Global Financial Services Regulatory Guide - Türkiye

3. What types of activities require a license in your jurisdiction?

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# What types of activities require a license in your jurisdiction?

Türkiye strictly regulates a broad range of financial services and activities. Financial institutions must be authorized by their regulators (i.e., the BRSA, the CMB, the IRSA and the Central Bank) for incorporation and authorization. These services include the following:

Accepting deposits – This covers typical retail banking activities involving the operation of current and deposit accounts.

Accepting participation funds – This covers Islamic banking activities involving the operation of current and participation accounts (i.e., accounts paying a yield of profit share under Islamic banking principles).

Extending loans – This covers both cash and non-cash loans extended to legal entities, individuals and consumers.

Providing factoring and financial leasing services.

Issuing electronic money – Electronic money is a prepaid electronic payment product accepted as a payment instrument by its issuer and other individuals and legal entities.

Carrying out payment services – This includes deposits and withdrawals from payment accounts, fund transfers, issuing or accepting payment instruments and money transfers.

Operating payment and securities settlement systems – This covers operating a platform for the realization of clearing and settlement transactions in connection with the fund and security transfer orders given by three or more participants.

Banks’ asset management – This covers purchasing and selling banks and other financial institutions’ non-performing loans.

Issuing debit and credit cards and providing related payment services – This covers financial institutions’ provision of debit and credit card services.

Trading and carrying out intermediation activities in securities and other capital markets instruments – This covers banks and brokerage firms engaging in proprietary trading that also receive and route orders for the sale and purchase of securities.

Underwriting and intermediation of public offering of capital markets instruments.

Providing investment advice – This is a regulated activity under Turkish law.

Asset management – Managing investments on behalf of third parties is a regulated activity under Turkish law, requiring specific permission in relation to investment companies, mutual funds and non-Turkish collective investment schemes (e.g., alternative investment funds or US management investment companies).

Establishing, operating and winding up investment companies and mutual funds (i.e., collective investment schemes under Turkish law).

Share-based and debt-based crowdfunding – This covers intermediation activities concerning share-based and debt-based crowdfunding on electronic media. Crowdfunding activities can be conducted via crowdfunding platforms, which can be a joint stock company solely providing crowdfunding services, or investment institutions that are development and investment banks, participation banks, or intermediary institutions.

Providing custody services – Custody services related to assets that include investments is a regulated activity. Specific permission is required to act as the custodian of a collective investment scheme (i.e., investment companies and mutual funds).

Carrying out insurance business (effecting and carrying out both life and non-life insurance contracts) – Each insurance branch (e.g., accident insurance, health insurance) requires a separate license.

Carrying out private pension business (can also engage in life and personal accident insurance business with separate licenses).

Insurance and private pension intermediation activities – This covers insurance agents and brokers as well as private pension intermediaries.

In addition, the activities of financial institutions that constitute ancillary financial services (e.g., deposit banks’ capital markets activities or private pension companies’ life and personal accident insurance business) may require separate permits from the regulator overseeing those activities.

For the time being, the issuance or trade of crypto assets and crypto currencies do not require a license. However, with the Regulation Prohibiting Payments with Crypto Assets (Crypto Assets Regulation), the CBRT banned payments with crypto assets. The Crypto Assets Regulation defines crypto assets as intangible assets that are created virtually using distributed ledger or similar technologies and distributed over digital networks, that are not qualified as money, registered money, electronic money, payment instrument, security or any other capital market instrument. According to the Crypto Assets Regulation, crypto assets cannot be used directly or indirectly for payments, and services regarding the direct or indirect use of crypto assets in payments are prohibited. Moreover, payment services and electronic money institutions are prohibited from intermediating (i) the transfer of funds to platforms that offer trading, custody, transfer or issuance services regarding crypto assets and (ii) the transfer of funds from these platforms. Following the publication of the Crypto Assets Regulation, a new regulation amending the Regulation on Measures for Prevention of Laundering Proceeds of Crime and Financing of Terrorism (the Measures Regulation) entered into force and expanded the scope of Measures Regulation and defined crypto asset service providers as obliged persons. Accordingly, crypto asset service providers must comply with certain obligations regulated under Law No. 5549 on the Prevention of Laundering Proceeds of Crime and the Measures Regulation, including, but not limited to, identification of clients and beneficiaries, notification of suspicious transactions, and provision of continuous information.

On the other hand, there is a draft bill (the "**Draft Bill**") that aims to amend the CML to set the legal framework regarding crypto assets and crypto exchanges. The Turkish Parliament is working on the Draft Bill, which is expected to be enacted in 2024[1](file:///C%3A/Users/bmsgdg/Downloads/Turkey%20%281%29%20and%20Turkey%20-%20ELES%20-%20KG%20-%20KE%20comments%28445564856.1%29.docx#_ftn1).

With the enactment of the Draft Bill, the CMB will have the authority to regulate crypto assets, the CBRT will be able to regulate crypto assets regarded as electronic money within the scope of payment services and electronic money legislation, and the Ministry of Trade of the Republic of Türkiye will be able to regulate crypto assets that aim to access or represent a product or service offered.

Apart from the recently introduced Crypto Assets Regulation, the new provisions set forth under the Measures Regulation, crypto assets and activities relating to crypto assets are still not regulated under Turkish law.

[1](file:///C%3A/Users/bmsgdg/Downloads/Turkey%20%281%29%20and%20Turkey%20-%20ELES%20-%20KG%20-%20KE%20comments%28445564856.1%29.docx#_ftnref1) The Draft Bill has not been made public. Furthermore, the Parliament can make further changes to the version of the Draft Bill. As of January 2024, there is a new version of the Draft Bill.

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