

## **COMMUNIQUÉ ON REAL ESTATE CERTIFICATES (VII-128.2)**

### **List of Amendments:**

- 1.** Communiqué (VII-128.2.a) Amending the Communiqué (VII-128.2) on Real Estate Certificates published in the Official Gazette edition 29790 on 03.08.2016.
- 2.** Communiqué (VII-128.2.b) Amending the Communiqué (VII-128.2) on Real Estate Certificates published in the Official Gazette edition 30000 on 07.03.2017.
- 3.** Communiqué (VII-128.2.c) Amending the Communiqué (VII-128.2) on Real Estate Certificates published in the Official Gazette edition 30255 on 29.11.2017.

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

#### **Purpose and Scope**

**ARTICLE 1 – (1)** The purpose of this Communiqué is to determine the qualities of real estate certificates and to set down principles to be followed in issuance thereof.

#### **Grounds**

**ARTICLE 2 – (1)** This Communiqué is prepared in reliance upon sub-paragraph (e) of first paragraph of Article 128 and third paragraph of Article 130 of the Capital Markets Law No. 6362 dated 06.12.2012.

#### **Definitions and Abbreviations**

#### **ARTICLE 3 – (As Amended: OG 03.08.2016 – 29790)**

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

**a) Land owner:** Natural persons or legal entities holding the ownership of land being the subject matter of the real estate project;

**b) (As Amended: OG 29.11.2017 – 30255) Primary obligation:** Transfer of title and delivery of real estate to the real estate certificate holders by the issuer by the end of the primary obligation fulfillment period according to the principles set forth in the prospectus or issue document;

**c) Primary obligation fulfillment period:** The period of time specified in the prospectus or issue document for fulfillment of the primary obligation;

**ç) Primary obligation request period:** The period of time specified in the prospectus or issue document for real estate certificate holders to present notification of primary obligation fulfillment request;

**d) Individual section:** Unit of real estate fit for use alone and separately as defined in the Condominium Ownership Law No. 634 dated 23.06.1965, and subject to independent ownership according to the pertinent provisions of the Condominium Ownership Law;

**e) Ministry:** Ministry of Environment and Urbanization,

**f) Bank:** Banks as defined in the Banking Law No. 5411 dated 19.10.2005;

**g) Exchange:** The exchange as defined in sub-paragraph (ç) of first paragraph of Article 3 of the Law;

**g) Penalty:** Liabilities imposed on the issuer in addition to its obligations, in the case of a failure to fulfill relevant obligations according to the principles set forth in the prospectus or issue document;

**h) Appraisal company:** A joint-stock company organized for appraisal activities and services and authorized by the Board pursuant to the relevant regulations of the Board;

**i) Rating agency:** Rating agencies established in Turkey, and authorized by the Board under its regulations pertaining to rating activities in capital markets and rating agencies, and international rating agencies activities of which have been approved in Turkey by the Board;

**i) Obligations:** Primary or secondary obligations;

**j) Liable Party for Obligations:** An independent audit firm authorized to perform independent audit activities in capital markets, liable to check whether or not obligations are fulfilled under the principles determined in the Communiqué and specified in the prospectus or issue document,

**k) Real estate project:** A residential or commercial real estate project planned to be financed through the issue of real estate certificates;

**l) Real estate certificate:** Securities that are issued by issuers for use in financing of real estate projects to be built or that are being built and that have a nominal value representing certain particular individual sections or a certain area unit of individual sections of a real estate project;

**m) (As amended: OG 07.03.2017 – 30000) Title holder:** Persons who have been determined by relevant institutions to hold titles over real estate with whom reconciliation has been achieved, with respect to locations where projects are carried out with the purpose of urban transformation under Law No 6306, Law No 2985 and Law No 775.

**n) Issue:** The issuance of real estate certificates by issuers and sale of these certificates with or without public offering;

**o) Issuer:** A joint-stock company that issues real estate certificates or files an application to the Board for issuance, and the public entities and institutions authorized to issue securities pursuant to their own laws and regulations;

**ö) Redemption price:** Price per real estate certificate as determined according to the appraisal report prepared for the project during the filing of the application to the Board;

**p) Law:** The Capital Markets Law No. 6362 dated 06.12.2012;

**r) PDP:** Public Disclosure Platform;

**s) Board:** The Capital Markets Board;

**ş) CRA:** The Central Registry Agency Co., Inc.;

**t) Project completion date:** End of the period set forth by the issuer for completion of individual sections of a real estate project, being the subject matter of issue, in accordance with the specifications declared in the prospectus or the issue document;

**u) (As amended: OG 07.03.2017 – 30000) Secondary obligation:** The sale of individual sections corresponding to real estate certificates subject to the secondary obligation, and the distribution of sale price to real estate certificate holders in proportion to their existing real estate certificated by the issuer, by the end of the secondary obligation fulfillment period according to principles set forth in the prospectus or the issue document;

**ü) Secondary obligation fulfillment period:** The period of time specified in the prospectus or the issue document for fulfillment of secondary obligation;

**v) TOKI:** The Housing Development Administration of Turkey;

**y) Maturity:** The time from the date of issue of real estate certificates to the end of fulfillment period of such real estate certificates, as specified in the prospectus or the issue document;

**z) (Additional sub-paragraph: OG 07.03.2017 – 30000) Building inspection institution:** Legal entity, the entirety of shareholders of which are comprised of architects and engineers, and which exclusively conducts building inspections with a license received from the Ministry as defined under Law No 4708 on Building Inspection, dated 29.06.2001;

**aa) Investor:** The holder of real estate certificates;

**bb) Authorized Institution:** Investment firms specified in the seventh paragraph of Article 4 of this Communiqué;

**cc) Law No 775:** Anti-Squatting Law No 775, dated 20.07.1966;

**çç) Law No 2985:** Mass Housing Law No 2985, dated 02.03.1984;

**dd) (Repealed: OG 07.03.2017 – 30000)**

**ee) (Repealed: OG 07.03.2017 – 30000)**

**ff) Law No 6306:** Law of Transformation of Areas under the Disaster Risk No 6306, dated 16.05.2012.

**SECOND CHAPTER**  
**Principles on Real Estate Certificates and**  
**Issuance of Real Estate Certificates**

**General Principles on Real Estate Certificates**

**ARTICLE 4 – (As amended: OG 07.03.2017 – 30000)** **(1)** Real estate certificates representing certain particular individual sections or a certain area unit of individual sections of a real estate project may be issued according to the following principles:

**a)** In issuances representing certain particular individual sections of a real estate project, the number of real estate certificates corresponding to each individual section is required to be determined before the issuance.

**b)** In issuances representing a certain area unit of individual sections of a real estate project, at the time of fulfillment of the primary obligation by the issuer, a goodwill may be claimed for such reasons as block, floor, facade and material differences between individual sections having the same area unit. If and when a goodwill is claimed, the amounts of goodwill to be claimed from investors at the time of fulfillment of primary obligation, or according to which principles the goodwill determined as of the time of issue shall be corrected and applied at the time of fulfillment of primary obligation are required to be disclosed in the prospectus or the issue document with reference to individual sections.

**c)** Individual sections being the subject matter of real estate certificate issuance must be entirely free from any real or personal rights or encumbrances or any attachment preventing the fulfillment of obligations, and free from any kind of disputes pertaining to essential components of the real estate project.

**ç) (Additional subparagraph: OG 29.11.2017 – 30255)** Parts of individual sections in constructions that can only be used upon the completion in their entirety, such as a building or block, may not be the subject of issuances; these must be the subject of issuance in their entirety and they must be built under the same quality standards as individual sections within the same project that are not the subject of issuances. This condition shall not be required for issuances made under the third and fourth paragraphs of Article 5.

**(2)** Issue amount for real estate certificates shall be determined by the issuer with reference to the value assigned to individual sections in the appraisal report prepared under the first paragraph of Article 6 hereof. Additional sales within the issue amount may be conducted, provided that it is stated in the prospectus. However, the total amount of real estate certificates including any additional sales must be specified in the prospectus.

**(3)** In the event that the individual sections subject to the issue of real estate certificates are completed before the project completion date specified in the prospectus or the issue document, and it is duly made public no later than 15 days prior to the project completion date, the new date duly made public shall be considered as the project completion date. In such case, an amendment in the prospectus or the issue document shall not be required, provided that the

required announcements are made to investors. The provisions of Article 8 of the Law are, however, reserved.

**(4)** Real estate certificates may be issued domestically or abroad through public offering or without public offering by sale to qualified investors.

**(5)** Real estate certificates to be issued are required to be listed in the exchange, and in addition to the application to be filed to the Board for approval purposes, the issuers must apply to the exchange for this purpose.

**(6)** Real estate certificates shall be redeemed through fulfillment of primary or secondary obligations and payment of penalty, if any. In cases where obligations cannot be fulfilled due to inability to complete the project, as a principle redemption shall be carried out through payment of redemption value and any penalties that might be due. Provisions of the eight paragraph of this Article and third paragraph of Article 9 shall be reserved.

**(7)** Real estate certificates are required to be issued and redeemed through banks that are authorized to engage in investment services and activities specified in sub-paragraph (e) of first paragraph of Article 37 of the Law, and through intermediary institutions that deal with any one of dealing on own account, general custody services or underwriting activities.

**(8)** If specified as such by the issuer, real estate certificates may be redeemed also through repurchase of real estate certificates from requesting investors, over an amount to be determined by the issuer under principles specified in the prospectus or issue document, or over the exchange market price before the project completion date, provided that such real estate certificates are not resold in the market.

**(9)** A contract must be concluded between the issuer and liable party for obligations prior to filing an application with the Board, in order to ensure that a check is performed on whether or not obligations are fulfilled under the principles in the Communiqué and prospectus or issue documents. Following the completion of the project, on quarterly periods for issuances sold through public offering and on semi-annual periods for issuances sold without public offering, the liable party for obligations shall convey to the issuer an assurance report in line with International Standard on Related Services 4400 on Agreed-Upon Procedures Engagements, published by the International Auditing and Assurance Standards Board, including the following:

**a)** Whether or not obligations were fulfilled in accordance with the principles in the prospectus or issue document,

**b)** Whether or not, the price in sales conducted with the purpose of fulfilling secondary obligations is in line with appraisal reports and market conditions,

**c)** Whether or not, payments to investors are in line with sales value in the fulfillment of secondary obligations.

Such report shall be published by the issuer on PDP on the same date. In order to prepare the assurance report, the liable party for obligations shall periodically request from the issuer that appraisal reports are prepared for sections subject to sale, and that information is conveyed

in relation to the sale price of sections not included in the issuance. These topics shall be included in the contract to be concluded between the issuer and liable party for obligations. For cases where conditions to the detriment of investors are detected in the report of the party liable for obligations as a result of the inspection conducted under subparagraphs (a), (b) and (c) of this paragraph, the prospectus or issue document shall specify principles on investor rights and the compensation of losses to investors.

**(10)** In case of failure in fulfillment of obligations in accordance with the principles set forth in the prospectus or issue document, the penalty determined at the issuance stage and specified in the prospectus or issue document shall be paid to investors.

**(11)** In cases where alternative means of financing are employed for the completion of the real estate project, only individual sections not included in the real estate issuance may be provided as collateral. Individual sections included in the issuance of real estate certificates may not be disposed of for any other purpose, may not be pledged or provided as collateral, may not be attached including for the purpose of collecting public receivables, may not be included in the bankruptcy estate and may not be subject to cautionary injunction, even where the management or supervision of the issuer is transferred to public institutions.

**(12)** The Board may request the payment of the redemption price and the probable penalty to investors to be assured by a bank, that the domestic sales are made only to qualified investors, or that real estate certificates are rated.

**(13)** It shall be possible to take out insurance for the completion of a real estate project. In such cases the Board shall not require the additional obligations under the twelfth paragraph of this Article.

**(14) (As Amended: OG 29.11.2017 – 30255)** Real estate certificates for which obligations are fulfilled or redemption payments are made, or which are purchased from investors upon request subject to the condition that they will not be resold, shall be cancelled under principles determined by the CRA and approved by the Board.

**(15) (Additional paragraph: OG 29.11.2017 – 30255)** For issuances made through public offering, price stabilization transactions may be conducted, provided that it is specified in the prospectus. In such cases the regulations of the Board regarding price stabilization transactions shall be applicable by analogy.

**(16) (Additional paragraph: OG 29.11.2017 – 30255)** Principles, which the Board approves as beneficial to investor rights and interests may be implemented, provided that it is specified in the prospectus or issue document.

### **Principles on Land Owner and Issuer**

#### **ARTICLE 5 – (1) Issuers intending to issue real estate certificates:**

**a)** must have completed a project with a sales price equal to at least half of sales price of the real estate project, in accordance with the relevant contract and technical specifications, within 5 years prior to the date of application to the Board, or in case the issuer is a real estate investment company, must have completed a project of the same qualities;

**b)** must individually hold the ownership of the land where the real estate project shall be realized, and the land title deed must be converted into a construction servitude title deed, or a construction servitude must have been established on the land in favor of the issuer.

**c) (Additional subparagraph: OG 03.08.2016 – 29790)** must have a total equity capital that is higher than its paid in or issued capital under its latest annual financial statements drawn up and audited in accordance with the regulations of the Board pertaining to financial statements and reporting by companies the capital market instruments of which are traded in the exchange,

**ç) (Additional subparagraph: OG 03.08.2016 – 29790)** must have received a solicited long term credit rating corresponding to investment grade rating under the rating scale from credit rating agencies,

**(2)** In cases where the issuer is a joint-stock company established for the purpose of issuance of real estate certificates, the condition in subparagraph (a) of the first paragraph must be fulfilled by the shareholder of the issuer holding the management control thereof according to the relevant regulations of the Board, or by at least one of its shareholders jointly holding the management control thereof.

**(3) (As amended: OG 07.03.2017 – 30000)** In cases where TOKI (Housing Development Administration of Turkey) or Ilbank Co., Inc. or their affiliates are the issuer:

**a)** the condition specified in sub-paragraph (a) of first paragraph is not sought for; and

**b)** the contracts or other arrangements shall include provisions that investors shall have equal rights with persons who directly purchase a house from the same project, or other measures acceptable to the Board are required to be taken; and

**c)** upon request, the Board may grant an exemption from other conditions sought for in the Communiqué.

**(4)** In the issues where TOKI or Ilbank Co., Inc. or their affiliates are the issuer:

**a)** The conditions specified in subparagraphs (a), (c) and (ç) of the first paragraph shall not be required.

**b)** Contracts to be concluded between the issuer and TOKI or Ilbank Co., Inc. or their affiliates are required to contain clauses verifying that investors shall have equal rights with persons who directly purchase a residence from the same project, or other measures acceptable to the Board are required to be taken.

**c)** In cases where the issuer fails to complete the individual sections of the real estate project being the subject matter of the issue, these sections shall be completed in accordance with principles in the contract concluded between TOKI or Ilbank Co., Inc. or their affiliates for completion of the project.

**(5) (Additional paragraph: OG 07.03.2017 – 30000) (As amended: OG 29.11.2017 – 30255)** With respect to issuances of real estate certificates by issuers 51% or more of the shares or total voting rights of which are held directly or indirectly by the state, upon request

the Board may grant exemptions from conditions required by this Communiqué, necessary documents and information, and conditions in other regulations of the Board.

### **Appraisal, Feasibility and Construction Progress Reports**

**ARTICLE 6 – (1)** As of the date of application to the Board and the project completion date and upon occurrence of events mentioned in this Communiqué or at other stages deemed appropriate by the Board, appraisal companies shall prepare an appraisal report with regard to the real estate project. This report, which shall be prepared pursuant to the relevant regulations of the Board, is required to contain the estimated sales price of the individual sections subject to real estate certificates, and the precedent prices used in determining such price, with reference to relevant individual sections. The appraisal report is required to specify the precedent sales prices in the real estate project.

**(2) (As amended: OG 07.03.2017 – 30000)** In cases where it is understood that the obligations cannot be fulfilled within the relevant fulfillment period, or at other stages deemed appropriate by the Board, a feasibility report shall be prepared for the project by building inspection institutions. This report shall contain as a minimum, information about the existing completion level of the project, and the necessary time and estimated cost required for the completion of the project.

**(3) (As amended: OG 07.03.2017 – 30000)** Construction progress reports shall be prepared by building inspection institutions in order to ensure that the funds collected as a result of the issue are transferred to the issuer in proportion to the progress of construction works.

**(4) (As amended: OG 07.03.2017 – 30000)** In issuances effected pursuant to the third and fourth paragraphs of Article 5 of this Communiqué, the reports mentioned in second and third paragraphs of this Article may be prepared by institutions other than building inspection institutions.

**(5) (Additional paragraph: OG 07.03.2017 – 30000)** Building inspection institutions shall be liable under this Communiqué and relevant provisions of the Law, in relation to false, misleading or incomplete information in the feasibility and construction progress reports they prepare under the second and third paragraphs.

### **Use of Primary Obligations**

**ARTICLE 7 – (1) (As amended: OG 29.11.2017 – 30255)** Within the primary obligation request period, investor requests for the fulfillment of primary obligation shall be conveyed to the issuer in accordance with principles determined by the CRA and approved by the Board. Primary obligation request period shall be determined by the issuer and declared in the prospectus or issue document, subject to the condition that the starting date shall not precede date of trading on the exchange. The provisions of subparagraph (b) of the third paragraph of Article 8 of this Communiqué are, however, reserved.

**(2)** Investors requesting fulfillment of primary obligation are required to transfer to the issuer's accounts, real estate certificates required for the individual sections intended to be purchased, and if needed, to pay the goodwill within the primary obligation fulfillment period, and the issuer is required to complete the legal transactions for transfer of ownership of

individual sections to the investor according to the principles set forth in the prospectus or the issue document. In cases where the same individual section is demanded by more than one investor, the issuer shall state in the prospectus or the issue document which investor shall be given priority thereat. If no such designation is made, time priority shall be applied.

**(3)** More than one investor may request fulfillment of primary obligation according to joint ownership principles.

**(4)** Real estate certificates transferred to the issuer's accounts for fulfillment of primary obligation must be free from any kind of attachment, pledge or similar other encumbrances or restrictions.

**(5) (As Amended: OG 03.08.2016 – 29790)** Primary obligation fulfillment period shall be determined by the issuer and declared in the prospectus or issue document.

**(6) (As Amended: OG 03.08.2016 – 29790)** In the event that the primary obligation is requested prior to the project completion date within the primary obligation fulfillment period specified in the prospectus or the issue document:

**a)** Ownership of the individual section shall be transferred in the land registry, or a contract on promise to sell real estate or right of purchase, shall be signed between the issuer and the investor for the purpose of fulfillment of primary obligation. Such contracts must be annotated in the book of real estate registers. Individual sections subject to a promise to sell or right of purchase contract may not be sold to third parties by the issuer. In issuances covered by the third and fourth paragraphs of Article 5 of this Communiqué, the condition of registration in the land registry, as stipulated in this paragraph, shall not be required.

**b) (As amended: OG 29.11.2017 – 30255)** Under principles determined by the CRA and approved by the Board, real estate certificates shall be frozen until the primary obligation is fulfilled or the redemption price is paid to the investor.

**(7) (As Amended: OG 03.08.2016 – 29790)** With the exception of issuances under the third and fourth paragraphs of Article 5 of this Communiqué, contracts on promise to sell real estate, must specify penalties for real estate certificates in case of delay or failure in the transfer of ownership.

**(8) (As Amended: OG 03.08.2016 – 29790)** The issuer may provide the possibility to withdraw loans or make cash payments for investors who wish to request primary obligations despite not holding the required amount of real estate certificates, provided that it is specified in the prospectus or issue document.

**(9) (Repealed: OG 03.08.2016 – 29790)**

**(10) (Repealed: OG 03.08.2016 – 29790)**

### **Use of Secondary Obligations**

**ARTICLE 8 (As Amended: OG 03.08.2016 – 29790) – (1) (As amended: OG 07.03.2017 – 30000)** Following the expiration of the primary obligation request period, investors who have not filed a primary obligation fulfillment request or who have filed such a

request, but failed to satisfy the conditions envisaged for fulfillment of primary obligation in the prospectus or the issue document, shall be considered and treated to have requested the secondary obligation. Individual sections corresponding to the real estate certificates subject to the secondary obligation may be sold by the issuer during the period from the receipt of requests for obligations, until maturity.

**(2)** The issuer is liable to perform the secondary obligation through sale of individual sections corresponding to the real state certificates subject to secondary obligation and distribution of the proceeds of sale to investors in proportion to their shares in certificates.

**(3)** The following principles shall be implemented in fulfillment of the secondary obligation:

**a)** The secondary obligation fulfillment period shall be determined by the issuer and disclosed in the prospectus or the issue document.

**b)** Provided that it is specified as such and its principles are clearly stated by the issuer in the prospectus or the issue document, investors deemed to have requested fulfillment of the secondary obligation may request the primary obligation within the secondary obligation fulfillment period. Thereupon, the number of certificates required to be provided by investors for individual sections of the real estate shall be determined to be same as the number of certificates specified for the relevant individual sections in the prospectus or the issue document published before the issuance.

**c) (As amended: OG 07.03.2017 – 30000)** The proceeds of sale of individual sections corresponding to the real estate certificates subject to the secondary obligation shall, throughout the secondary obligation fulfillment period and until all of the individual sections subject to the secondary obligation are sold, be invested by the authorized institution on behalf of investors under the proxy's duty of care, in government bonds, treasury bills, lease certificates issued by the Undersecretariat of Treasury, deposits or participation accounts, or other capital market instruments determined by the Board, and shall, within 2 business days following completion of sales of all of the individual sections, be transferred to the investors' accounts in proportion to their shares in certificates. In issuances made under the third and fourth paragraphs of Article 5 of this Communiqué, the proceeds of sale may be invested on behalf of investors by TOKI or Ilbank Co., Inc. or their affiliates.

**ç)** Proceeds from sale of individual sections may also be used in the redemption of real estate certificates in parts, prior to the expiration of the secondary obligation fulfillment period. Partial redemption transactions shall be carried out through the transfer of proceeds of sale to all investors requesting the secondary obligation in proportion to the real estate certificates they hold. Principles such as periods for conducting partial redemption, and duration for the transfer of cash to investors shall be specified in the prospectus or issue document.

**d)** With the exception of issuances made under the third and fourth paragraphs of Article 5 of the Communiqué, individual sections subject to secondary obligations may not be sold to the issuer or related parties of the issuer, until the expiration of the secondary obligation fulfillment period.

**e) (As amended: OG 07.03.2017 – 30000)** In the event that there are individual sections remaining unsold by the end of the secondary obligation fulfillment period, the average of weighted average prices in the exchange during the three months preceding the maturity of the real estate certificates shall be taken as basis for payments that will be made by the issuer for the redemption of real estate certificates corresponding to the unsold individual sections.

**f)** The principles and procedures relating to sales that will be made with the purpose of fulfillment of the secondary obligation shall be specified in the prospectus or issue document.

### **Delay or Non-fulfillment of Project**

**ARTICLE 9 – (1)** If and when it is understood that the obligations shall not be fulfilled during the fulfillment periods and according to principles set forth in the prospectus and the issue document, the project shall be deemed to have been delayed. In the case of delay of project:

**a)** Within 15 business days after this delay is detected, a feasibility report shall be prepared pursuant to Article 6 of this Communiqué, and an application shall be filed with the Board for an additional period equal to the necessary period of time stated in the feasibility report for the completion of the project. The additional period to be granted by the Board shall in no case exceed 180 days following the project completion date, except for general force majeure events.

**b)** The fact that the project has been delayed, ‘conclusions’ section of feasibility report, additional period granted by the Board, obligation request and fulfillment periods re-determined accordingly, and penalty to be payable to investors throughout that period of time shall be disclosed according to disclosure procedures to which the prospectus or the issue document was subject.

**c) (As Amended: OG 03.08.2016 – 29790)** Primary and secondary obligations shall be fulfilled and penalties shall be paid by the end of fulfillment periods re-determined within the frame of additional period granted by the Board.

**(2) (As amended: OG 07.03.2017 – 30000)** If and when the obligations cannot be fulfilled or it is understood that the obligations shall not be performable by the end of the additional period granted as above or if additional period is not requested, by the end of the maturity, the project shall be deemed to have not been fulfilled. In such case, the issuer is liable to pay the redemption price of the real estate certificates with penalties to investors.

**(3) (Additional paragraph: OG 07.03.2017 – 30000)** In cases where the issuer fails to fulfill their liabilities under the second paragraph;

**a)** The Board shall be notified and a related material event disclosure shall be published on the PDP.

**b)** The up-to-date feasibility report prepared under Article 6, and the date and time of the real estate certificate holders meeting shall be disclosed by the authorized institution on the PDP within a maximum of 30 days. Procedures in relation to the preparation of the feasibility report and the organization of the real estate certificate holders meeting shall be carried out by

the authorized institution, and the costs for such procedures shall be covered by funds frozen at the authorized institution.

c) Within a maximum of 30 days following the date of disclosure under subparagraph (b), a real estate certificate holders meeting shall convene in order to decide on having the project completed or ensuring payments to real estate certificate holders in proportion with their holdings from funds frozen at the authorized institution, and through sale of the part of the real estate project that was subject to issuance but that could not be completed. Provisions of the Turkish Commercial Code No. 6102 with respect to the general assemblies of joint stock corporations shall be applicable to real estate certificate holders meetings as appropriate to their attributes. Action shall be taken at real estate certificate holders meetings in accordance with majority decision, without regard to the achievement of a meeting quorum.

ç) Unless it is decided otherwise in the real estate certificate holders meeting;

1) In case of a decision to have the project completed, third parties with whom investors reach an arrangement shall complete the project and fulfill the obligations.

2) In case of a decision to return funds frozen at the authorized institution, and sale price of the part of the real estate project that was subject to issuance but that could not be completed to investors in proportion with their real estate certificate holdings, real estate certificates shall be redeemed through the distribution of remaining funds, and the proceeds of sale of uncompleted parts to investors in proportion with their real estate certificate holdings.

#### **Method of Use of Proceeds Issue Proceeds**

**ARTICLE 10 - (1) (As amended: OG 07.03.2017 – 30000)** Proceeds from issuance of real estate certificates shall be deposited in a special account to be opened at a bank by the authorized institution, and shall be invested according to the proxy's duty of care, in government bonds, treasury bills, lease certificates issued by the Undersecretariat of Treasury, time deposit or participation accounts, or other capital market instruments determined by the Board.

**(2) (As amended: OG 07.03.2017 – 30000)** Proceeds from issuance of real estate certificates shall be used by the issuer, primarily for completion of individual sections subject to the real estate certificates issued, and solely for the completion of the relevant real estate project or for the reimbursement of sources of finance used for the completion of the project as of the date of application. Proceeds from issuance of real estate certificates may not be disposed of for any other purpose, may not be pledged or provided as collateral, may not be attached including for the purpose of collecting public receivables, may not be included in the bankruptcy estate and may not be subject to cautionary injunction, even where the management or supervision of the issuer is transferred to public institutions.

**(3) (As amended: OG 07.03.2017 – 30000)** Only the portion of proceeds from the issuance of real estate certificates that shall be calculated by considering the minimum price lists for the preparation of appraisal, feasibility and construction progress reports required under this Communiqué shall be frozen by the authorized institution.

**(4) (As amended: OG 07.03.2017 – 30000) (As Amended: OG 29.11.2017 – 30255)**

In the transfer of proceeds from the issuance of real estate certificates by the authorized institution to the issuer, twenty five percent of proceeds shall be transferred directly prior to the launching of construction, sixty five percent shall be transferred to the extent of proportions specified in the construction progress reports, and the remaining ten percent shall be transferred after the fulfillment of all obligations. In cases where individual sections are completed by another person or entity, funds shall be transferred to the relevant person or entity under the same principles and procedures. Principles with respect to which, transfers will be made in accordance with construction progress reports, shall be specified by the issuer in the prospectus or issue document.

**(5) (As amended: OG 07.03.2017 – 30000)** In cases where the project is not realized or it becomes definite that the project will not be realized, proceeds from the issuance remaining in the account shall not be transferred to the issuer, such amount shall be disposed of in accordance with the third paragraph of Article 3.

**(6)** After real estate certificates are redeemed, the proceeds from the issuance remaining in the account shall be transferred to the issuer.

**(7) (Additional paragraph: OG 29.11.2017 – 30255)** In cases where the payment of the redemption price and penalties, if any, to investors is guaranteed by a bank, a letter of guaranty is received from a bank for these payments, or where an insurance policy is taken out for the completion of the real estate project, it shall be possible to transfer all proceeds from issuance of real estate certificates directly to the issuer. In such cases, funds shall be invested by the issuer in accordance with the principles specified in the first paragraph, and spending from funds shall be allotted to the project and monitored separately in the accounting records of the issuer. The preparation of construction progress reports under the third paragraph of Article 6 shall not be mandatory.

**(8) (Additional paragraph: OG 03.08.2016 – 29790)** Provisions of this Article shall not be applicable to issuances made under the third and fourth paragraphs of Article 5 of this Communiqué.

### **Application to Board, and Required Documents**

**ARTICLE 11 – (1)** In the issue of real estate certificates, an application shall be filed with the Board for approval, with the documents listed in Annex 1.

**(2) (As amended: OG 07.03.2017 – 30000)** Real estate certificates to be issued may be sold in tenor up to an issue ceiling approved by the Board, not exceeding the issuance amounts determined under the second paragraph of Article 4 of the Communiqué. In public offerings to be held throughout the validity of the prospectus, before sale of each tenor thereof, an application shall be filed with the Board for approval, with the documents listed in Annex 2. In sales without public offering, within a duration of one year following the date of approval provided by the Board to the issue limit, before sale of each tenor thereof, an application shall be filed with the Board for approval of the tenor issue document.

**THIRD CHAPTER**  
**Real Estate Certificates to be Issued for Projects Conducted**  
**with the Purpose of Urban Transformation**  
**(Amended Chapter: OG 03.08.2016 – 29790)**

**Principles on Issuers**

**Article 11 – (1)** In the context of projects with the purpose of urban transformation;

**a) (As amended: OG 07.03.2017 – 30000)** TOKI or Ilbank Co., Inc., or entities which are determined by them based on agreements, in cases where they request under Law Numbered 6306 and the delegation of authority and the project are approved by the Ministry,

**b) (As amended: OG 07.03.2017 – 30000)** Municipalities, or entities which are determined by municipalities based on agreements, in cases where the Ministry approves the delegation of authority and the project under Law Number 6306,

**c) (As amended: OG 07.03.2017 – 30000)** Entities which will be determined by the Ministry under subparagraph (ç) of the fifth paragraph of Article 6 of the Law Numbered 6306,

**ç) (As amended: OG 07.03.2017 – 30000)** TOKI, and affiliates and subsidiaries, and entities with which TOKI will conclude a contract under Law Numbered 775 and Law Numbered 2985,

may issue real estate certificates.

**(2)** In issuances that will be carried out by entities other than Ilbank Co., Inc., TOKI, and their affiliates and subsidiaries, total equity capital of the issuer must be higher than its capital under latest annual financial statements, which were prepared and audited under the regulations of the Board pertaining to corporations the capital market instruments of which are traded on an exchange, and a solicited long term credit rating corresponding to investment grade rating under the rating scale must have been received from credit rating agencies.

**(3) (As amended: OG 07.03.2017 – 30000)** In issuances that will be carried out under Law Number 6306 the consent of the Ministry, and where municipalities and their affiliates and subsidiaries are issuers, the permission of the Undersecretariat of Treasury under Law Numbered 4749 of 28.03.2002 on Regulating Public Finance and Debt Management shall be obtained in addition to the consent of the Ministry.

**(4)** Other provisions of this Communiqué shall be applicable to issuances that will be carried out by issuers specified in this Article, without prejudice to exceptions listed in this Chapter.

**Principles on Real Estate Certificates to be Issued**

**Article 13 – (1)** Right holders determined under relevant regulations in projects for urban transformation may be assigned real estate certificates that will be issued, provided that an agreement is reached thereon.

**(2)** In determining the number or amount of lease certificates that will be assigned to right holders, the value of real estate owned by right holders shall be established by

consideration of principles under the regulations of related institutions. Additionally, appraisal reports prepared by appraisal firms may be considered in determining the value of real estate owned by right holders. Certain individual sections of the real estate project may be allocated to right holders, provided that it is specified in the prospectus or issue document.

**(3)** The issuer may provide the possibility to withdraw loans or make cash payments for investors who wish to request primary obligations despite not holding the required amount of real estate certificates, provided that it is specified in the prospectus or issue document.

**(4)** The issuer shall be liable for the fulfillment of obligations under principles specified in the prospectus or issue document. Penalties may be defined in the prospectus or issue document.

**(5)** Following the approval of the prospectus or issue document, investors shall be entitled to equal rights, under equal conditions with right holders who acquire certificates from the project.

**(6) (Repealed: OG 07.03.2017 – 30000)**

**(7)** With respect the first paragraph of Article 12 of this Communiqué, a provision must be included;

**a) (As amended: OG 07.03.2017 – 30000)** Under subparagraph (a);

- 1)** In contracts concluded in cases where entities that will be determined by TOKI through agreement will be issuer, TOKI;
- 2)** In contracts concluded in cases where entities that will be determined by Ilbank Co., Inc. through agreement will be issuer, Ilbank Co., Inc.,

**b) (As amended: OG 07.03.2017 – 30000)** Under subparagraph (b), in contracts concluded in cases where municipalities or entities that will be determined by municipalities through agreement will be issuer, Ilbank Co., Inc.,

**c) (As amended: OG 07.03.2017 – 30000)** Under subparagraph (c), in contracts concluded in cases where entities that will be determined by the Ministry through agreement will be issuer, Ilbank Co., Inc. on behalf of the Ministry,

**ç) (As amended: OG 07.03.2017 – 30000)** Under subparagraph (ç), in contracts concluded in cases where affiliates and subsidiaries of TOKI or entities with which TOKI shall enter into agreement will be issuer, TOKI,

shall have the project completed.

### **Other Principles**

**Article 14 – (1)** In issuances conducted under this Chapter;

**a) (As amended: OG 07.03.2017 – 30000)** In cases where the project cannot be realized or is delayed by more than one year, real estate certificates must be redeemed through payment of an amount to be determined that is not less than the issue price, and the penalties if specified in the prospectus or issue document, and related principles must be specified in the prospectus or issue document.

**b)** The obligation for an annotation in the book of real estate registers under subparagraph (a) of the sixth paragraph of Article 7 shall not be required.

**c)** Provisions of Article 9 of this Communiqué with respect to penalties, shall only be applicable in cases where penalties are determined by the issuer. Furthermore, the periods under subparagraph (a) of the first paragraph of this Article may be extended if it is deemed appropriate by the Board.

**ç) (As amended: OG 07.03.2017 – 30000)** Provisions in the ninth and tenth paragraphs of Article 4, Article 5, the seventh paragraph of Article 7, and the second and third paragraphs of Article 9 of this Communiqué shall not be applicable with respect to issuances made under this Chapter.

**d)** In cases where a loss is incurred for investors due to the exception under subparagraph (b) of the first paragraph of Article 5 of this Communiqué in relation to the conversion of the land to a construction servitude title deed, the principles relating to the compensation of the loss by the issuer shall be specified in the prospectus or issue document.

**(2) (As amended: OG 07.03.2017 – 30000)** Additionally in cases where, TOKI, the affiliates or subsidiaries of TOKI, or Ilbank Co., Inc. is the issuer, or where Ilbank Co., Inc. is guarantor to the issuer;

**a)** The feasibility and construction progress reports specified under the second and third paragraphs of Article 6 of this Communiqué may be prepared by TOKI, Ilbank Co., Inc., or other institutions, instead of building inspection institutions. Reports prepared for this purpose shall be publicly disclosed in quarterly periods.

**b)** Funds obtained through issuance of real estate certificates shall be directly transferred by the authorized institution to;

**1)** TOKI, in cases where TOKI is the issuer,

**2)** The issuer, in cases where the affiliates and subsidiaries of TOKI are the issuer,

**3)** Ilbank Co., Inc., in cases where Ilbank Co., Inc. is the issuer or the guarantor to the issuer.

**c)** In cases where partial redemption is not stipulated, until all individual sections are sold, the amount obtained through the sale of individual sections subject to secondary obligations may be invested on behalf of investors by TOKI, affiliates and subsidiaries of TOKI or Ilbank Co., Inc., instead of the authorized institution, under principles specified under subparagraph (c) of the third paragraph of Article 8 of this Communiqué.

**ç)** In addition to the exceptions listed under subparagraph (ç) of the first paragraph of this Article, the third paragraph of Article 6, subparagraph (d) of the third paragraph of Article 8, and Article 10 of this Communiqué shall not be applicable.

**(3)** With respect to the exceptions stipulated under this Article, different principles may be determined by the Board on the basis of applications.

**FOURTH CHAPTER**  
**Miscellaneous and Final Provisions**  
**(Additional Chapter: OG 03.08.2016 – 29790)**

**Investor Report**

**ARTICLE 15 – (1) (As amended: OG 07.03.2017 – 30000)** An investor report containing information about the degree of completion of individual sections subject to real estate certificates sold domestically, and about the primary obligations requested and fulfilled during the relevant period shall, on the day the report is signed, be published in the issuer's internet website and in the Public Disclosure Platform on semi-annual accounting periods until the subject real estate certificates are redeemed. The issuer may further provide reports to investors as of shorter periods.

**(2)** Information about the degree of completion of individual sections subject to issuances for sale abroad, and about the primary obligations requested and fulfilled during the relevant period shall be reported to the Board and the investors on semi-annual accounting periods until the subject real estate certificates are redeemed. The issuer may further provide reports to investors as of shorter periods.

**Public Disclosure**

**ARTICLE 16 – (1)** In domestic issuances of real estate certificates, in addition to issues specified under the regulations of the Board on public disclosure; the issuer shall disclose the following on its internet website and the PDP:

**a)** The primary obligation fulfillment and request periods, and the period for transfer of real estate certificates to the issuer's account for the fulfillment of secondary obligation as specified in the prospectus and issue document, in no later than 10 days prior to the starting date of such periods;

**b)** The period during which the investors may request a change of obligation for transition from secondary to primary obligation pursuant to pertinent provisions of this Communiqué, in no later than 10 days prior to the starting date of such period;

**c)** The conclusions of appraisal, construction progress and feasibility reports prepared for the real estate project, on the day said reports are issued;

**ç) (As amended: OG 07.03.2017 – 30000)** The average sale prices of similar individual sections not subject to the issue of real estate certificates in the real estate project, together with discounts and other valid terms and conditions applicable on such prices, on the first business day of each month;

**d) (As amended: OG 07.03.2017 – 30000)** In cases where the issuer allows investors to repurchase pursuant to eighth paragraph of Article 4 of this Communiqué, information on price for repurchases throughout the period of maturity, on the first business day of each month;

**e) (As amended: OG 07.03.2017 – 30000)** In relation to sales of individual sections in the course of the secondary obligation fulfillment period, information on section, sale price, and appraisal reports underlying sales, if any, and the redemption of parts that are sold, on the last business day of each quarterly period;

**f)** The report prepared by the liable party for obligations under the ninth paragraph of Article 4 of this Communiqué, on the date of its transmission.

### **Other Matters**

**ARTICLE 17 – (1)** With respect to the contents, preparation, approval, publication, registration and announcement of the prospectus, issue document and other documents in relation to the issuance, financial statements to be included in the prospectus, amendments to the prospectus, issues regarding advertisements and announcements to be published by issuers, determination of issue and sales principles of real estate certificates, determination of financial reporting, independent audit and public disclosure obligations of issuers, and other matters not covered by this Communiqué shall be subject to the relevant regulations of the Board pertaining thereto.

### **Board's Fee**

**ARTICLE 18 – (1)** The issuers are under obligation to deposit, to be recorded as revenue to the Board's budget, a fee equal to zero point two percent of issue price of real estate certificates offered for sale, not being less than their nominal value, if any, pursuant to third paragraph of Article 130 of the Law.

**(2)** Under Article 130 of the Law, the Executive Body of the Board may establish different rates than those stipulated under this Article.

### **Dematerialized Issue of Real Estate Certificates**

**ARTICLE 19 – (1)** Real estate certificates to be issued by the issuer domestically are required to be issued on dematerialized basis in electronic media in CRA (Central Registry Agency), and the rights relating thereto are required to be traced on the basis of beneficiaries.

**(2)** With respect to real estate certificates to be issued abroad by the issuer, information on amount of issuance, date of issuance, ISIN code, maturity start date, maturity, custodian, currency of issuance, and country of issuance shall be disclosed to CRA within 3 business days following the date of issuance. In the case of a change in such information reported to CRA, including redemption, CRA shall be informed thereabout within 3 business days following the date of change.

### **Conclusion of Applications for Approval of Other Real Estate Certificates by the Board**

**ARTICLE 20 – (1)** Applications for approval of prospectus and issue document relating to capital market instruments which are not referred to in this Communiqué, but are not covered by other regulations of the Board as well, and are accepted by the Board to be a real estate certificate by nature shall be concluded by application of the provisions of this Communiqué by analogy.

**Repealed Communiqué**

**ARTICLE 21 – (1)** The Board's Communiqué on Principles of Registration of Real Estate Certificates (Serial III, No. 19), published in the Official Gazette numbered 22349 on 20.07.1995 is hereby superseded and repealed. Accordingly, all references made in the other regulations of the Board to the Communiqué on Principles of Registration of Real Estate Certificates (Serial III, No. 19) shall hereafter be deemed to have been made to this Communiqué.

**Board Fee to be Applied to State Owned Issuers**

**TRANSITIONAL ARTICLE 1 – (Additional Article: OG 07.03.2017 – 30000) (As amended: OG 29.11.2017 – 30255)** (1) With respect to issuers 51% of the capital or total voting rights of which, are held directly or indirectly by the State, the rate specified under the first paragraph of Article 18 shall be implemented as zero percent for two years following the effective date of this Article.

**Effective Date**

**ARTICLE 22 – (1)** This Communiqué shall become effective as of the date of its publication.

**Enforcement**

**ARTICLE 20 – (1)** The provisions of this Communiqué shall be enforced by the Board.

**ANNEX 1**  
**(As Amended: OG 03.08.2016 – 29790)**

**DOCUMENTS REQUIRED FOR APPROVAL OF PROSPECTUS OR ISSUE  
 DOCUMENT RELATING TO REAL ESTATE CERTIFICATES<sup>(\*)</sup>**

- (1)** Information introducing the issuer and its shareholders;
- (2)** Articles of association of the issuer, containing all amendments and supplements made thereto and consolidated in a single text, duly signed by authorized signatories of the issuer;
- (3)** A notary-certified copy of decision of the authorized body of the issuer pertaining to the issuance;
- (4)** Certified Public Accountant's report for determination of paid portion of capital of the issuer, and TTRG where the registration of the existing capital is published;
- (5)** Underwriting contract signed with the authorized institution;
- (6)** For issues through public offering, recently dated statements received from the issuer's directors and other managerial staff members stating whether the said persons have been sentenced to imprisonment for five years or a longer period due to a crime committed with intent, or have been convicted of embezzlement, extortion, bribery, theft, fraud, forgery, abuse of confidence, fraudulent bankruptcy, bid rigging, deletion or alteration of data, abuse of debit or credit cards, smuggling, tax evasion or unjustified benefit, or is subject to any criminal prosecution thereinfor, and/or is a party to any legal dispute and/or a finalized court judgment relating to partnership activities, or not, even if the periods specified in the capital markets legislation, or Banking Law no. 5411 dated 19/10/2005, and/or Article 53 of the Turkish Criminal Code no. 5237 dated 26/9/2004 have elapsed;
- (7)** For issuances through public offering, the financial statements to be included in the prospectus and the financial statements of the interim period closest to the date of application;
- (8)** For issuances without public offering, the financial statements of the most recent two years and of the interim period closest to the date of application, prepared and audited pursuant to the relevant regulations of the Board relevant regulations;
- (9)** For issues through public offering, a prospectus prepared pursuant to the relevant regulations of the Board;
- (10)** For issues without public offering, an issue document prepared pursuant to the relevant regulations of the Board;
- (11)** Information about maturity, yield and risk factors in relation to the real estate certificates to be issued;

- (12) The issuer's notary-certified list of authorized signatories;
- (13) A legal opinion verifying that all licenses and permissions needed for the real estate project have already been received properly, and that the land is free from any legal dispute which may hinder the issuance;
- (14) In bank-guaranteed issues, a letter of the guarantor bank to be addressed to the Board and the issuer, and a notary-certified copy of the relevant decision of the authorized body of the guarantor bank;
- (15) Information about the real estate project being the subject matter of real estate certificates;
- (16) Copy of title deed of the land where the real estate project being the subject matter of real estate certificates shall be built<sup>(\*\*)</sup>;
- (17) Documents proving the competence of the issuer with respect to the matters referred to in Article 5 of the Communiqué;
- (18) List of individual sections and principles of their distribution to investors who may request fulfillment of primary obligation;
- (19) Detailed information about the method and assumptions used in the determination of price of real estate certificates;
- (20) In cases where the land owner and the issuer are different, the contract(s) meeting the conditions specified in Article 5 of this Communiqué, concluded between the issuer, and TOKI or Ilbank Co., Inc., or their affiliates<sup>(\*\*)</sup>;
- (21) In cases where the issuer is a joint-stock company established for the purpose of issuing real estate certificates, a statement verifying that the issuer's shareholders are jointly liable for obligations arising out of the issuance;
- (22) Total sales prices of individual sections, being the subject matter of the real estate project, calculated separately as residential and commercial areas;
- (23) **(Additional item: OG 07.03.2017 – 30000)** The construction progress percentage table that will be employed in the transmission of proceeds from the issuance to the issuer;
- (24) **(As amended: OG 07.03.2017 – 30000)** Information about the account opened by the authorized institution, to which proceeds from the issuance shall be deposited;
- (25) A copy of each of the contracts signed and the appraisal report, and if any, other reports prepared for issuance of real estate certificates;
- (26) In cases where it is available, or mandated under the Communiqué, the rating report relating to the issuer and the real estate certificates to be issued, and information about the rating scale of the rating agency;
- (27) Additionally, in relation to issuances under the Third Chapter of the Communiqué;
  - a) **(As amended: OG 07.03.2017 – 30000)** In cases where the transfer of authority and the project are approved by the Ministry under Law Numbered 6306, documents verifying that the transfer of authority and the project were approved,

- b) Opinion of the Ministry for all issuances to be conducted under Law Numbered 6306,
  - c) **(As amended: OG 07.03.2017 – 30000)** With respect to issuances under subparagraph (b) of the first paragraph of Article 12, letter from the Undersecretariat of Treasury regarding the permission,
  - c) In cases where the issuer is determined through contracts concluded with relevant institutions and entities, a copy of each contract,
  - d) A legal opinion on all existing and potential disputes of a nature that can hinder the realization of projects to be conducted with the purpose of urban transformation.
- (28) Other information and documents deemed necessary by the Board.

**ANNEX 2**

**INFORMATION AND DOCUMENTS TO BE  
SUBMITTED TO THE BOARD BEFORE EACH ISSUE  
DURING THE PERIOD OF VALIDITY OF THE PROSPECTUS<sup>(\*)</sup>**

- (1)** Final terms or securities note and summary prepared under the relevant regulations of the Board;
- (2)** If any amendment is required in the registration document or in the base prospectus, the texts of amendments, and if an amendment is not required, a statement of the issuer in connection therewith;
- (3)** A copy of public offering underwriting contract signed with the authorized institution appointed for issuance (If the underwriting contract previously sent to the Board is still valid, and no amendment has been made in that agreement, it does not need to be sent again. In this case, the issuer's statement shall be sufficient.);
- (4)** If deemed necessary by the Board, documents confirming submitted information, and other documents that may be requested by the Board.

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<sup>(\*)</sup> In cases where the information and documents listed in Annex 1 and Annex 2 are already published on the Public Disclosure Platform, and the issuer declares that they are current, they are not required to be separately sent to the Board.

<sup>(\*\*)</sup> These documents shall not be required for issuances conducted under the Third Chapter of the Communiqué.