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Screening report

Turkey

Chapter 9 – Financial services

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Bilateral meeting: 2-3 May 2006

I. CHAPTER CONTENT

The *acquis* covered by this chapter includes rules for the authorisation, operation and supervision of financial institutions and regulated markets. Financial institutions covered by the *acquis* can operate across the EU in accordance with the ‘European passport’ and the ‘home country control’ principle either by establishing branches or by providing services on a cross-border basis.

In the field of **banks and financial conglomerates**, the *acquis* sets out requirements for the authorisation, operation and prudential supervision of credit institutions, as well as requirements concerning the calculation of capital adequacy requirements applying to credit institutions and to investment firms. The two relevant directives have recently been recast to incorporate the new capital requirements framework based on the Basel II Accord. The *acquis* in this sector also lays down rules relating to supplementary supervision of financial conglomerates and to the taking up, pursuit of and prudential supervision of the business of electronic money institutions. Credit institutions are required to join an officially recognised deposit guarantee scheme, which must provide for a minimum protection of € 20,000 per depositor. The *acquis* lays down rules regarding the annual and consolidated accounts of banks and other financial institutions. It also harmonises certain provisions concerning the reorganisation and winding up of credit institutions with branches in more than one Member State.

In the field of **insurance and occupational pensions**, several directives set out rules concerning the authorisation, operation and supervision of life assurance and non-life insurance undertakings. Specific provisions exist in the non-life sector for co-insurance, tourist assistance, credit insurance and legal expense insurance. The *acquis* establishes rules for the supplementary supervision of insurance groups. It also incorporates a prudential regulatory framework for reinsurance activities in the Community aiming removing barriers to the pursuit of reinsurance business, such as the obligation for the reinsurance undertaking to pledge assets. The directive on insurance mediation establishes a legal framework for the taking-up and pursuit of the activities of insurance and reinsurance mediation by natural and legal persons operating in the Community. In the field of motor insurance, several directives harmonise requirements concerning insurance against civil liability in respect of motor vehicles with a view to facilitating the free movement of goods and people, in particular by abolishing frontier controls on motor insurance. Directive 2003/41/EC regulates the activities and supervision of institutions for occupational retirement provision. The *acquis* lays down rules regarding the annual and consolidated accounts of insurance undertakings. It also harmonises certain provisions concerning the reorganisation and winding up of insurance undertakings with branches in more than one Member State.

In relation to **financial market infrastructure**, the directive on financial collateral arrangements aims to reduce and harmonise the formal requirements and procedures to create and enforce collateral across the EU, while the directive on settlement finality aims to reduce the systemic risk linked to the insolvency of a participant in payment and securities settlement systems.

In the field of **securities markets and investment services**, the directive on markets in financial instruments (MiFID) and its implementing measures set out a comprehensive regulatory regime covering the authorisation, operation and supervision of investment firms and regulated markets. The prospectuses directive and its implementing measures reinforce the protection for investors by guaranteeing that all prospectuses, wherever in the EU they are issued, provide them with the clear and comprehensive information they need to make investment decisions. The *acquis* also prescribes minimum transparency requirements for listed companies concerning both periodic and ongoing information. The directive on market abuse and its implementing measures introduce a harmonised and comprehensive administrative regime for prohibiting and prosecuting insider dealing and market manipulation. The *acquis* also requires that Member States ensure that at least one officially recognised investor compensation scheme is established offering compensation up to €20,000. The

legislation on investment funds (UCITS) sets out common basic rules for the authorisation, supervision, structure and activities of investment funds to facilitate the cross-border distribution of units of funds in the EU and to ensure adequate investor protection.

II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY

Turkey indicates that it can accept the *acquis* regarding financial services. Turkey indicates that it does not expect any difficulties to implement the *acquis* by accession.

This part summarises the information provided by Turkey and the discussion at the screening meeting.

II.a. Banks and financial conglomerates¹

Requirements concerning **taking up and pursuit of the business of credit institutions** are regulated by the Turkish Banking Law which entered into force on 1 November 2005 (Law No. 5411, OG No. 25983 (bis) of 01.11.2005) and several regulations adopted by the Banking Regulation and Supervision Agency (BRSA), in particular the Regulation on the establishment and operation of banks and the Regulation on measurement and assessment of capital adequacy. The Banking Law regulates the activities of three types of banks: (i) deposit banks; (ii) participation banks (which offer financial services on a non-interest basis, i.e. "Islamic banking"); and (iii) development and investment banks. Only deposit and participation banks are considered as credit institutions that may accept deposits from the public. Deposit and participation banks may also offer a wide range of financial services, but the former are not permitted to engage in leasing business.

Banks need an authorisation from the BRSA for their establishment and a separate authorisation for the commencement of operations. The Banking Law lists the conditions that have to be met in both cases. Any refusal by the BRSA to grant an authorisation must be notified to the applicant in writing together with the reasons therefore. The Banking Law lists an exhaustive list of circumstances in which a bank's establishment or operating authorisation may be revoked or restricted. Turkey's legislation does not condition the authorisation to perform banking business to an economic needs test.

Turkish banks may establish representative offices, branches or subsidiaries abroad, or acquire a stake in a foreign bank, subject to an authorisation by the BRSA. Branches of foreign banks need an authorisation from the BRSA for their establishment. Residents may not obtain consumer credits and mortgage credits from abroad.

The minimum capital requirement to set up a deposit or a participation bank is YTL 30 million (€ 18 million). Founders and board members of a bank have to meet fit and proper criteria.

The acquisition of a qualifying holding representing 10% or more of a bank's capital, as well as subsequent increases in qualifying holdings above specified thresholds, are subject to an authorisation by BRSA. The Banking Law stipulates that holders of qualifying holdings must meet the same fit and proper conditions applicable to founders.

¹ This section describes the situation prevailing at the time of the bilateral screening meeting. In November 2006, the Banking Regulation and Supervision Agency (BRSA) and the Savings Deposit Insurance Fund (SDIF) issued a number of new regulations pursuant to the Banking Law. These regulations are not taken into account in this report.

The Turkish Banking Law regulates banks' own funds, large exposures and holdings in non-financial institutions. A large exposure refers to an exposure to one person or risk group which equals or exceeds 10 % of a bank's own funds. The exposure to large risks in relation to one person or a risk group should not exceed 25% of the bank's own funds. This percentage should not exceed 20%, if the client or group of connected clients is the parent undertaking or subsidiary of the parent undertaking or the bank. In addition, the aggregated large exposures should not exceed eight times the bank's own funds. A bank cannot acquire a qualifying holding outside the financial sector amounting to more than 15% of its own funds, while the total value of such holdings may not exceed 60% of its own funds.

The Banking Law includes provisions on consolidated supervision, including an obligation for parent banks to prepare consolidated accounts (which do not, however, include non-financial subsidiaries) as well as the calculation of prudential indicators on a consolidated basis. The Law provides a legal basis for co-operation between the BRSA and other domestic authorities for the purposes of consolidated supervision, as well as the exchange of information and co-operation with foreign authorities in the context of bilateral memoranda of understanding.

Pursuant to the Banking Law, the BRSA may enact corrective, rehabilitation or restrictive measures in a wide range of circumstances, including non-compliance with own funds/capital adequacy or liquidity requirements, asset-liability maturity mismatches, a deterioration in asset quality, deficiencies in internal control or risk management procedures, etc. Banks are required to implement corrective measures within a deadline specified by the BRSA. Financial institutions under BRSA's jurisdiction are required to provide the latter with all information and documents relevant to the implementation of banking legislation. The Banking Law empowers the BRSA to conduct both on-site and off-site supervision.

The BRSA's personnel are bound by professional secrecy. The Banking Law contains provisions providing BRSA personnel with protection from prosecution except in narrowly specified cases.

Credit institutions have to publish annual reports including information concerning internal control, internal audit, risk management and various financial risk categories.

In relation to **capital adequacy** requirements applicable to banks, the Banking Law requires banks to maintain a capital adequacy ratio of at least 8%. Capital charges are currently only required for credit and market risk. The capital requirements due to credit risks are calculated based on Basel I methodology. Market risk consists of interest rate risk, equity position risk and foreign exchange risk. The first two cover risks arising from the trading book only, while the foreign exchange risk applies to all the bank's business activities. There are no rules concerning netting, while Turkey does not require capital reserves for position risk related to underwriting, credit derivatives and collective investment undertakings. There are no capital charges for settlement/delivery risk and counter party credit risk, nor for commodities risk. Market risk may be calculated using a standardised method or an internal risk-measurement model.

In November 2006 Turkey adopted a number of regulations in this area as declared during the screening meeting. One of these regulations is "The Regulation on Measuring and Evaluating Banks' Capital Adequacy", where in addition to credit and market risks, principles regarding operational risks are determined. Therefore, an important principle of Basel II will enter into force in June 2007 (Basel I-a). Turkey declared that Basel II will then be fully implemented as of January 2008. Moreover, Turkey introduced with this regulation principles regarding settlement and commodity risks.

The capital adequacy provisions for brokerage houses are set-out in the Capital Market Law and in related Communiqués issued by the Capital Market Board (CMB). Brokerage houses have to maintain varying minimum equity capital depending on the activities they are authorised to perform. This ranges from € 46,760 for investment advisors to € 444,810 for those engaged in trading of securities. Own funds (initial capital minus deductibles) of a brokerage house may not fall below the following: its minimum equity capital, risk provisions, operating expenses of the last three months prior to the valuation date. Brokerage houses are subject to capital charges for position risk, counter-party risk, foreign exchange risk and risk for large exposures. Brokerage houses are also subject to liquidity rules (current liabilities may not exceed current assets) and a borrowing limit (total liabilities may not exceed fifteen times own funds).

In May 2005 the BRSA issued a draft roadmap to implement the Basel II accord. This was reviewed in May 2006. The roadmap foresees that the regulations implementing the new capital adequacy requirements will be issued in March 2007. Standardised approaches will be implemented from January 2008, while the regulations for the advanced approaches will be issued in April 2008. These advanced approaches will be available from January 2009. The new capital adequacy requirements for brokerage houses are being defined by the CMB in the context of a PHARE twinning project. The draft legislation is expected to be available towards the end of 2007.

Turkey does not have specific legislation concerning supervision of **electronic money institutions**.

Turkey does not have specific legislation on **financial conglomerates**. However, the Banking Law empowers the BRSA to issue detailed requirements applicable to financial holding companies. The latter are defined as institution where all or a majority of the subsidiaries are credit institutions or financial institutions, provided at least one of them is a credit institution.

Turkey has established a **deposit guarantee scheme** under the Savings Deposit Insurance Fund (SDIF). The fund is an independent entity financed through insurance premiums from its members. All banks operating in Turkey are required to join the scheme.

The SDIF's deposit guarantee scheme is an *ex ante* funded scheme with a target size of 2% of the total insured deposits; it can in certain cases use credit facilities from the Central Bank. The scope of the SDIF's scheme is limited to deposits of natural persons up to YTL 50,000 (€ 31,000). The scheme does not foresee co-insurance. Deposits of legal persons and deposits held in foreign branches of Turkish banks are not covered by the scheme. Furthermore, Turkish legislation excludes the deposits of majority shareholders, the chairman, board members and senior managers of a credit institution, as well as the deposits of convicted criminals, from the scope of the SDIF's deposit guarantee scheme. The SDIF retains discretion to exclude certain other deposits. Turkish legislation does not discriminate between national and foreign deposit holders. Reimbursement under the scheme is triggered when the operating permission of the bank has been revoked. Turkish legislation does not lay down time limits for the compensation of deposits. Depositors have a right to take legal action directly against the SDIF.

Bank and branch accounts are regulated by the Banking Law, the Regulation on Accounting Principles and several related Communiqués. Financial reports, comprising a balance sheet, profit & loss account (including notes), the auditor's opinion and a management report must be submitted to the BRSA and the Banks Association of Turkey. The latter publishes financial reports, minus notes, in the national press. Banks ("parent undertakings") are required to prepare consolidated accounts.

The **re-organisation and winding-up of credit institutions** is regulated by the Banking Law, the Law on Bankruptcy (OG n. 2128 of 10.06.1932) and the Turkish Commercial Code (OG n. 9353 of 09.07.1956). The Banking Law empowers the BRSA to require banks to implement a wide range of reorganisation measures in specified circumstances. If banks do not comply with these reorganisation measures or if the latter are not effective, the BRSA may either withdraw the bank's operating licence or transfer the bank to the SDIF for rehabilitation. Withdrawal of a credit institution's operating licence results in a bankruptcy procedure. Following the completion of such a procedure the SDIF liquidates the bank. Winding-up measures (voluntary or compulsory liquidation) are published in the national press.

As regards administrative capacity, banks established in Turkey are supervised by the Banking Regulation and Supervision Agency (BRSA). The agency was established as an independent public legal entity in 1999. The decision-making body of the Agency is the Banking Regulation and Supervisory Board. The Board has seven members who are appointed by the Council of Ministers. The BRSA regulates and enforces the relevant legislative provisions concerning banks, financial holding companies, financial leasing, factoring and consumer finance companies. The BRSA is financed through contributions from the banking sector. In 2005 it had a total of 450 staff out of which 116 are auditors and 170 are banking experts. The number and qualifications of staff are regulated in a highly prescriptive manner in the Banking Law.

Turkey classifies banks into risk categories and performs its inspections according to defined risk criteria. BRSA's on-site examinations covered 95% of the banking sector's assets in 2005. The BRSA concluded Memoranda of Understanding with Greece and Malta and undertook inspections of Turkish banks in Germany, the United Kingdom and the Netherlands. Foreign supervisory authorities can carry out inspections in Turkey.

The SDIF had a total of 410 staff beginning of 2006.

II.b. Insurance and occupational pensions

Life assurance and non-life insurance undertakings are regulated by Law No. 7397 on Insurance Supervision (OG No. 10394, dated 30.12.1959) – the Insurance Supervision Law – and related by-laws, including the By-Law on the Establishment and Operational Principles of Insurance and Reinsurance Companies (OG No. 22153, dated 26.12.1994) and the By-Law on Measuring and Evaluating the Capital Requirements of Insurance, Reinsurance & Pension Companies (OG No. 26117, dated 23.03.2006). The insurance law was considerably amended in 1987 and 1994. A new draft insurance law is under preparation. Contract law in the insurance field is regulated by the Turkish Commercial Code (OG No. 9353, dated 09.07.1956).

Turkish legislation foresees the following eleven insurance classes: fire, transport, accident, compulsory motor third party liability, engineering, life, health, casualty, agriculture, legal protection, credit insurance.

The taking-up of insurance business in Turkey is subject to a three-stage procedure. The procedure requires a first “prior authorisation” from the Minister of State in charge of the Treasury, followed by an establishment authorisation from the Ministry of Commerce and a license issued by the Undersecretariat of the Treasury. Licenses are granted separately for each insurance class. There is a single license for life insurances, i. e. no separate licensing for different life insurance types. The information which has to be submitted together with the application for a license is specified in the By-Law on the Establishment and Operational Principles of Insurance and Reinsurance Companies.

Insurance undertakings must be set-up as a joint stock company or as a mutual company. Insurance companies must have an initial (paid-up) capital of TRY 10.3 million (about € 6.3 million). Founders and managers are subject to 'fit and proper' criteria. Insurance companies in Turkey have to be member of the Turkish Association of Insurance and Reinsurance Companies. Insurance undertakings are prohibited to carry out other economic activities than insurance or reinsurance. Turkey does not subject the authorisation of insurance undertakings to an economic needs test.

Foreign companies may establish branches and own subsidiaries in Turkey. Branches of foreign companies have to obtain an authorisation and to fulfil the same requirements as domestic insurers, in particular as regards capital requirements. Cross-border sales of insurances from foreign companies to Turkey are not allowed, with some exceptions notably as regards life insurances. Natural persons and legal entities residing in Turkey are obliged to insure their activities in Turkey.

The Minister in charge of the Treasury can revoke licenses in certain cases determined by the law. Although the relevant provision of the Insurance Supervision Law on revocation of licences in case of financial difficulties was abolished by a decision of the Constitutional Court in 1996, the Minister can revoke a license according to the general principles set forth in article 3 of the afore-mentioned Law.

The acquisition of a qualifying holding (shares representing 10% or more of the capital) in an insurance undertaking is subject to an authorisation by the Treasury, as is the acquisition/disposal of shares which result in the holding exceeding/falling below certain specified thresholds.

Life assurance tariffs are subject to pre-approval by the Treasury and cannot be freely determined by the insurance company. The Ministry is authorized to determine, to publish and to make these tariffs subject to ratification. The same applies to health insurances with terms longer than one year and the compulsory motor insurance. Insurance contracts have to be in line with the general conditions approved by the Treasury. In addition, insurance companies are obliged to submit to the Treasury the conditions and principles of the insurance covers they will apply for the first time. The transfer of a company's portfolio is subject to an authorisation by the Undersecretariat of the Treasury. Agreements on portfolio transfers may not include provisions prejudicing policyholders' rights and interests.

The solvency margin or the risk based capital is used for the calculation of the capital requirement of an insurance undertaking. The method which leads to the higher result is applied. The solvency margin for non-life insurance companies is calculated either on the basis of premiums or claims. As regards life insurance the calculation of the required capital is based either on the liability or the risk principle. Turkish insurance legislation requires also the calculation of an earthquake loss reserve. This reserve forms part of the equity of an insurance undertaking. Turkish legislation does not foresee higher capital requirements for certain insurance classes. Turkey declared that insurance companies have to fulfil revised capital adequacy requirements by the end of 2007.

Since there is no specific legislation on insurance contracts the provisions of the Commercial Code apply. The Insurance Supervision Law states that in the case where an offer of a signed life insurance contract is not declined within 30 days, the contract is deemed to be concluded. The technical interest rates for life insurance do not change even if market rates change. However, in case of severe market disruption courts can decide such a change on request of an insurance company.

Turkey does not have regulations transposing the **specific non-life insurance directives**. In particular there are no provisions on co-insurance and tourist assistance in the Insurance Supervision Law. Nevertheless, these insurance classes are offered on the Turkish market and secondary legislation includes some clauses on co-insurance.

Turkey explained that it will draft relevant secondary legislation within one year after entry into force of the new insurance law.

Turkey has no specific legislation on **insurance groups**. Turkish legislation does not foresee supplementary supervision of insurance and reinsurance companies belonging to a group.

Turkey does not have specific legislation concerning **re-insurance**, which is regulated and supervised in compliance with the Insurance Supervision Law as non-life insurance. The Turkish re-insurance monopoly ceased in 2001 and the compulsory cession to the re-insurance pool ceased by the end of 2006.

Re-insurance companies have to be established as a joint stock company and are not allowed to do any business other than re-insurance. Capital requirements of re-insurance companies are based on either the solvency margin or risk based capital. The higher rate is applied. Technical reserves comprise unearned premium reserves, outstanding claims reserves, earthquake loss reserves and life insurance mathematical reserves. Turkey retains a system of gross reserving which requires pledging of assets to cover unearned premiums and outstanding claims provisions by the re-insurer. Turkey does not have provisions concerning re-insurance tariffs.

Law No. 2918 on Traffic (OG No. 18195, dated 18.10.1983) is the basic regulation concerning **motor insurance** in Turkey. Turkey has a total of eleven million vehicles out of which approximately nine million are insured through the compulsory third party liability motor insurance. Most of the vehicles which are not insured are tractors and motorcycles. The motor insurance is valid in Turkey only and has to be concluded with an insurance company licensed in the country. General provisions, tariffs and implementing rules are determined by the Treasury. Turkey applies a bonus-malus system. Insurance companies have to compensate the injured party within eight working days following the proper application of the claim.

The Turkish motor insurance covers liability of personal injuries other than the operator's injury. The minimum amount of cover (for the automobile-year 2006) is:

- in case of damage to property, YTL 5,750 (~ € 3,500) per vehicle or YTL 11,500 (~ € 7,000) per accident,
- in case of personal injury, YTL 57,500 (~ € 35,000) per victim or YTL 287,500 (~ € 176,500) per accident.

Turkey has a guarantee fund for motor insurances which compensates personal injuries in case of accidents caused by stolen, un-identified, or non-insured vehicles. In addition, the fund compensates personal damages and damages to property caused by insured vehicles within the limits stated in the original insurance policy, if the related insurance undertaking's licences are cancelled due to financial difficulties or if the related insurance undertaking is bankrupt. The funds' revenues are composed of:

- 1% of the total net motor insurance premiums collected by insurance undertakings
- a premium collected from the customers, which amounts to 2% of the net motor insurance premium paid.

Turkey has introduced a monitoring system for its motor insurance called TRAMER. The system stores car insurance data and links insurance providers and various public authorities.

Turkey is member of the green card system. The Turkish Motor vehicles Bureau and the Turkish Green Card Re-insurance pool were established in 1963. Systematic controls of car insurances at Turkish borders are carried out.

Insurance mediation is regulated by the Insurance Supervision Law. Turkey has approximately 14000 insurance agents and 56 insurance brokers. In addition, there are so called 'producers of insurance' who exercise insurance mediation independently from the insurers. Only Turkish citizens may be insurance producers. Turkey explained that 'producers' will be abolished with the new Insurance Supervision Law.

Brokers have to be registered with the Treasury, agents and producers with the Association of Insurance and Reinsurance Companies of Turkey. Brokers and producers need to fulfil credibility and professional competence criteria. Agents need to fulfil credibility criteria only. As indicated during the screening meeting Turkey adopted in November 2006 secondary legislation regulating the information to be provided to customers before signing an insurance contract. Insurance intermediaries are not allowed to have shares in insurance undertakings. Turkey does not have a regulation on registration of complaints. Brokers have to submit annual financial statements. Only brokers, but not other insurance intermediaries, are obliged to have professional indemnity insurance. Insurance intermediaries are supervised by the General Directorate of Insurance (off-site) and the Insurance Auditory Board (on-site).

Insurance accounts are regulated by the By-law on the insurance accounting system (effective as of 01.01.2005). Turkey has no specific requirements concerning the consolidated accounts of insurance companies. International Financial Reporting Standards (IFRS) are compulsory for all insurance undertakings in Turkey. Provisions on consolidated accounts are expected to be adopted by the end of 2007. Valuation rules are in line with IFRS 39 on financial instruments, i.e. the fair value concept is applied.

Turkey considered its layout of insurance accounts in line with the directive. Companies have to publish a balance sheet, an income statement, a cash flow statement (expected by the end of 2007), a statement of distribution of dividends (as of 31.12.2006), a statement of changes in equity (expected by the end of 2007) and an auditor's statement. The publication of a management report is not obligatory. The balance sheet, profit and loss account and the auditors' opinion are published in two national newspapers.

Turkey considers its legislation on **reorganisation and winding-up of insurance undertakings** largely in line with the acquis.

The Undersecretariat of Treasury is responsible for the re-organisation and winding-up of insurance companies. Turkey does not have a guarantee fund for insurance claims except for the motor insurance. Protection of policy holders is ensured through custody of assets (deposit system). The calculation of guarantees differs for life and non-life insurance. For non-life insurance the guarantees are established at rates determined by the Treasury. The guarantees should not exceed 20% of the insurance premiums. For life insurance the guarantees are calculated through a fixed formula based on the total life insurance volume of a given undertaking. Preferential treatment of insurance creditors is ensured according to the second alternative of the EC directive by granting insurance claims a special rank over the whole assets of an insurance undertaking. All insurance claims are treated irrespectively of the nationality of the policy holder. The publication of re-organisation measures of insurance undertakings is not

required under Turkish legislation. Winding-up of insurance companies is published in the Turkish Official Gazette.

As regards **occupational pensions**, the Turkish pension system is based on three pillars. The first pillar is the social security system which is supervised by the Ministry of Labour and Social Security. The second pillar comprises the mandatory system for the army (OYAK, Ministry of Defence), the system for the coal miners (Amele Birligi, Ministry of Labour and Social Security) and a voluntary system (Vakif and Sandik). The voluntary system comprises around 250 pension schemes, mainly from companies. This market is basically unregulated. Voluntary funds are required to register with the Directorate General for NGOs but they are not subject to any prudential supervision. The third pillar is the personal pension scheme which is supervised by the Treasury and the Capital Markets Board (CMB). The three pillar classification is based on OECD terminology.

The personal pension scheme is regulated by the Turkish Law on Individual Pension Savings and Investment System (OG No. 24366, dated 07.04.2001) and its implementing provisions. Pension companies have to be established as joint stock companies. Their minimum capital requirement is YTL 20 million (€ 12 million). A pension company needs an establishment permit and an operating license from the Treasury. Founders and managers have to fulfil "fit and proper" criteria. Managers have to have a minimum professional experience. A detailed business plan is also required.

The pension companies have to establish at least three different pension (mutual) investment funds (PMF). These funds invest the pension savings according to defined investment criteria. Their accounts are kept in the Istanbul Stock Exchange Settlement and Custody bank (Takasbank) or another custodian approved by the Capital Markets Board. Turkish pension legislation does not foresee benefit or return guarantees for pension savings. Pension companies in Turkey can operate with a preliminary permission valid for one year. The application for an operating license has to be submitted to the Treasury within that period.

A pension monitoring centre (PMC) monitors the operations of pension companies and provides technical infrastructure for the Treasury. The PMC consists of representatives from pension companies, the Treasury and the general manager of the PMC. Pension funds have to invest at least 30% of their assets into funds which invest up to 80% in government bonds and a maximum of 15% in foreign securities. There are quantitative restrictions for asset diversification purposes.

As regards **administrative capacity**, the insurance and pension sector is regulated and supervised by the Undersecretariat of Treasury (General Directorate of Insurance and the Insurance Auditory Board). The General Directorate of Insurance carries out regulatory activities, licensing and off-site supervision of insurance undertakings. The Insurance Auditory Board is responsible for on-site inspections. It reports to the General Directorate of Insurance. Both institutions have to respect professional secrecy rules. The General Directorate of Insurance and the Insurance Auditory Board had together a total of 153 staff at the end of 2005.

In 2005 46 companies were active in the Turkish insurance and pension sector, including one re-insurance company. The total annual premium collected in Turkey reaches approximately € 5 billion (excluding contributions to the private pension system) in 2006. Foreign companies control more than 50% of the capital of 15 insurance and pension companies and 40% of the total annual premium.

II.c. Financial market infrastructure

Settlement finality is regulated in Turkey through Law No 2004 on Execution and Bankruptcy (OG No 2128, dated 19.06.1932), the Capital Market Law No 2499 (CML, OG No 17416, 30.07.1981) and various implementing provisions of the Istanbul Stock Exchange and the Central Bank of the Republic of Turkey. Clearing and settlement regulations concerning the transactions in the Istanbul Stock Exchange are set by the Exchange and are executed by Takasbank, which is the Istanbul Stock Exchange's settlement and custody bank. The Central Registry Agency (CRA) is the central depository for equities and other dematerialised securities. It keeps the registry of dematerialised capital market instruments. Takasbank has a 65% share in the CRA. According to the Capital Markets Board Law, foreign intermediary institutions can operate in Turkish exchanges through remote access and they can provide services only for their customers abroad, provided that these activities are authorised by the Capital Markets Board and the related exchange.

Settlement and clearing is based on the following principles: Centralised clearing and settlement, book entry settlement, multilateral netting, delivery versus payment (DVP), same day funds.

Insolvency decisions do not have retroactive effects on stock exchange transactions. Therefore, settlements are also executed and completed in case of insolvency of a participant. Insolvency comes into effect when the Turkish Commercial Court has handed down its decision. The decision to open an insolvency proceeding is immediately notified to the bankruptcy office, which informs all other stakeholders. Transfer orders are not revoked, except for certain defined cases, such as computer errors or criminal activities. Turkey set up an Investor Protection Fund (see below) which covers also settlement failure.

The Turkish Civil Code, the Law No. 2004 on Execution and Bankruptcy (OG No 2128, dated 19.06.1932) as well as several by-laws and Communiqués transpose the directive on **financial collateral**. In Turkey financial collateral providers are intermediaries such as brokerage houses and banks, collateral takers are the Turkish Central Bank, the Istanbul Stock Exchange and the settlement agent (ISE Settlement and Custody Bank, (Takasbank)). Members of Turkish stock exchanges are obliged to deposit collateral consisting of cash, government debt instruments or irrevocable and unconditional letters of guarantee in a specific bank account. Security financial collateral arrangements (transfer of possession) are carried out through pledge of movable property. Title transfer financial collateral arrangements (transfer of ownership) are done through re-purchase and reverse re-purchase transactions. There is no specific provision for the equivalent collateral but the substitution of pledged assets is possible under Turkish law. Book entry securities collaterals are registered by the CRA. The management responsibility of these collaterals lies with Takasbank. There is no restriction on the use of financial collaterals and no formal act required for their perfection.

II.d. Securities market and investment services

Turkish **markets in financial instruments** are regulated by the Capital Market Law (CML), which was enacted in 1981 and amended twice (Capital Market Law No. 2499, OG No.17416, dated 30.07.1981). The CML is complemented by a number of Communiqués issued by the Capital Markets Board (CMB), which supervises securities markets and investment firms. Turkey stated that it intends to transpose the markets in financial instruments directive (MIFID) fully after completion of an ongoing twinning project by the end of 2007.

Only brokerage companies (which must be established as a joint stock corporation) and banks may perform transactions with securities. Both must obtain an authorisation from the CMB.

Banks can trade equities only through separate subsidiaries or they can be agents of brokerage houses. In order to obtain an operating license, intermediaries have to fulfil the conditions for their establishment, authorisation, operation and in particular meeting the capital requirements as laid down in the CML and relevant Communiqués. Capital must be paid in cash. Turkish legislation further stipulates the circumstances in which the CMB shall refuse an authorisation and lays down an exhaustive list of circumstances in which a broker's authorisation may be withdrawn. Turkish legislation does include a definition of qualifying holdings and a requirement to seek authorisation for the acquisition of such a holding in a brokerage company (10% threshold). Intermediaries have to be member of the Investor Compensation Fund and of the Association of Capital Market Intermediary Institutions. Turkey has various conflict of interest provisions in place.

Intermediaries established abroad need a permission from the CMB to offer capital market services in Turkey. Turkish intermediaries can engage in intermediation activities on foreign markets with CMB permission. Foreign brokerage houses are not allowed to establish branches in Turkey.

The CML lays down initial capital requirements for brokerage companies, which vary from YTL 752,000 (€ 406,486) to YTL 1,889,000 (€ 1,021,081) – as of 2007 - depending on the activity performed by the broker.

Turkey has various provisions concerning investor protection in place. Shareholders, managers, experts and internal auditors and inspectors of intermediaries are required to be fit and proper for their duties. Professional staff needs to fulfil educational and professional experience requirements depending on their job specifications. An accounting and documentation system in accordance with the regulations of the CMB has to be in place. Internal control and audit systems must be set up. Brokerage houses must use neither capital market instruments nor cash belonging to their customers for their own benefit or the benefit of third parties without the consent of their customers. Customers' funds have to be separated from the intermediaries' account. Turkey does not have a client categorisation. Intermediary institutions have to conclude a written agreement with their customers prior to their service provision. Intermediary institutions cannot provide services unless the customers have signed the “capital market activities risk notice form” which explains capital market risks. Furthermore, changes in the shareholder structure (10%, 20%, 33% and 50%) of brokerage houses are subject to CMB approval.

Orders of Istanbul Stock Exchange listed securities are executed according to price and time priority. Intermediaries need to keep records and reports of all transactions. In principle client orders have to be executed through a stock exchange or a regulated market – the so called concentration rule.

The CMB law requires that all stock exchanges which perform securities markets transactions to be public entities. Regulated markets in Turkey are the Istanbul Stock Exchange (ISE), which is a public entity and the Turkish Derivatives Exchange (TURKDEX), which is a private joint stock company. Both exchanges have some regulatory and self-regulatory powers concerning trading executions, fees, suspension of trading and quotation. Orders for listed companies have to be placed in the ISE. Shareholders and personnel including the chairman of the exchange have to have a certain experience, education, and good conduct.

Turkey intends to align its legislation to Directive 2004/39/EC and its implementing measures through the adoption of a new CML in 2008.

Turkey has set up an **investor compensation scheme** (Investor Protection Fund). Legal basis is the Capital Market Law (CML) and several by-laws. The fund started its operation in 2001 and is administered by the Central Registry Agency. All intermediaries have to participate in the fund. The Investor Protection Fund reimburses losses of shares and cash obligations in case of gradual liquidation or bankruptcy of a brokerage house or withdrawal of a banking licence. It does not compensate losses of foreign shares including if acquired through a Turkish broker. The maximum compensation is YTL 48,203 (€ 26,000) – as of 2007. Turkey has no regulation which provides for compensation in case of criminal activities. Legal action against a compensation decision is possible.

Conditions for admission to **trading and transparency obligations of traded companies** are regulated by the Commercial Code, the Capital Market Law and several Communiqués. The CMB is the competent authority which supervises compliance with transparency obligations of publicly listed joint stock corporations.

The By-law on listing requirements regulates the admission of securities to trading and empowers the CMB to lay down more detailed requirements concerning inter alia the issuers' initial capital and the minimum value of the securities subject to listing. All shares of traded companies must be issued in dematerialised form. The CMB may deny registration of securities if listing was detrimental to investor's interest. According to the Regulation on the Establishment and Working Principles of Securities Exchanges, securities may be de-listed if required by public interest. In addition, the (ISE) Listing Requirements Regulation sets detailed de-listing conditions. There is a floor of 20,000,000 YTL (2007) (€10,810,000) for the market capitalisation of shares for which admission is sought. If the shares in free float correspond to less than 25% of the capital market value of the undertaking, the offering cannot be less than 38,000,000 YTL (2007) (€20,540,000).

The CML requires issuers of securities to publish certain periodic and ongoing information. As regards periodic reporting requirements, issuers are required to publish annual, semi annual and quarterly financial statements. Financial Statements of traded companies need to be published in the Turkish Trade Registry Gazette and in the daily bulletin of the exchange. In addition, listed companies have started to disclose their financial statements, material information and prospectuses electronically via a secure computer network (Public Disclosure System) since 2004.

As regards ongoing information, the issuer of securities has to promptly inform the public of all information relating to material facts, i.e. all information and facts that can influence the price of securities. Ongoing information is provided to the exchange before becoming available to the public.

Shareholders have to submit a statement to the stock exchange and to the traded company if the shareholders' direct or indirect proportion of voting rights or of capital in a company reaches, exceeds or falls below certain thresholds. This has to be notified on the same date when the material event occurs.

The publication of **prospectuses** by issuers of securities is regulated by the CML and several Communiqués. Issuers of securities are required to publish a prospectus in case of public offering. The legislation includes exemptions from the obligations to produce a prospectus (certain types of capital increase, mergers, etc.) but these do not fully correspond to those set out in the directive. CMB supervises compliance with these requirements and must approve prospectuses.

The prospectus must contain complete, accurate and objective information on various business-relevant issues to allow a potential investor to make an objective assessment of the prospects and risks of an investment. There is no requirement to include a summary in the prospectus. Advertisement is regulated in the CML and by several Communiqués. The texts of advertisements and announcements have to be submitted to the CMB for their approval before their publication. Supplements to prospectuses in case of significant new factors, material mistakes or inaccuracy are foreseen in the Turkish legislation. Changes and new facts which occur after public disclosure and which appear prior to completion of the sales have to be communicated immediately to the CMB via the fastest means of communication. Sales have to be suspended in the meantime. The prospectus must be issued in principle as a single document. The issuer and the persons who signed the prospectus are liable for its content.

Prospectuses of traded companies have to be published electronically through the Public Disclosure System in addition to the publication in the Turkish Trade Registry Gazette since 2004. A violation of the prospectus publication provisions leads to criminal sanctions.

Concerning **market abuse** the Capital Market Law (CML) and several CMB Communiqués are the legal basis for the transposition of the directive. The Capital Market Board is the single competent authority for market abuse cases. Market abuse legislation covers all market instruments.

Turkish legislation covers both insider dealing and market manipulation. Inside information is defined as all non-public information which might be able to affect the value of capital market instruments. The use of inside information is prohibited if the user benefits from that information. The disclosure of inside information to third parties itself is not prohibited. Issuers are required to disclose inside information to the public but are not required to draw up a list of persons having access to inside information. It is compulsory to disclose all information which might have an impact on investors' decisions and the value of capital market instruments.

With regard to market manipulation Turkey differentiates between transaction based manipulation and information based manipulation. Transaction based manipulation refers to trading activities which affect prices artificially. Information based manipulation is considered as dissemination of misleading and false information and news, or withholding relevant information. Turkey does not have specific provisions as regards journalists. Buy-back programmes of shares are prohibited. Stabilisation measures of financial instruments are also regulated. The purpose of those measures is to safeguard investors from sharp stock price decreases after initial public offerings.

Turkey applies a dual system of administrative and criminal sanctions to punish market abuse and insider trading. Criminal and administrative sanctions can be applied jointly. However, criminal access to information is not covered by the relevant Law.

Undertakings for collective investment in transferable securities are regulated by the Capital Markets Law and several Communiqués. Mutual funds are regulated by the CMB "Communiqué on Principle Regarding Mutual Funds. According to Article 4 of this Communiqué, a mutual fund is defined as an asset established for managing a portfolio consisting of capital market instruments, gold and precious metals, on behalf of unit holders, with money collected from the public in return for participation certificates. Mutual funds cannot have legal personality and are established as 'semi-open ended funds. Their upper limit is restricted by a minimum initial value which is determined in the funds internal statute. The limit should be approved by the Capital Markets Board. This limit can be changed with CMB's permission. Turkey states that the ability of investors to redeem units is not restricted. The founders of a mutual fund are in charge of the management, representation and of keeping the

assets of a fund. Investment companies are regulated by the “Communiqué on Principles Regarding Investment Companies”. According to Article 3 of this Communiqué, investment companies are capital market institutions established as joint stock corporations with the purpose of managing a portfolio of capital market instruments, gold and other precious metal traded on national and international exchanges or other organized markets. Investment companies can only be established as joint stock corporations and are considered closed-ended funds. At least 49% of their shares have to be offered to the public. Investment companies are supervised by the CMB.

Mutual funds and portfolio managers need to be authorised by the supervisory authority. For semi-open-ended investment funds with a public offer, the application for authorisation must be accompanied by the investment objectives, the fund prospectus, the internal statute, the contract concluded between the portfolio manager and a depositary bank, and the name of the independent auditor. A portfolio manager shall be engaged in the management of mutual funds. Shareholders, managers, staff of portfolio management companies and intermediary institutions must fulfil “fit and proper” criteria. The minimum initial capital required to set up an investment fund is YTL 3,250,000 (€ 1,756,000) as of 2007.

The relevant Communiqué specifies rules concerning eligible assets and portfolio diversification. In order to manage mutual funds, founders appoint a Fund Board, composed of at least three members and an auditor. Mutual funds are required to establish an internal control system, including risk management functions. The assets of a fund are kept by a custodian, Takasbank, a special clearing and custodian bank established in Istanbul. The assets cannot be pledged as guarantee or seized by third parties. However, banking activities and investment fund activities do not need to be carried out through separated undertakings even if the assets of a mutual fund established by a bank must be separate from those of the bank.

Buyers of investment funds obtain a simplified prospectus and an information document to facilitate their investment decision. Investors are also required to fill a risk-return profile form before purchasing investment funds.

An annual report consists of audited financial statements, the fund portfolio value and the fund portfolio asset value statements. Daily, quarterly and yearly must be submitted to the CMB. Quarterly and annual reports have to be audited. Internal fund rules, the prospectus, quarterly and yearly reports have to be published electronically.

Foreign mutual funds can sell their units in Turkey when they fulfil the criteria set in the related communiqué. The criteria applicable for foreign mutual funds are similar to the criteria applicable for domestic mutual funds; except the requirement that the market value of the fund should be at least USD 1 billion and at least 80% of the fund portfolio needs to be composed of securities issued by non-residents, including Treasury bonds. As of March 2006, there are 53 foreign mutual funds in Turkey.

As regards **administrative capacity**, regulated markets are supervised by the Capital Markets Board (CMB). The CMB was established in 1982. The CMB is an autonomous public entity with administrative and financial independence. Decisions are taken by the board, which is composed of seven members appointed by the Council of Ministers for a six year period. The Board is primarily financed by a fee of 0.2% of the volume of registered securities. The fees are paid by the issuer of the securities. Fees for private and public offerings are the same. Deficits, if any, are covered by the government. The Board had 445 staff in 2005. Its main task is to ensure the proper functioning of the Turkish capital market. It carries out registration, licensing, regulation, supervision, inspection and enforcement activities. The CMB can also impose administrative fines. Enforcement activities comprise on-site and off-site inspections.

CMB's decisions are subject to judicial review. Professional standards for the staff include provisions on confidentiality and professional secrecy. The CMB concluded Memoranda of Understanding (MoU) with authorities and institutions from 19 different countries, nine of which are EU Member States. One MoU was concluded with the International Organization of Securities Commissions (IOSCO).

Regulated markets in Turkey are the Istanbul Stock Exchange (ISE), the Turkish Derivatives Exchange (TURKDEX) and the Istanbul Gold Exchange. Regulated markets are self financing institutions. 606 companies were registered with the CMB, out of which 306 were listed at the Istanbul Stock Exchange in 2005. The Turkish market has a market capitalisation of listed companies of € 146 billion.

III. ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTING CAPACITY

Overall Turkey's legislation is satisfactorily aligned to the financial services acquis. Whereas the alignment as regards banking and securities markets and investment services is sufficient or satisfactory respectively, alignment in the insurance field is partial. Turkish financial market infrastructure is largely aligned to the acquis.

Necessary supervisory authorities are established. However, in particular as regards insurance supervision the independence of the supervisor needs to be ensured. The co-operation among the different supervisors can be improved.

III.a. Banks and financial conglomerates

The legislation in the area of banking is sufficiently aligned with the acquis. The main gaps with respect to the acquis are the lack of a comprehensive framework for the supplementary supervision of financial conglomerates and the non-existence of rules for the supervision of electronic money institutions. The scope of the Turkish deposit guarantee legislation needs to be adapted.

Turkish legislation is satisfactorily aligned with the directive on **taking up and pursuit of the business of credit institutions**. Turkey's provisions concerning authorisation, initial capital, "fit and proper" criteria of shareholders and managers as well as the professional secrecy are largely in line with the acquis. The own capital calculation, provisions for large risks and the solvency margin are largely aligned.

Turkish legislation concerning cross-border banking services and authorisation and supervision of branches has not been aligned yet. Turkey's definition of a credit institution does not cover leasing companies and factoring. Turkey does not have provisions concerning consolidated supervision of credit institutions as required by the directive.

Turkey aligned its provisions to the Basel-I capital requirements which are only partially in line with the **capital adequacy** directive. Rules on netting are not yet defined. A new directive in this area has to be transposed by EU Member States by 1 January 2007. Turkey plans to align its legislation to this new directive in 2008. Turkey provided a reasonably well developed plan to transpose the BSAEL-II capital requirements.

Turkey currently does not have rules on the supervision of **electronic money institutions** corresponding to Directive 2000/46/EC.

Turkish legislation does not incorporate a comprehensive framework for the supplementary supervision of **financial conglomerates**.

Turkish legislation concerning **deposit guarantee schemes** is partially aligned with acquis. The deposit amounts covered by the Savings Deposit and Insurance Fund are higher than required by the directive. However, deposits of legal persons and deposits of Turkish branches of credit institutions abroad are not covered. Furthermore, the availability of Central Bank credits for the Savings Deposit and Insurance Fund is not in line with EC-Treaty provisions.

Alignment with the directive on **bank and branch accounts** is partial (see also Chapter 6 – Company law as regards the use of international accounting standards).

Turkish legislation concerning **re-organisation and winding-up** of credit institutions is satisfactorily in line with the acquis. However, re-organisation measures do not need to be published in Turkey contrary to the directive. Winding-up measures do need publication in the Official Gazette only and not in two national newspapers as required by the directive.

The BRSA's **administrative capacity** to supervise the banking sector has been increased and has improved over recent years. Inspections of credit institutions cover generally a large part of the Turkish banking sector.

The BRSA introduced risk-based supervision. Together with organisational changes, banking supervision staffing has gradually been strengthened, especially in relation to on-site supervision.

The BRSA reports good working-level co-operation with home supervisors of EU banks that own subsidiaries in Turkey. There has been an increased focus on the need to enhance co-operation among domestic supervisory authorities and other actors such as the Treasury, State Planning organisation, SDIF and the Turkish Central Bank. Turkey also established a Financial Sector Commission and a Co-ordination Committee. However, there is a continuing need to enhance co-operation between the BRSA and other supervisors, particularly to ensure the consistent future implementation of the acquis. The overall administrative and institutional capacity of the BRSA needs to be further strengthened to accommodate for more demanding supervisory requirements.

III.b. Insurance and occupational pensions

The alignment in the insurance sector is partial. The main gaps are the differences in the calculation of solvency margins, the lack of provisions concerning specific non-life insurances, the absence of a comprehensive framework for the supervision of insurance groups and of reinsurance companies. In the field of motor insurance the minimum amounts of cover are too low.

Turkey's alignment to the **life and non-life insurance** directives is partial. The existing insurance law dates from 1959 and is partly outdated despite of two amendments. Ex-ante tariff controls and approvals, in particular for life insurances, and pre-approval procedures are still in place. The calculation of capital requirements for insurance undertakings is not aligned. The Turkish guarantee fund does not cover non-life insurances. However, most of the provisions concerning the establishment and operation of an insurance undertaking are aligned. This includes the separation of life insurance and non-life insurance business and also reporting and auditing requirements.

The alignment of Turkey's legislation on **specific non-life insurance** classes to the relevant directives is limited. Some provisions concerning credit insurance are in place. Provisions with regard to legal expense insurance, tourist assistance, credit insurance and co-insurance are not aligned.

Turkish legislation on **insurance groups** is not aligned with the *acquis*.

Turkey's legislation on **re-insurance** is partially aligned with the *acquis*.

The alignment of the Turkish **motor insurance** legislation to the *acquis* is limited. Basic principles such as a guarantee fund, the bonus-malus system and claims representatives are in place. The minimum amounts of cover of the Turkish motor insurance are considerably lower than in the directive. The Turkish motor insurance covers only damages incurred in Turkey. In addition, the Turkish motor insurance guarantee fund compensates only damages to persons and not to property as required by the directive. Ex ante tariff approvals by the Treasury are still in place. Systematic border controls concerning motor vehicle insurance will have to be abolished in accordance with the *acquis*.

Turkish provisions on **insurance mediation** are partially in line with the *acquis*. The professional liability insurance coverage is not yet adjusted to the required level. Moreover, the principles concerning the freedom of establishment and the freedom to provide services by intermediaries from other Member States need to be incorporated into Turkish law. Turkey does regulate information obligations of insurance intermediaries vis-à-vis their customers. Turkish legislation does not provide for specific qualification requirements for insurance agents.

Turkish provisions on **insurance accounts** are reasonably in line with the *acquis*. The technical and basic mathematical provisions, the layout and the presentation of financial statements, and publication requirements are reasonably in line with the directive. Turkey lacks legislation on consolidated insurance accounting.

Turkish legislation concerning **re-organisation and winding-up** of insurances is satisfactorily in line with the *acquis*. Re-organisation measures need not to be published in Turkey contrary to the directive.

The legislation on **occupational pensions** is partially in line with the *acquis*. Authorisation provisions, separation of accounts and custody, "fit and proper" requirements for managers and shareholders are largely aligned. The requirement to invest a certain percentage in government borrowing instruments is not in line with EC Treaty provisions on privileged access to public finance. 250 so-called voluntary pension schemes, mostly from private companies, are not regulated. The guarantee requirements and the risk calculation method are not in line with the *acquis*.

Overall the **administrative capacity** to supervise the insurance and pension sector has improved over recent years. However, the General Directorate of Insurance and the Insurance Auditory Board are not autonomous organisations as required by the *acquis*. Important decisions need the approval of the Minister. Further efforts are needed in particular as regards co-ordination with other supervisory authorities both in Turkey and abroad.

III.c. Financial market infrastructure

Turkish provisions on **settlement finality** are largely in line with the *acquis*. Turkey applies the settlement principles required by the directive.

Turkish provisions on **financial collateral** are largely in line with the *acquis*. Turkey applies the principles and definitions required by the directive. In particular, Turkey does not have restrictions on the right of use of financial collaterals and does not require a formal act for their perfection.

III.d. Securities market and investment services

The provisions concerning investment services and security markets are satisfactorily aligned with the *acquis*. Further efforts are necessary as regards prospectuses, market abuse and undertakings for collective investment in transferable securities.

Turkish legislation is partially aligned to the directive on **markets in financial instruments**. The Capital Markets Law will need to be revised in relation to certain definitions, authorisation and operations of investment firms, market transparency and integrity, as well as regulated markets. However, investor protection is well advanced.

Turkey has largely aligned its legislation with the directive on **investor compensation schemes**. Turkey set up an Investor Compensation Fund which covers shares and cash obligations only. The amounts covered are higher than required by the *acquis*. The fund does not compensate losses of foreign shares contrary to the Community legislation.

Turkish legislation is satisfactorily aligned with the *acquis* concerning admission to **trading and transparency obligations of traded companies**. The rule, that information from listed companies does not go directly to the public, needs to be changed.

The regulations on **prospectuses** are satisfactorily aligned with the prospectuses directive. Electronic publication of prospectuses is required.

Turkey's alignment with the **market abuse** directive is partial. The provision that market abuse is only sanctioned if the user of such information benefits from it is not in line with the directive. Furthermore, the disclosure of inside information to third parties is not prohibited. Turkish legislation does not require lists of persons who have access to inside information. The Turkish market abuse legislation does not provide for provisions concerning journalists as required by the directive.

Turkish legislation in this area is satisfactorily in line with the directive on **undertakings for collective investment in transferable securities (UCITS)**. Provisions concerning authorisation, fit and proper criteria for managers and shareholders, capital requirements and account separation are largely aligned. There are however divergences with the *acquis inter alia* concerning eligible assets and the obligations of the depositary.

The **administrative capacity** of the Capital Markets Board as supervisory authority is reasonably developed. However, the overall administrative and institutional capacity of the Board to assume the obligations from Basel-2 and related EC directives is not yet in place.