments may, in order to meet their cash needs, enter into repo contracts

in the over-the-counter market abroad, providing that the assets covered by such contracts are kept in custody in the central clearing and custody institution of the relevant foreign country.

### **Limitations on Lending Transactions of Variable Capital Companies**

**ARTICLE 70 – (1)** By a contract to be entered into under the relevant regulations of the Board, the variable capital company may lend capital market instruments up to maximum 50% of total market value of capital market instruments included in its portfolio at any time.

(2) Lending from the variable capital company’s portfolio may be executed for a maximum period of 90 business days. Lending from the variable capital company’s portfolio may be effected against blocking in the Takasbank in the name of variable capital company of the assets accepted as margin in the relevant regulations of the Board in an amount at least equal to 100% of the lent capital market instruments. Principles relating to valuation of margin and failure to meet margin calls are subject to the relevant regulations of the Board.

(3) The variable capital company may, under a contract to be entered into as per the relevant regulations of the Board, lend in exchanges in Turkey precious metals up to maximum 75% of total market value of precious metals included in its portfolio at any time. Furthermore, certificates issued to represent the resulting receivables against lending transactions in the market may also be included in the portfolio up to the same rate. Precious metal lending transactions and precious metal lending certificate trading transactions shall be executed in accordance with the trading principles and under the margin system of the relevant market.

(4) Capital market instrument lending contracts entered into by the variable capital company are required to contain a clause certifying that the agreement may be unilaterally terminated in favor of the variable capital company.

### **Limitations Relating to Variable Capital Companies Shares of Which are Allocated to a Particular Investor Group or Which Invest in an Asset or Asset Group**

**ARTICLE 71 – (1)** Total value of money and capital market instruments issued by companies to which shares of variable capital companies shares of which are allocated to a particular investor group are allocated may not exceed 25% of net asset value in total of the variable capital company, being maximum 5% for a single company.

(2) In variable capital companies which define the type of portfolio with the word “Index”, the manager is under obligation to manage the portfolio in such manner to ensure that the return of the portfolio does not deviate substantially from the return of the base index. The portfolio’s basic strategy shall be reflecting the performance of the replicated index. This shall be measured by calculating the replication difference and replication error as shown in Annex-2. This shall be made public in accordance with the legislative instruments of the Board pertaining to stock exchange investment funds.

(3) In variable capital companies which define the type of portfolio with the word “Index”, the restrictions mentioned in first and third paragraphs of Article 65 and the 10% restriction

included in second paragraph of the same Article shall not be applicable if and to the extent said assets are included in the base index.

(4) In variable capital companies making investments in money and capital market instruments of issuers included in a particular industry, the 10% restriction mentioned in subparagraph (a) of the first paragraph of Article 65 shall be applied as 20% for the issuers operating in the relevant industry, while the restrictions mentioned in subparagraphs (b) and (c) of the same paragraph shall not be applied.

(5) In variable capital companies which define the type of portfolio with the word “Subsidiary”, the provisions of subparagraph (c) of first paragraph of Article 65 and third paragraph of the same Article are not applicable.

### **Other Restrictions**

**ARTICLE 72 – (1)** Other restrictions are as listed below:

a) For hedging and/or investment purposes, in accordance with the type of portfolio and the variable capital company’s investment strategy, and under principles set forth in the regulations of the Board pertaining to investment funds, derivative instruments traded in the exchange and/or in the over-the-counter market may be included in the variable capital company’s portfolio. In this case, all portfolio managers are required to hold a Capital Market Activities Level 3 License Certificate and a Derivatives License Certificate.

b) Amount of short positions exposed to due to derivative instruments may not exceed net asset value of the variable capital company.

(2) If and when the value of portfolio assets breaches the limits set forth in the variable capital company’s information documents and in this Communiqué due to reasons beyond the control of portfolio manager such as price movements or dividend distribution or due to exercise of rights of option, then and in this case, the relevant rate must be brought within the limits specified in the information documents and in this Communiqué within no later than 30 days thereafter. Should it be determined that compliance with these provisions within the aforementioned period is impossible or will cause major damages, this period of time may be extended by the Board. The Board may request the liquidation of variable capital companies which do not apply to the Board by the end of this period of time or which are not found eligible by the Board for an extension.

## **EIGHTH CHAPTER**

### **Special Principles on Types of Portfolio**

#### **Free Portfolios**

**ARTICLE 73 – (1)** Free portfolios may make investments within the frame of investment strategies and limits included in the information documents, without being subject to portfolio and transaction restrictions set forth in Articles 65 to 72.

- (2) Prior permission of the relevant authority must be received for foreign investment funds the units of which will be included in free portfolios. Accordingly, the issue document and the key investor information document shall indicate which investment funds established in which countries may be included in the portfolio of the company. The Board may impose restrictions on foreign investment fund units to be included in free portfolios.
- (3) Institutions which sell the shares of free portfolios shall ensure that shares will be sold only by sales personnel having adequate knowledge and experience in connection therewith. Said institutions are under obligation to collect, and regularly keep, the information and documents verifying that the investors to whom the shares are sold are qualified investors.
- (4) All portfolio managers of free portfolios must hold Capital Market Activities Level 3 License Certificate and Derivative Instruments License Certificate and must have the required knowledge and experience about these portfolios.
- (5) The provisions of Article 76 and second paragraph of Article 77 are not applicable on free portfolios.
- (6) In addition to the derivative instruments defined in subparagraph (cc) of the first paragraph of Article 3, swap contracts may also be included in a free portfolio. Limits relating to the risk exposures arising out of futures and options and swap contracts included in free portfolios shall be stated in the issue document. If these limits are exceeded, the company's board of directors shall take required action for assuring compliance with these limits, and shall notify such actions to holders of shares by the most appropriate means of communication.
- (7) Amendments to the issue document to be made pursuant to the provisions of the second paragraph of Article 51 shall be notified to holders of shares by the most appropriate means of communication no later than 30 days prior to the effective date thereof. The provision requiring publication in PDP of the text of announcements relating to the amendments in articles of association and issue document shall not be applicable for free portfolios.
- (8) The prices of free portfolio shares must be calculated, and announced to investors, at least once a month. The provisions of the fourth paragraph of Article 52 shall not be applicable on calculation and announcement of net asset value.
- (9) Issue document of free portfolios may determine periods different from and longer than the period of announcement of the prices of shares for return of the investor shares to the company's portfolio.

## **NINTH CHAPTER**

### **Other Principles**

#### **Requirement to Inform**

**ARTICLE 74 – (1)** Variable capital companies and portfolio management companies must furnish to the portfolio custodian in writing in January every year and in the case of any change therein, within six business days following the date of change, the names, addresses and participation rates of persons and issuers named in the third paragraph of Article 65, and all other information required by the portfolio custodian for performance of its obligations arising out of the Law.

(2) The Board may, if and when deemed necessary, request information about the portfolio of the company, without being bound by the periods set forth in this Communiqué.

(3) Upon occurrence of such extraordinary events and emergencies as war, natural disasters, economic crisis, collapse of communication systems, closure of market, marketplace and platform related to the assets included in the portfolio of the company, probable failures and breakdowns in computer systems, and detection of an important information which may affect the financial standing of the portfolio of the company, the variable capital company's board of directors may take a decision about determination of the principles of valuation. In this case, the principles of valuation must be inserted in the decision book, together with reasons thereof, and should be notified to the Board and the portfolio custodian. Furthermore, a public disclosure shall be made in PDP with respect to the said events.

(4) It is the responsibility of the board of directors or if authorized so by the board of directors, of the relevant executive director to ensure that all information and documents required to be published in PDP are completely published, and are accurate, and are kept up-to-date.

(5) Advertisement and promotion activities of the variable capital company are required to comply with the regulations of the Board pertaining thereto.

#### **Assessment on Rating**

**ARTICLE 75 – (1)** Where this Communiqué makes a reference to ratings, under the pertinent regulations of the Board, the company is required to have a rating corresponding to the an investment grade level assigned by an authorized rating agency.

(2) In assessment of rating corresponding to investment grade:

a) National ratings are required to be taken into consideration for institutions resident in Turkey;

b) For institutions resident abroad, issuer ratings, or as the case may be, corresponding ratings of rating agencies established in Turkey are required to be taken into consideration, and short- or long-term ratings are required to be taken into consideration according to the maturity of the



company's portfolio or the relevant contract, and if the grading system of the rating agency contains a single grade without any maturity differentiation, that grade is required to be taken into consideration;

c) For institutions the rating of which is at the lowest limit of the investment grade level according to the rating system of the relevant rating agency, the rating outlook must at least be stationary;

ç) The current rating is required to be taken into consideration;

d) In the case of a change in the rating, the new rating must be published in PDP within two business days following the date of change.

### **Determination and Disclosure to Public of Upper Limit of Total Expenses**

**ARTICLE 76 – (1)** Upper limit of total sum of all expenses, including the management fee, shall be determined based on types of portfolio in information documents so as not to exceed the maximum rates specified in Annex-3. As of the last business day of 3, 6, 9 and 12 month periods, it shall be checked by the variable capital company by taking into account the daily average net asset value calculated for the relevant period, whether the portion of the annual total expense ratio corresponding to the relevant period is exceeded or not. Any transactions in conflict with this paragraph shall be under the responsibility of the board of directors or if authorized so by the board of directors, of the relevant executive director.

(2) Even if it remains within the total expense ratio limit, no expenses may be accrued other than the expenditures that may be incurred pursuant to this Communiqué.

(3) If the investor shares have been issued for the first time during the relevant period of calculation or if the variable capital company is liquidated, the controls mentioned in the first paragraph shall be affected by taking into account the days when investor shares were offered for sale.

(4) Maximum total expense ratio determined in information documents, total expense ratio calculated as of the end of 3, 6, 9 and 12 month periods, and distribution of total expenses arranged in the format determined by the Board, shall be announced in PDP within six business days following the end of the relevant period.

(5) Management fee is required to be announced in PDP and on the variable capital company's official website in a manner easily accessible by investors. The statement to be announced must clearly show in detail under which conditions the daily and annual management fee rates will be collected from investors.

### **Principles Relating to Assessment and Performance Presentation**

**ARTICLE 77 – (1)** Principles relating to assessment and performance presentation of assets included in portfolios of variable capital companies shall be governed by the regulations of the Board pertaining to investment funds.

(2) Variable capital companies are required to prepare and issue performance presentation reports under the regulations of the Board pertaining to performance presentation of portfolios of collective investment schemes. With respect to performance presentation reports, the current year periods indicated in the relevant regulations shall be applied as January – June and January – December for portfolios of the company. Performance presentation reports are required to be audited by an independent audit firm within one month following the end of the relevant period, and the audited interim and annual performance presentation reports are required to be made public on the variable capital company’s official website and in PDP within one month following the end of the relevant period.

### **Termination**

**ARTICLE 78 – (1)** A variable capital company shall terminate for the following reasons:

- a) If a certain time is specified in its articles of association, upon expiration of this period of time;
- b) If the variable capital company is established indefinitely, upon delivery of a notice of termination with effect from six months after the date of receipt of prior consent of the Board;
- c) Without prejudice to the provisions of second to sixth paragraphs of this Article, upon becoming noncompliant with the conditions of establishment;
- ç) Upon bankruptcy or liquidation of the variable capital company;
- d) Upon determination by the Board that continuity of the variable capital company will not be in the interests of investors.

(2) If and when the value of founder’s shares falls to half of the minimum founder’s share amount, the board of directors shall duly inform the Board thereabout without delay. Following this notice, the board of directors shall immediately invite the general assembly of shareholders for to convene in order to take the required actions, and thereupon, the general assembly of shareholders shall meet within 30 days at the latest. The board of directors shall present to the general assembly of shareholders the remedial measures deemed appropriate. Decisions taken in the general assembly meeting shall be disclosed in PDP in no later than the business day immediately after the date of meeting.

(3) If and when the value of founder’s shares falls to one-third or below of the minimum founder’s share amount, the board of directors shall duly inform the Board thereabout without delay. Following this notice, the board of directors shall immediately invite the general assembly of shareholders to convene in order to take the required actions, and thereupon, the general assembly of shareholders shall meet within 30 days at the latest. The general assembly of shareholders is under obligation to decide to increase the founder’s shares to the minimum founder’s share amount, or to liquidate the variable capital company. In order for the general assembly of shareholders to decide to liquidate the variable capital company under this

paragraph, unless heavier quorums are required as per the articles of association of the company, majority of the founder's shares participating in the general assembly meeting of the company must give an affirmative vote, without seeking for a meeting quorum. Decisions taken in the general assembly meeting shall be disclosed in PDP on no later than the business day immediately following the date of meeting.

(4) If the steps mentioned in the preceding third paragraph are not taken, the Board is authorized to take all kinds of measures, also including the liquidation of the variable capital company. If the fall in value of founder's shares as mentioned in the third paragraph is caused by such force majeure events as war, natural disasters and economic crisis, an additional period of time may be requested from the Board for compliance with the obligations set forth in this Communiqué.

(5) Other than the events mentioned in second and third paragraphs, if the financial standing of a variable capital company weakens to such extent that it is incapable of meeting its obligations, the board of directors shall inform the Board thereabout without delay. Following this notice, the board of directors shall immediately invite the general assembly of shareholders to convene in order to take the required actions, and thereupon, the general assembly of shareholders shall meet within 30 days at the latest. Decisions taken in the general assembly meeting shall be disclosed in PDP on no later than the business day immediately following the date of meeting. If the weakness in financial standing cannot be remedied or the actions mentioned in this paragraph are not taken, the Board is authorized to take all kinds measures, also including the liquidation of the variable capital company.

(6) Following completion of the liquidation procedures, name of the variable capital company shall be removed from the trade registry.

(7) Variable capital company shall be liquidated in accordance with the principles set forth in the articles of association, and the balance of liquidation shall be distributed to the shareholders in proportion to their shares in the capital. Without prejudice to the provisions of the third paragraph, the general assembly of shareholders may decide to liquidate the variable capital company only if and when the company's general assembly of shareholders is convened with presence of holders or representatives of shares meeting at least one-fourth of total sum of founder's shares, unless a heavier quorum is stipulated in the articles of association of the company. If the said quorum cannot be reached in the first meeting, no quorum shall be sought for in the second meeting. Regardless of the meeting quorum, in both meetings, the decision of liquidation shall be taken by affirmative vote of majority of the shareholders present in the general assembly meeting. In the case of liquidation, payment may be made only to shareholders. New shares may not be issued after the notice of termination. Starting from the time of liquidation, no share may be issued or bought back.

(8) In the course of liquidation proceedings, if there are shares still not returned to the variable capital company as of the end of the period of six months mentioned in subparagraph (b) of the first paragraph, then the shares shall be sold without a sales order from shareholders, and the resulting proceeds of sales shall, within the knowledge of the Board, be invested in reverse repo

or in other capital market instruments deemed fit by the Board, in the name of investors, in accounts to be opened in an investment firm.

(9) Without prejudice to the provisions of this Article relating to termination, variable capital companies may not exit from this status by changing their fields of business.

### **Conversion of Fixed Capital Companies to Variable Capital Companies**

**ARTICLE 79 – (1)** A fixed capital company may be converted only to a variable capital company.

(2) The provisions of Article 38 are applicable on conversion of fixed capital companies to variable capital companies.

(3) In conversion of fixed capital companies to variable capital companies, shareholders holding privileged shares in a fixed capital company shall become a shareholder holding founder's shares in the variable capital company. If there are no privileged shares among the shares representing the capital of a fixed capital company, the shareholders holding management control shall become partners holding founder's shares in the variable capital company.

(4) Without prejudice to the provisions of the third paragraph, in conversion of fixed capital companies to variable capital companies, shareholders holding non-privileged shares shall become shareholders holding investor shares in the variable capital company.

(5) In conversion of fixed capital companies to variable capital companies, within six months following the date of registration in trade registry of the amendments to articles of association pertaining to conversion, minimum initial capital, minimum net asset value, portfolio restrictions and other obligations arising out of this Communiqué with regard to variable capital companies are required to be complied with. Companies converted to variable capital companies which fail to meet this condition shall apply to the Board with a request of liquidation under Article 78 within three months following the end of the said period of time.

### **Notification Requirements**

**ARTICLE 80 – (1)** Variable capital company is under obligation to inform the Board about:

- a) decisions of the board of directors relating to appointment of executive directors for variable capital company and determination of their powers and responsibilities, and all and any changes therein, within 10 business days following the date of relevant decision of the board of directors;
- b) the communication information, website, tax identity number and trade registry number information, and all changes therein, within 10 business days thereafter;

- c) information about independent audit firm chosen by the variable capital company in accordance with regulations of the Board pertaining to independent audit, and all changes therein, within 10 business days thereafter;
- ç) address of its head offices, and all changes therein, within 10 business days thereafter;
- d) its current list of authorized signatures and in the case of any change therein, its updated list of authorized signatures, within 10 business days following the date of decision of the board of directors with regard thereto;
- e) lawsuits and legal proceedings commenced by it against its shareholders, managers, personnel and other institutions, and lawsuits and legal proceedings commenced by said entities against it, and results thereof, within 10 business days following the date of learning;
- f) newspapers where the announcements required under this Communiqué are published, within 10 business days following the date of announcement.

### **Notifications to SPL**

**ARTICLE 81 – (1)** SPL shall create a database of notifications sent by variable capital companies pursuant to this Communiqué, and keep such database open to access by the Board instantaneously. All notifications addressed to SPL may also be sent with electronic signature.

**(2)** If SPL detects a breach of provisions of this Communiqué with regard to the relevant variable capital company or its directors and personnel in light of notifications sent by variable capital companies pursuant to this Article, it shall send a written notice to the Board thereabout within three business days.

## **FOURTH SECTION Other Provisions**

### **FIRST CHAPTER Joint Provisions**

#### **Supervision by the Board**

**ARTICLE 82 – (1)** All portfolio-related accounts and transactions of companies and their portfolio managers and portfolio custodians are subject to supervision by the Board.

#### **Financial Reporting and Auditor**

**ARTICLE 83 – (1)** Financial reporting principles of companies shall be governed by the regulations of the Board pertaining to financial reporting.

**(2)** The company's general assembly of shareholders elect an auditor for each annual report in accordance with the pertinent provisions of TCC.

### **Principles Relating to Board of Directors' Annual Report**

**ARTICLE 84 – (1)** Board of directors' annual reports of companies shall be governed by the regulations of the Board pertaining to financial reporting.

**(2)** The board of directors' annual reports shall further contain detailed information about portfolio reports and assets included in the company's portfolio.

### **Ban on Title**

**ARTICLE 85 – (1)** No institution, other than companies established and operating pursuant to the provisions of the Law and this Communiqué, may use "investment company" or "securities investment company" or any other phrase bearing the same meaning, in its title, name or advertisements and announcements.

### **Amendments to Articles of Association**

**ARTICLE 86 – (1)** Prior consent of the Board is required to be obtained for amendments to articles of association of companies.

### **Application Forms and Standard Texts**

**ARTICLE 87 – (1)** Application forms and standard texts the format and principles of which are determined by the Board shall be used in applications of companies to the Board.

### **Website**

**ARTICLE 88 – (1)** Websites of companies shall contain information and documents required to be publicly disclosed pursuant to the first and second paragraphs of Article 33 for fixed capital companies and pursuant to Article 77 for variable capital companies, and investment purposes and strategies and benchmarking criteria of the company's portfolio, and information about holders of privileged shares / founder's shares and member of the board of directors, and information documents, information policy, information on general assembly of shareholders, and other information to be determined by the Board, in addition to information required to be included therein as per the Board regulations and TCC.

### **Board's Fee**

**ARTICLE 89 – (1)** The relevant regulations of the Board are applicable in calculation of the Board's fee required to be deposited by fixed capital companies pursuant to Article 130 of the Law.

**(2)** The fee calculated by variable capital companies at a rate of five per one hundred thousand of net asset value as of the last business day of quarterly periods on the basis of a calendar year pursuant to the provisions of the third paragraph of Article 130 of the Law and approved by the portfolio custodian shall be deposited in the Board's account within 10 business days thereafter,

and a copy of each of the relevant account statements and calculation tables shall be sent to the Board.

(3) The Board may determine different rates by taking into consideration the characteristics or maturity of the company's portfolio, provided that the rate specified in the second paragraph is not exceeded.

### **Redetermination of Amounts Included in This Communiqué**

**ARTICLE 90 – (1)** The Board may re-determine the amounts included in this Communiqué every year. Thereupon, the re-determined amounts shall be announced in the Board's Bulletin.

### **Inapplicable Provisions and Other Provisions**

**ARTICLE 91 – (1)** All and any matters relating to companies on which this Communiqué remains silent shall be subject to pertinent provisions of the Law, TCC and other applicable legislation.

(2) In variable capital companies, the provisions of TCC pertaining to equity capital, minimum capital amount, minimum contents of articles of association, subscriptions for capital in kind, nominal value, share buy-backs or acceptance by the company of its own shares as pledge, capital increase and reduction procedures, share subscriptions and payments, restrictions on transfer of shares, profit and loss account and profit distribution, reserve funds and liquidation of joint-stock companies shall not be applicable.

(3) An appraisal right shall not arise with regards to transactions to be effected by variable capital companies.

(4) With regard to variable capital companies, the provisions of the Communiqué on Common Principles on Significant Transactions and Appraisal Right (II-23.1) published in the Official Gazette edition 28861 on 24.12.2013, and the Communiqué on Principles Relating to Exclusion of Companies From Scope of Law and Obligation of Trading of Their Shares in the Exchange (II-16.1) published in the Official Gazette repeated edition 28867 on 30.12.2013, and the regulations of the Board pertaining to joint-stock companies the shares of which are deemed to have been offered to public due to number of shareholders shall not be applicable.

## **SECOND CHAPTER**

### **Transitional Provisions, Effective Date and Enforcement**

#### **Repealed Communiqué**

**ARTICLE 92 – (1)** The Communiqué on Principles Regarding Securities Investment Companies (III-48.2), published in the Official Gazette edition 28750 on 29.08.2013 is hereby repealed and superseded.

**Transitional Provisions**

**TRANSITIONAL ARTICLE 1 – (1)** As for companies which are categorized as a fixed capital securities investment company prior to 05.08.2011, the provisions pertaining to leading shareholder shall not be applicable.

**(2)** If a person working as general manager of a fixed capital company as of 29.08.2013 is holding this position since the last one year and has past experience of 10 years or more in domestic and foreign capital markets, the license condition stipulated in the first paragraph of Article 17 shall not be sought for such person.

**(3)** Name/title of fixed capital companies established prior to 29.08.2013 are not required to be changed as per subparagraph (d) of the first paragraph of Article 6.

**Effective Date**

**ARTICLE 93 – (1)** This Communiqué will become effective as of the date of its publication.

**Enforcement**

**ARTICLE 94 – (1)** The provisions of this Communiqué will be enforced and executed by the Board.



**ANNEX-1****MINIMUM CONTENTS OF PROSPECTUS OF  
A VARIABLE CAPITAL COMPANY**

- (a)** Name of company; business name, if any, of company; term of company, and type of portfolio;
- (b)** Names and addresses of company, portfolio manager and portfolio custodian;
- (c)** Information about portfolio managers and members of the board of directors of the company;
- (c)** Principles regarding portfolio investment strategy, purposes, investment limitations and risks;
- (d)** Information regarding outsourced services;
- (e)** Procedures and principles relating to trading of shares;
- (f)** Principles relating to management and custody of portfolio;
- (g)** Principles relating to valuation of portfolio;
- (g)** Principles relating to expenditures that may be made from the properties of the portfolio;
- (h)** Principles relating to transfer to shareholders of the income and expenditure differences of the portfolio;
- (i)** Conditions of participation in and exit from the portfolio;
- (i)** Method of liquidation of portfolio and company;
- (j)** Places where the copies of articles of association and financial reports are accessible;
- (k)** Description as to the institution which will audit the portfolio;
- (l)** Other details to be determined by the Board.

**ANNEX-2****CALCULATION OF REPLICATION DIFFERENCE  
AND REPLICATION ERROR****Replication Difference:**

$$TD = R_P - R_B$$

TD : Replication Difference

R<sub>P</sub> : Annual return of portfolio (calculated on the basis of net asset value)

R<sub>B</sub> : Annual return of the replicated index

**Replication Error:**

$$TE = \sqrt{\frac{\sum_{i=1}^N (R_P - R_B)^2}{N - 1}}$$

TE : Replication Error

R<sub>P</sub> : Return of portfolio (calculated on the basis of net asset value)

R<sub>B</sub> : Return of the replicated index

N : Number of days used for calculation

**ANNEX-3**

**MAXIMUM TOTAL EXPENSE RATIOS  
TO BE APPLIED ON THE BASIS OF  
PORTFOLIO TYPES**

<b>TYPES OF PORTFOLIO</b>	<b>Maximum Total Expense Ratio to be applied</b>	
	<b>Daily</b>	<b>Annual</b>
Money Market Portfolios	3.5 per one hundred thousand	1.28%
Short-term debt instruments and securities portfolios, precious metals portfolios and portfolios with the word “index” in their title	6 per one hundred thousand	2.19%
Other portfolios	10 per one hundred thousand	3.65%