

 **TURKEY**



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Member of FATF? YES
On FATF blacklist? NO
Member of EGMONT? YES

Legislation on Money Laundering in Turkey

The main legislation against money laundering activities in Turkey is the Law on Prevention of Money Laundering No. 4208 dated November 11, 1996 ('Money Laundering Law'). This law also designated the formation of a special administrative organization titled 'Financial Crime Investigation Board' ('MASAK') which was established to investigate financial crimes and to regulate implementations of the aforementioned law.

Article 282 of the new Turkish Criminal Code No.5237 dated September 26, 2004 ('Penal Code') also adopted new provisions parallel with Money Laundering Law under the conception of 'laundering of proceeds derived from crimes'.

However the existence of the mentioned article in the Penal Code and provisions of Money Laundering Law with different definitions of the similar crimes, there occurred a confusion and a third regulation was adopted specifically for the purposes to combine the definitions at October 11, 2006 titled Law for the Prevention of Laundering Proceeds of Crimes No. 5549 ('Law on Criminal Proceeds'). However the Money Laundering Law was not abolished completely and applicable with its many articles still in force.

Another relevant regulation concerning money laundering activities in Turkey is the Law of Protection of Turkish Currency No. 1567 dated February 20, 1930. The importance of this law is the Decree No.32 of the Council of Ministers which was adopted to apply the law regulating the money transfers in general with relevant supervision and notifications.

MASAK – Financial Crimes Investigation Board

MASAK is organized under the Ministry of Finance. It is an intelligence agency that helps to create an efficient economy and a crime-free society by combating laundering illicit proceeds and corruption effectively.

Duties and authorities of MASAK are determined by the Money Laundering Law and the Law on Criminal Proceeds above referred. In accordance with the later regulation those are:

- To develop policies and implementation strategies, to coordinate institutions and organizations, to conduct collective activities, to exchange views and information in order to prevent laundering proceeds of crime;
- To draft laws, by-laws and regulations in accordance with the policies determined, and to implement communiqués of relevant legislation for application practices;
- To carry out research on the developments and trends on laundering proceeds of crime, and on the methods of detecting and preventing them;
- To make studies on different markets, to improve measures and to monitor the implementation on the purpose of prevention of laundering proceeds of crime;
- To carry out activities to raise public awareness and support on the subject;

- To collect and store data, to receive suspicious transaction reports, to analyze, investigate and evaluate them in the scope of prevention of laundering proceeds of crime and against terrorist financing;
- To inquire for investigations from law enforcement authorities and other relevant units of administration when necessary;
- To carry out examinations on the subject matters of the relevant legislation;
- To report to the Deputy Public Prosecutor's Office for the necessary legal actions according to the criminal procedure laws in the events detection of serious findings at the conclusion of the investigations made;
- To provide expert opinion to the files conveyed by prosecutors regarding money laundering crimes;
- To inquire for all sorts of information and documents from all private, public entities, organizations, institutions and individuals;
- To request temporary personnel assignment from other public institutions and organizations, whenever their knowledge and/or expertise is required;
- To exchange information and documents with counterparts in foreign countries, to sign memorandum of understandings that are not in the nature of an international agreement but for cooperation purposes only.

The purposes of the Board could be summarized as follows;

- to prevent money laundering activities,
- to make policies to detect these offences,
- to collect reliable information and analyze them (data collection),
- to carry out investigation and research and,
- to convey the information and the results to relevant authorities (coordination).

Applicable Penalties of Money Laundering Crimes

According to Penal Code; the persons deriving revenues from these crimes and transfer money to other countries or make different transactions to subject illegal actions under lawful methods shall be sentenced to imprisonment from 2 to 5 years and to administrative fines up to approximately \$1,500,000.

Law on Criminal Proceeds also determines a different category of administrative penalties which is subjected to non-conformities with the procedures designated by authorized entities dealing with money transfers. The law states that each act in this concept is punishable with administrative fine of approximately \$4,000. The subjects of such procedures are:

- Banks,
- Private Financing Institutions,
- Credit Card Institutions,
- Money lenders, consumer finance companies and factoring companies operating within the framework of the legislation regarding money lending transactions,
- Insurance and reinsurance companies operating within the framework of the Insurance Supervision Law No.7397,
- Istanbul Stock Exchange Custody Bank Inc.,
- Capital market intermediaries and portfolio management companies,
- Investment funds,
- Investment companies,
- Currency Exchange Offices,
- Precious metals exchange intermediaries,
- Precious metal, stone and jewelry dealers,
- Authorized institutions operating within the framework of exchange legislation,
- Every kind of postal service and cargo companies including General Directorate of Postal Affairs,
- Financial leasing companies,
- Real estate agencies or persons intermediating for sale of real estate,
- Lottery companies,
- Dealers of ships, aircrafts and motorized vehicles including construction machinery,
- Collectors of historical arts, antiques and art works as well as their dealers or auctioneers,
- Sports Clubs.

The penalties above mentioned are doubled if the violation is realized by banks, finance companies, factoring companies, money lenders, financial leasing companies, insurance and reinsurance companies, pension companies, capital market institutions or currency exchange offices.

List of Money Laundering Legislation in Turkey

- I- Prevention of Laundering Proceeds of Crime Law –No.5549
- II- Anti-Terror Law - No.49
- III- The Law on Prevention of Money Laundering – No.4208
- IV- Articles of 54, 55, 165 and 282 in Turkish Criminal Law
- V- Regulation Regarding the Implementation of Law No.4208 on Prevention of Money Laundering
- VI- Regulation of Working Procedures of the Coordination Board for Combating Financial Crimes
- VII- Regulation of Duties and Working Procedures of Financial Crimes Investigation Experts
- VIII- Regulation Regarding Implementation Procedures and Methods of Controlled Delivery
- IX- The Financial Crimes Investigation Board General Communiqué No.1
- X- The Financial Crimes Investigation Board General Communiqué No.2
- XI- The Financial Crimes Investigation Board General Communiqué No.3
- XII- The Financial Crimes Investigation Board General Communiqué No.4
- XIII- General Communiqué of Suspicious Transaction Reporting Regarding Terrorist Financing

Conclusion

As a summary, Turkey has shown sufficient determination and sensibility in the fight against money laundering and terrorist financing issues. Indicators of such conclusion could be found in membership of Turkey to most of the relevant organizations such as FATF and Egmond Groups, conventions and international agreements organized for the purposes such as Vienna Convention, Strasburg Convention, Palermo Convention and in establishment of the administrations such as MASAK above mentioned.