

**COMMUNIQUÉ ON DOCUMENTATION AND  
RECORD-KEEPING SYSTEM REGARDING INVESTMENT  
SERVICES AND ACTIVITIES AND ANCILLARY SERVICES  
(III-45.1)**

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**List of amendments:**

1. Communiqué (III-45.1.a) Amending Communiqué (III-45.1) on Documentation and Record-Keeping System Regarding Investment Services and Activities and Ancillary Services published in the Official Gazette edition 29529 on 11.11.2015.

**FIRST CHAPTER**

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

**Purpose and Scope**

**ARTICLE 1 – (1)** The purpose of this Communiqué is to determine the principles relating to documents to be issued by investment firms with regard to their investment services and activities, and records to be kept about investment services and activities and ancillary services, and keeping of said records.

**Grounds**

**ARTICLE 2 – (1)** This Communiqué has been issued in reliance upon Article 45 of the Capital Markets Law no. 6362 dated 06.12.2012.

**Definitions and Abbreviations**

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

**(a) “Intermediary Institution”** refers to an investment firm which is authorized by the Board to exclusively conduct investment services and activities listed in subparagraphs (a), (b), (c), (e) and (f) of the first paragraph of Article 37 of the Law;

**(b) “Bank”** refers to deposit and participation banks and development and investment banks as defined in Article 3 of the Banking Law no. 5411 dated 19.10.2005;

**(c) “Exchange”** refers to systems and marketplaces as defined in subparagraph (ç) of the first paragraph of Article 3 of the Law;

**(ç) “Leveraged Transaction”** refers to transactions as defined in the Communiqué no. III-37.1;

- (d) **“Law”** refers to the Capital Markets Law no. 6362 dated 06.12.2012;
- (e) **“Board”** refers to the Capital Markets Board;
- (f) **“CRA”** refers to Merkezi Kayıt Kuruluşu A.Ş. (Central Registry Agency Inc.) as defined in subparagraph (p) of the first paragraph of Article 3 of the Law;
- (g) **“Shareholders’ equity”** refers to a shareholders’ equity calculated in accordance with the regulations of the Board pertaining to capital and capital adequacy of intermediary institutions;
- (ğ) **“Professional and general customer”** refers to professional and general customers as defined in the regulations of the Board pertaining to principles of establishment and activities of investment firms;
- (h) **“Capital market instruments”** refers to capital market instruments as defined in subparagraph (ş) of the first paragraph of Article 3 of the Law;
- (ı) **“Takasbank”** refers to İstanbul Takas ve Saklama Bankası A.Ş. (Istanbul Clearing and Custody Bank Inc.);
- (i) **“Derivative instruments”** refers to instruments defined in the Communiqué no. III-37.1;
- (j) **“Ancillary services”** refers to services as defined in Article 38 of the Law;
- (k) **“Investment services and activities”** refers to services and activities listed in Article 37 of the Law;
- (l) **“Investment services and activities and ancillary services”** refers to investment services and activities of investment firms as defined in Article 37 of the Law, and ancillary services provided in addition thereto and defined in Article 38 of the Law;
- (m) **“Investment firms”** refers to firms as defined in subparagraph (v) of the first paragraph of Article 3 of the Law;
- (n) **“Communiqué no. III-37.1”** refers the Communiqué on Principles Regarding Investment Services and Activities and Ancillary Services (III-37.1), published in the Official Gazette edition 28704 on 11.07.2013;
- (o) **“Communiqué no. III-39.1”** refers to the Communiqué on Principles Regarding Establishment and Activities of Investment Firms (III-39.1), published in the Official Gazette edition 28854 on 17.12.2013.

## **SECOND CHAPTER**

### **General Provisions**

#### **Implementing Principles**

**ARTICLE 4 – (1)** In order to serve as a ground for the accounting records and operations relating to investment services and activities and ancillary services, investment firms must, issue and keep all forms and documents described in this Communiqué completely, and to register in statutory books the accounting records regarding transactions of capital market instruments settled via central clearing institutions in the first business day following the end of the clearing period, and the accounting records regarding transactions of all other capital market instruments in the first business day following the date of transaction. Accounting and recording transactions regarding other activities shall be subject to the provisions of the Tax Procedures Code no. 213 dated 4/1/1961.

**(2)** Investment firms may keep their accounting records relating to investment services and activities and ancillary services in their head offices or branch offices.

**(3)** Intermediary institutions shall take the Intermediary Institution Chart of Accounts included in the regulations of the Board pertaining to chart of accounts of intermediary institutions as basis in the operation of their accounts.

#### **Framework Agreements and Customer Account Number**

**ARTICLE 5 – (1)** Before starting transactions with their customers, investment firms must enter into an agreement with regard to the services and activities to be provided, and to fulfill the requirements of the know your customer rule, pursuant to the Communiqué no. III-39.1.

**(2)** Agreements shall be issued in at least one copy and a true copy bearing the signature of approver and the seal of investment firm shall be delivered to the customer. On the original copy of agreement retained by the investment firm, the customer shall acknowledge with signature to have received a copy of contract. Without prejudice to the provisions of the Law no. 5549 on Prevention of Laundering Proceeds of Crime, dated 11.10.2006, and other relevant laws and regulations, investment firms may enter into a framework agreement with customers in accordance with provisions of the Regulation on Distance Contracts Regarding Financial Services, published in the Official Gazette edition 29253 on 31.01.2015. Agreements may be entered into as such only if and when a system where the intention to enter into an agreement is declared by the customer, and the declaration of acceptance for establishment of agreement can be physically or electronically determined or registered in accordance with the communication means used, has been established in accordance with the provisions of second paragraph of Article 49 of the Consumer Protection Law no. 6502 dated 07.11.2013, and the Regulation on Distance Contracts Regarding Financial Services. For agreements signed with an electronic signature, there is no need to provide a copy containing a seal to the customer. However, a copy of the agreement with electronic signature and with an approval of investment firm must be provided to the customer.

(3) Investment firms may later amend in electronic media, the framework agreements signed with their customers. In this case, first of all, the customer must have given consent to the investment firm for amendment of the framework agreement in electronic media. Framework agreement may be amended in electronic media only if an electronic signature is used, or customer access to electronic media is assured by a password assigned by the investment firm to the customer, and the customer gives consent in electronic media, verifying that the relevant amendments were read and understood by the customer. In this case, the provisions of second paragraph are applicable with respect to burden of proof and storage of information.

(4) A separate customer number shall be allocated to each customer with whom a framework agreement is signed, in accordance with provisions of the Communiqué no. III-39.1. More than one account may be opened by receiving a prior consent of the customer by using the number allocated to the customer under the agreement signed. This number shall be associated with all kinds of transactions and sub-accounts related to the customer. The requirements in provisions of the Communiqué no. III-39.1 shall be fulfilled with regard to opening of a custody account in and receipt of a registry number from the authorized clearing and custody institution and/or CRA.

(5) It is not obligatory to open an account in the name of those who make a demand with regard to public offering transactions.

(6) Changes in addresses of the account holder customers included in their framework agreements, or changes in names of natural person customers or in titles of legal entity customers / investment funds are required to be reported by investment firms to the authorized clearing and custody institution and/or CRA immediately upon learning.

(7) Customer and account number allocated to a customer may not be allocated to another customer before the end of 10 years following the date of expiration of the frame agreement.

(8) Customer identity information is not required to be shown in documents and records, however provisions in other legislation pertaining to indication of customer identity information in documents and records shall be reserved. Identity information and address of the account number holder customers shall be submitted to the Board or to designees of the Board upon request.

### **Notification on Risks Regarding Investment Services and Activities**

**ARTICLE 6 – (1)** As stipulated in the regulations of the Board pertaining to principles of establishment and activities of investment firms, electronic media may be used pursuant to the third paragraph of Article 5, in the transmission to customers of the Investment Services and Activities General Risk Statement Form, in making explanations to customers in addition to the general risk statement form with regard to risks of traded capital market instruments, in making required notifications to customers in the case of changes in the statements, and getting a statement from the customer as to receipt of this form, statements and notifications, in informing

the customer about their classification as professional or general customer, and the provisions of laws pertaining thereto, and their rights to change this classification.

**THIRD CHAPTER**  
**Documents to Be Issued By Investment Firms;**  
**Receipt and Transmission of Customer Orders**

**Documents to Be Issued By Investment Firms**

**ARTICLE 7 – (1)** During the performance of investment services and activities and ancillary services, investment firms must issue the following documents, depending upon the type of activities performed:

- a) Cash Received / Cash Paid Certificate,
- b) Customer Order Form,
- c) Derivative Markets Order Follow-up Form,
- ç) Session Follow-up Form,
- d) Transaction Results Form, Derivative Instruments Transaction Results Form, and Leveraged Trading Transactions Transaction Results Form,
- e) Transaction Instruction Form,
- f) Derivative Markets Margin Status Report,
- g) Derivative Markets Position Limit Excess Report,
- ğ) Account Statement (monthly notifications).

**(2)** During provision of teller services as a part of the activity of reception and transmission of orders as defined in the Communiqué no. III-37.1, investment firms are required to issue a customer order form and depending on the nature of transactions, a cash received / cash paid certificate, out of the documents listed in first paragraph of this Article.

**(3)** In over-the-counter transactions, instead of customer order form, a transaction instruction form and a monthly account extract shall be issued.

**Customer Orders**

**ARTICLE 8 – (1)** Investment firms may accept written or verbal orders from customers.

**(2)** Orders may be received from customers prior to or during the session by phone, by fax, by using automatic teller machine (ATM), in electronic media or by similar other means without a signature. These orders shall be treated as a verbal order in terms of general law provisions. Voice records relating to customer orders received by investment firms by phone, instructions relating to orders sent by fax, and collective breakdown containing dates and times of receipt by investment firm of all orders sent by fax during the day, dates and times of receipt of orders sent via electronic media by other means, also including orders received via internet, and IP (Internet Protocol) numbers relating to customers transmitting the order, separately for each customer, and electronic log records also indicating the source of order, are required to be kept

by the investment firms receiving the orders, and data kept in electronic media are required to be kept both by the investment firm authorized for order transmission, and by the authorized investment firm in whose favor transaction is effected, in such manner to be convertible to written form if and when required.

(3) In transactions executed in reliance upon verbal trading orders, the burden of proof as to existence of verbal order lies with the investment firm.

(4) A customer claiming to have placed a purchase or sale order, but that nevertheless no transaction has been executed thereupon is under burden to prove the placement of the order.

### **Customer Order Form and Session Follow-up Form and Derivative Markets Order Follow-up Form**

**ARTICLE 9 – (1)** Order form shall be freely issued with a consecutive serial number on the basis of channels used for transmission of order to the exchange, provided that it contains all of the information cited in Articles 10 and 11 for each order. If orders are received in writing, it is required to issue a written copy of the order form issued via electronic media, and to have it signed by the customer, and a copy of the order form signed by the customer and an officer of the investment firm receiving the order shall be delivered to the customer upon request.

(2) For the orders given verbally, a customer order form shall be issued in electronic medium without a signature of the customer as soon as it is received.

(3) The order form is required to contain the date of receipt of order and a phrase showing the time in the smallest unit possible, not being larger than seconds, printed either as a stamp or by computer. An instruction for orders sent by fax is required to contain the sender's fax number, date and time information printed automatically by the fax device.

(4) In all orders sent in writing or verbally, if requested by the customer, an order receipt number is required to be assigned to the customer at the time of receipt of order.

(5) Investment firms shall record all written or verbal customer orders received by their central and decentralized organization units in a Customer Order Form issued by computer in such manner to follow a consecutive serial number on the basis of channels through which the order is transmitted to the exchange. According to these forms, all customer orders received before the session shall be automatically recorded in a Session Follow-up Form, as shown in Annex-1, and the orders received for derivative instruments shall be automatically recorded in a Derivative Markets Order Follow-up Form, as shown in Annex-2, both issued by computer in the head offices of the investment firm according to the time priority on the basis of channels used for transmission of orders to the exchange. Orders received during the session in the exchange shall be similarly recorded in the Session Follow-up Form or the Derivative Markets Order Follow-up Form during the session. With the purpose of compliance with time priority principle, an infrastructure required for a system that can list all orders according to the time of reception shall be established. Customer orders registered as above shall then be transmitted to

the exchange for execution. The provisions of this Article are not applicable for quotes placed as a part of market making activity.

(6) The principles set forth in the fifth paragraph shall be complied with in trading by investment firms in their own name and account.

(7) Orders with a validity time of more than one day shall, if not executed in the day the order is placed, be registered in the Session Follow-up Form or the Derivative Markets Order Follow-up Form in subsequent days.

(8) The part pertaining to order transmission in the work flow procedure to be prepared by intermediary institutions in accordance with regulations of the Board relating to internal audit system, must be published on the website of the intermediary institution to enable customer review in relation to the channel that will be used during the transmission of customer orders received by the investment firm to the exchange. In cases where an order received from customers as a part of the order transmission activity is transmitted by the investment firm to the relevant intermediary institution by using different channels, this fact must also be included in the relevant part of the work flow procedure pertaining to order transmission and must be published on the investment firm's website for customer review.

## **FOURTH CHAPTER**

### **Required Contents of Order Forms and Transaction Instruction Forms, and Execution of Orders**

#### **Required Contents of Customer Order Forms**

**ARTICLE 10 – (1)** Except for derivative instruments and leveraged trading transactions, order forms to be issued for all orders received with regard to capital market instruments listed and traded in exchanges, also including those orders which are cancelled, are not executed, or are changed, are required to contain the following information as a minimum:

- a) Customer number and account number;
- b) Name, surname or title of customer and if any, person acting as proxy for the customer;
- c) Serial number;
- ç) Traded capital market instrument;
- d) Type of order;
- e) Means of order transmission (telephone, fax, internet, etc.);
- f) Whether the order is a buy order or a sell order;
- g) Price information or nominal value of order;
- ğ) Amount of order;
- h) Date and time of receipt and transmission of order;
- ı) Session during which the order is placed, and validity period of order;
- İ) Name and surname of officer of investment firm receiving the order, and if the order is received in writing, their signature;
- j) Investment firm to which the order is transmitted;

- k) Exchange, market and clearing institution where the transaction will be executed;
- l) Transaction currency (Turkish Lira, United States Dollar and others).

### **Required Contents of Derivative Instrument Order Forms**

**ARTICLE 11 – (1)** Order forms to be issued for all orders received with regard to derivative instruments listed and traded in stock exchanges or other organized marketplaces, also including those orders which are cancelled, are not executed, or are changed, are required to contain the following information at the minimum:

- a) Customer number and account number;
- b) Name, surname or title of customer and if any, person acting as proxy for the customer;
- c) Serial number;
- ç) Name and/or transaction code of contract;
- d) Type of order;
- e) Means of order transmission (telephone, fax, internet, etc.);
- f) Whether the order is a buy order or a sell order or another type of order;
- g) Price information of order;
- ğ) Number of contracts;
- h) Date and time of receipt and transmission of order; and
- ı) Session during which the order is placed, and validity period of order;
- i) Account type (customer, global account and others);
- j) Name and surname of officer of investment firm receiving the order, and if the order is received in writing, their signature;
- k) Exchange, market and clearing institution where the transaction will be executed;
- l) Transaction currency (Turkish Lira, United States Dollar and others).

### **Transaction Instruction Form**

**ARTICLE 12 – (1)** For the transactions in capital market instruments to be executed with customers in over-the-counter markets, except for leveraged trading transactions, the investment firm must issue a Transaction Instruction Form. A Transaction Instruction Form is required to contain the following information as a minimum:

- a) Customer number and account number;
- b) Name, surname or title of customer and if any, person acting as proxy for the customer;
- c) Date and time of transaction;
- ç) Serial number;
- d) Name / description / type of capital market instrument;
- e) Type of transaction for the customer (buy or sell); and
- f) Means of order transmission (telephone, fax, internet, etc.);
- g) Transaction amount, transaction currency and its monetary amount in Turkish Lira;
- ğ) Price/value/benchmark information, depending on the type and description of the relevant underlying asset;
- h) Due date (clearing date, date/time of notification);



- j)** If any, premium amount and/or strike price;
- i)** If any, margin amount.

(2) Any other information deemed necessary shall also be incorporated in the transaction instruction form.

(3) If the orders are received in writing, it is required to issue a written copy of the instruction form issued via electronic media, and to have it signed by the customer, and a copy of the instruction form signed by the customer and an officer of the investment firm receiving the order shall be delivered to the customer upon request. For orders placed verbally, a transaction instruction form shall be issued in electronic media without a signature of the customer as soon as it is received.

(4) **(Added: OG 11.11.2015 – 29529)** In cases where the receipt of instruction as a result of contact with the customer and the execution of the transaction occur simultaneously or where instruction by transmission of bilateral or unilateral offers and execution of transaction occur simultaneously, as well as any other similar cases, the transaction instruction form and transaction results form may be drawn up as a single form provided that it contains the information under this Communiqué.

(5) In cases where the investment firm is a counterparty to the customer, the investment firm is under obligation to keep the customer informed about probable conflicts of interest in accordance with the provisions of the Communiqué no. III-39.1, and to fulfill its liability relating to the burden of proof.

(5) In case where there is a margin call or similar other obligation in the over-the-counter transactions to be executed, a written explanation about the method of performance of such obligation is required to be provided to the customer, with the burden of proof on the investment firm. However, if the framework agreement contains a clause pertaining thereto, a separate explanation may not be made.

### **Required Contents of Leveraged Trading Transactions Order Forms**

**ARTICLE 13 – (1)** Order forms to be issued for all orders received with regard to leveraged trading transactions, also including those orders which are not accepted, are not executed, are cancelled, or changed, are required to contain the following information as a minimum:

- a)** Customer number and customer account number for which each order is received;
- b)** Name, and surname or title of customer and if any, person acting as proxy for the customer;
- c)** Serial number;
- ç)** Asset to be traded;
- d)** Type of order;
- e)** Means of order transmission (telephone, fax, internet, etc.);
- f)** Whether the order is a buy order or a sell order;
- g)** Price and amount information of order;

ğ) Date and time of receipt of order.

### **Cash Received and Cash Paid Certificates**

**ARTICLE 14 – (1)** When cash funds are collected from customers, a Cash Received Certificate shall be issued, and when cash funds are paid to customers, a Cash Paid Certificate shall be issued. These certificates carrying consecutive serial numbers are required to be issued in at least one copy, and signed by customers, and a signed copy thereof is required to be provided to the customer.

### **Transaction Results Forms**

**ARTICLE 15 – (1)** In order to indicate trades executed, services provided, and cash funds collected in return for them, a Transaction Results Form, as shown in Annex-3, with consecutive serial numbers shall be kept in electronic media for submission if and when required.

**(2)** For derivative instrument transactions, a Derivative Transactions Results Form, as shown in Annex-4, shall be kept in electronic media for submission if and when required.

**(3)** For leveraged trading transactions, a Leveraged Trading Transaction Results Form, the minimum elements of which are enumerated in Annex-5, shall be kept in electronic medium for submission if and when required. In addition to the minimum elements referred to hereinabove, the Leveraged Trading Transaction Results Form shall contain information on all orders including orders which are not accepted, are not executed, are cancelled, or are changed.

**(4)** Transaction results forms mentioned in first, second and third paragraphs shall further contain all information referred to in regulations issued in reliance upon the Law no. 213.

### **Execution of Orders and Notification to Customer**

**ARTICLE 16 – (1) (Amended: OG 11.11.2015 – 29529)** Executed transactions shall be notified to the customer in the manner and within the period specified in the framework agreement, provided that notifications are made by the end of the day at the latest. With respect to capital market instruments purchased and sold, Transaction Results Form, Derivate Instruments Transaction Results Form or Leveraged Trading Transactions Results Form shall be drawn up electronically so as to bear consecutive numbers and include the type, price or premium of capital market instruments bought or sold, and commissions accrued to the customer as well as provisions for expenses, and shall be sent to the customer in electronic media or access of the customer over electronic media shall be enabled, within the same day. In cases where the customer does not own an electronic mail address to receive messages in electronic media or does not prefer to access forms over electronic media, the provisions of the framework contract with respect to mailing shall be implemented.

**(2)** The burden of proof that a Transaction Results Form, a Derivative Instruments Transaction Results Form or a Leveraged Trading Transaction Results Form is sent or is made accessible via electronic medium lies with the investment firm.

## **FIFTH CHAPTER**

### **Notifications to Customers**

#### **Delivery of Account Extracts by Investment Firms**

**ARTICLE 17 – (1)** Investment firms holding customer accounts are under obligation to send an account statement with regard to investment services and activities and ancillary services to the addresses of customers on monthly basis within 7 business days following the end of the relevant period. However, if requested by the customer in writing, the account statement may also be sent to an electronic mail address designated by the customer within the same period, or the customers may be allowed to access to their account statements via electronic media. Related customer requests may be received by the means specified for concluding framework agreements under the second paragraph of Article 5.

**(2)** Account statements to be sent to customers are required to contain comprehensible and clear information about:

- a)** name, date of purchase or sale, time, price and amount of capital market instruments, with regard to all capital market instruments bought or sold during the relevant period;
- b)** all movements of cash funds, securities and other assets kept in the investment firm during the relevant period;
- c)** all kinds of commissions, fees and taxes debited to the account during the relevant period.

**(3)** It is permissible that account statement and/or report is not sent to customers who have not conducted any transactions during the relevant period. Furthermore, it is also permissible that account statement and /or report are not sent to professional customers with whom a contract is signed specifically for non-delivery of any account statement and report, or where it is so stipulated in the framework agreement.

**(4)** The burden of proof that notifications and reports required to be transmitted by investment firms to customers, including account statements, are sent or are made accessible via electronic medium lies with the investment firm.

**(5)** Framework agreements and other relevant documents may not contain clauses on disclaimer of liability stating that information contained in the account statement will be deemed to have been accepted by the customer after lapse of a certain period of time. Such clauses shall be deemed null and void.

**(6)** In transactions executed in foreign markets through an authorized institution as a part of the activity of brokerage for trading, either the investment firm resident in Turkey must send a monthly account statement to its customers, or must ensure that such account extracts are sent by the foreign institution in whose favor the transaction is executed, and documents proving the

delivery of account statements must be kept. The liability to send account statements shall be performed under the principles set forth in the agreements signed between the parties. A copy of all documents sent abroad for account opening purposes is required to be kept by the investment firm transmitting the orders.

### **Notifications to Customers in Leveraged Trading Transactions:**

**ARTICLE 18 – (1)** Investment firms authorized for order execution/trading on own account and intermediary institutions dealing with leveraged trading transactions under the Communiqué no. III-37.1 are under obligation to provide their customers with a transaction results form on a daily basis and an account statement on a monthly basis with regard to their transactions.

**(2)** Monthly account statements to be sent to customers are required to contain comprehensible and clear information about:

- a) date, time, price and amount information about all positions taken;
- b) final profit and loss amounts relating to the positions closed;
- c) existing profit and loss amounts relating to open positions;
- ç) all movements of cash and other assets kept in the intermediary institution;
- d) all kinds of commissions, fees and taxes debited to the account;
- e) margin status.

during the relevant period.

**(3)** During the business day following the date of each transaction at the latest, intermediary institutions shall send transaction results forms containing information about all positions taken during the previous day to their customers pursuant to Article 15. Format and method of this notification may be freely determined between the intermediary institution and the customer. It is permissible that a report and statement is not sent to professional customers with whom a contract is signed specifically for non-delivery of any account statements, or where it is specified as such in the framework agreement. In addition, it is permissible that a notification is not sent to customers with no account movement during the relevant period.

**(4)** The burden of proof as to access to the notifications delivered under this Article lies with the intermediary institution, and framework agreements and other relevant documents may not contain a clause on disclaimer of liability stating that the notifications sent as per this Article will be deemed to have been accepted by the customer after lapse of a certain period of time. Such clauses shall be deemed null and void.

### **Notifications to Customers in Derivative Instrument Transactions**

**ARTICLE 19 – (1)** Investment firms authorized for order execution or trading in own account under the Communiqué no. III-37.1 are under obligation to provide their customers with a notification on a daily basis and an account statement on a monthly basis with regard to their

transactions relating to derivative instruments, also including those executed in over-the-counter markets.

(2) Monthly account statements to be sent to customers are required to contain comprehensible and clear information about:

- a) contract description, date, time, price and amount information about all positions taken;
- b) final profit and loss amounts relating to the positions closed;
- c) existing non-realized profit and loss amounts relating to open positions;
- ç) all movements of cash funds, securities and other assets kept in the intermediary institution;
- d) all kinds of commissions, fees and taxes debited to the account;
- e) margin status.

during the relevant period.

(3) In order to follow up margins required to be paid for open positions of portfolios of their customers and their own portfolios, the investment firms shall issue a Derivative Markets Margin Status Report, in the format shown in Annex-6, as of the end of each day of open position. In the Derivative Markets Margin Status Report, the amount of margin required to be deposited by the customer shall be calculated by taking into account the amount of cash margin requested by clearing institutions for open positions. Non-cash margins, other than cash Turkish Lira and convertible foreign currencies, deposited by the customer shall be converted into cash over a certain rate or price, under principles determined by the clearing institutions. Where the clearing institution has not determined such a rate, the valuation provisions contained in the regulations of the Board pertaining to capital adequacy shall be implemented. Margins not accepted by the clearing institution shall not be included in the calculation as margin in this report.

(4) In order to follow up open positions carried on the basis of customers and investment firms, investment firms shall issue a Position Limit Excess Report, in the format shown in Annex-7, as of the end of each day the open position is carried. The Position Limit Excess Report shall be prepared separately for each customer account, except for global account customers identified in the exchange legislation. Open positions held by the investment firm and its customers, with reference to limits determined by the relevant stock exchanges where the derivative contracts included in the accounts are traded, shall be assessed in this form. This assessment shall cover information as to whether the number of contracts where the account holder has taken short and long positions, and their total market values exceed the position limits of the relevant exchanges or not, by contracts and types of derivative instruments.

(5) During the business day following the date of each transaction at the latest, investment firms shall send transaction results forms containing information about all positions taken during the previous day to their customers pursuant to Article 15. Format and method of this notification may be freely determined between the investment firm and the customer. It is permissible that a statement is not sent to professional customers with whom a contract is signed specifically for non-delivery of any account statement, or where it is specified as such in the

framework agreement. In addition, it is permissible that a notification is not sent to customers with no account movement during the relevant period.

(6) The burden of proof as to access to the notifications delivered under this Article lies with the investment firm, and framework agreements and other relevant documents may not contain a clause on disclaimer of liability stating that the notifications sent as per this Article will be deemed to have been accepted by the customer after lapse of a certain period of time. Such clauses shall be deemed null and void.

## **SIXTH CHAPTER**

### **Records to Be Kept About Investment Services and Activities and Ancillary Services and Record-Keeping Principles**

#### **Records to Be Kept for Investment Advice and Individual Portfolio Management Activities**

**ARTICLE 20 – (1)** All kinds of written, verbal or electronic information and documents shared with the customer in the course of investment advice activities and relied upon in investment decisions taken as a part of individual portfolio management activities, and all kinds of surveys and reports underlying the said investment activities, are required to be kept by the relevant investment firm pursuant to Article 27.

#### **Principles on Tracing of Customer Accounts in Custody Services**

**ARTICLE 21 – (1)** Records to be kept by the investment firm authorized for custody services are required to comply with the principles set forth in first and second paragraphs of Article 63 of the Communiqué no. III-37.1. As for provision of custody services to customers resident abroad, records to be kept by the authorized custodian institution are required to comply with the principles set forth in third paragraph of Article 63 of the Communiqué no. III-37.1.

(2) For assets provided by customers as collateral or for safekeeping purposes due to derivative instruments and kept in custodian institutions, their movements and amounts must be traced periodically and on the basis of each movement, and a mutual agreement must be reached with the institutions where the assets are kept, the relevant documents must be kept in a classified manner.

#### **Agreement to Be Reached With Clearing Institution**

**ARTICLE 22 – (1)** With regard to derivative instrument transactions, also including leveraged trading transactions, investment firms are under obligation to ensure settlement with the clearing institution about amount and nature of open positions as of each day they carry an open position, and to regularly keep all documents issued and produced by the clearing institution.

#### **Records to Be Kept With Regard to Customer Accounts in Leveraged Trading Transactions**

**ARTICLE 23 – (1)** In leveraged trading transactions, records to be kept instantaneously by intermediary institutions with regard to customer accounts are required to contain the following information on customer basis:

- a) All leveraged trading transactions executed in the accounts;
- b) All asset entries, exits and transfers;
- c) Final profit and loss amounts relating to closed positions;
- ç) Existing profit and loss amounts relating to open positions;
- d) All kinds of commissions, fees and taxes debited to accounts;
- e) Margin status.

(2) Intermediary institutions are under obligation to allow access of their customers to the information listed in the first paragraph through an electronic transaction platform.

(3) Records kept with regard to customer accounts pursuant to first paragraph shall be issued and kept with file integrity values time stamp in daily periods.

#### **Records to Be Kept With Regard to General Investment Advice**

**ARTICLE 24 – (1)** Investment firms providing general investment advice under Communiqué no. III-37.1 are required to keep pursuant to Article 27, all kinds of written, verbal or electronic information and documents shared with their customers.

#### **Receipt and Tracing of Customer Orders in Margin Trading, Short Sale, Borrowing and Lending Transactions for Capital Market Instruments**

**ARTICLE 25 – (1)** The provisions of this Communiqué pertaining to documentation and recording system shall be complied with in the event that investment firms deal with margin trading, short sale, borrowing and lending transactions for capital market instruments.

#### **Other Records to Be Kept on Communications with Investors**

**ARTICLE 26 – (1)** Unless otherwise specified in the relevant articles of this Communiqué, investment firms are under obligation to keep pursuant to Article 27, the records of their written, verbal or electronic communications with investors, also including their such activities as advertisement, promotion, marketing and analysis support with respect to leveraged trading transactions.

#### **Keeping of Documents by Investment Firms**

**ARTICLE 27 – (1)** Investment firms are obligated to keep in a regular and classified manner and for a period of 10 years pursuant to Article 82 of the Turkish Commercial Code no. 6102 dated 13.01.2011 all kinds of documents, including electronic documents, received or generated by them due to and in the course of their investment services and activities and ancillary services, all order forms relating to their customer orders, whether executed or not, and

customer orders received in electronic media and the documents and fax records relating to such orders. Period of storage for voice records is 3 years.

**(2)** Investment firms are liable to keep a photocopy, carbon copy, microfiche, computer record or a similar other copy of each of the documents mentioned in the first paragraph of this Article, in writing, visually or in electronic media pursuant to Article 64 of the Turkish Commercial Code no. 6102.

**(3)** If and when the documents and records mentioned in the first paragraph are kept in electronic media, it is required to ensure that such information is accessible during the period of storage, and is easily readable at all times during this period of time.

**(4)** In the case of a dispute on documents and records required to be kept, the documents and records affected from such dispute are required to be kept until the dispute is resolved, irrespective of the period of time stated in the first paragraph.

**(5)** All documents and records required to be kept must be stored in such manner to assure that they are indelible, unalterable and non-falsifiable. Furthermore, documents and records kept in writing must contain no erasure or scraping, and corrections must be made in such manner not to prevent visibility of wrong entries, and no blank line must be left therein.

**(6)** All modifications to the data processing infrastructure shall be recorded, together with information about who made them. Data security breaches and mistakes in the data processing infrastructure, and remedial actions taken shall also be recorded.

**(7)** Without prejudice to the provisions of Article 22, for the sake accuracy and integrity thereof:

**a)** all information about date, time, amount, price, leverage ratio used, and all other elements, and account movements, and prices reflected onto customers, in such manner to show the timing information, and all prices received from liquidity providers, with respect to all transactions executed, also including those orders that are not executed, are cancelled or are changed, which are required to be recorded instantly pursuant to provisions of the Communiqué no. III-37.1 pertaining to electronic transmission of trading orders;

**b)** all records relating to margins, receivables and debts, open positions, profits and losses of customers, which are required to be recorded instantly pursuant to provisions of the Communiqué no. III-37.1 pertaining to electronic transmission of trading orders

are required to be issued and kept with file integrity values time stamp in monthly periods.



## **SEVENTH CHAPTER**

### **Other Provisions**

#### **Records Relating to Customer Complaints**

**ARTICLE 28 – (1)** Records relating to customer complaints are required to be kept in writing or electronically. Related records must contain as a minimum the following information about each complaint:

- a) Name, surname, address and account number of the complainant;
- b) Date of complaint;
- c) Summary of complaint, and which law provisions are alleged to have been violated;
- ç) If any, name of personnel subject to the complaint;
- d) Summary of actions taken by the investment firm about the complaint.

(2) Information and documents produced with regard to examination of customer complaints shall be kept until the end of the period of time specified in the first paragraph of Article 27.

(3) Address and communication information of units to which complaints may be reported by customers are required to be included both in the documents sent to customers and on the investment firm website.

#### **Obligations of Investment Firms with Regard to Data Processing and Electronic Transaction Infrastructure**

**ARTICLE 29 – (1)** With regard to data processing and electronic transaction infrastructure, investment firms are under obligation:

- a) to ensure that this infrastructure is fit and convenient for instantaneous follow-up of margins, receivables and debts, open positions, profits and losses of customers, and for making the required risk controls therein;
- b) to make periodical controls on capacity and security of this infrastructure, and to establish a system including servers where data is backed up at a place different from the installed area where transactions are conducted in order to assure security of data and continuity of transactions in any systematic error, and at the minimum, to back up here the information and documents, data processing infrastructure configurations, records and data required to be kept by investment firms as per this Communiqué, and to take actions for minimization of probable threats on the electronic transaction infrastructure;
- c) to take security measures and actions in order to prevent use of this infrastructure by third parties without prior consent of the customer, and to effect regular inspections so as to determine whether it has been used by third parties or not.

(2) Call-back tests of the data backed up as above shall be conducted at least once a year.

(3) During their operations, investment firms are under obligation to take the required data security measures and actions against unauthorized access in order to prevent eavesdropping or disruption by unauthorized persons of the data communication between the customer and the investment firm, and the replacement of recording instruments and information.

### **Notification Requirement to the Trade Repository**

**ARTICLE 30 – (1)** The Board may request central monitoring by trade repositories defined in Article 87 of the Law, in relation to transactions, collateral and position records and all other records pertaining thereto in relation to transactions executed in markets and with capital market instruments deemed appropriate by the Board. The principles determined by the Board with respect to trade repositories and notifications to be made thereto will be applicable in connection herewith.

### **Documentation and Recording System of Banks**

**ARTICLE 31 – (1)** Banks are required to comply with the provisions of this Communiqué pertaining to documentation and recording system solely with regard to investment services and activities and ancillary services.

## **EIGHTH CHAPTER Miscellaneous and Final Provisions**

### **Renewal of Existing Frame Agreements**

**TRANSITIONAL ARTICLE 1 – (1)** Framework agreements signed between investment firms and customers prior to the date of publication of this Communiqué shall be renewed within one year following the date the minimum elements of framework agreements are determined and communicated by the Board in accordance with the Communiqués no. III-37.1 and III-39.1. The agreements may be renewed in electronic media in accordance with the pertinent provisions of this Communiqué.

(2) The obligation to send account statements shall be performed under provisions of Article 17 also during the period until the date of renewal of said agreements, and account statements shall in any case be sent to non-professional customers, except for customers who do not affect any transaction during the relevant period of time.

### **Transitional Provisions on Accounting of Transactions**

**TRANSITIONAL ARTICLE 2 – (1)** Provisions of Articles 11, 12, 13, 14, 15, 16, 18, 19, 21, 22, 23, 24, 25, 27, 28 and 29 pertaining to accounting of the Communiqué on Documentation and Recording System in Intermediary Activities (Serial V, No. 6), published in the Official Gazette edition 21128 on 31.01.1992, and provisions of third chapter pertaining to accounting of the Communiqué on Documents and Records to Be Issued by Intermediary Institutions in their Intermediary Activities in Trading of Derivative Instruments (Serial V, No. 51), published

in the Official Gazette edition 24506 on 27.08.2001 shall be continued to be applied until the relevant Communiqués are repealed.

**Effective Date**

**ARTICLE 32 – (1)** Articles 5, 6, 13, 18 and 22 and Transitional Articles 1 and 2 shall become effective as of the date of publication of this Communiqué, and other articles shall become effective 60 days after this Communiqué is published.

**Enforcement**

**ARTICLE 33 – (1)** The provisions of this Communiqué are enforced and executed by the Board.