

# **COMMUNIQUE ON THE FORMATION, DUTY, WORKING PROCEDURES, AND PRINCIPLES OF THE ADVISORY BOARD**

**(It was accepted by the decision of the TKBB Board of Directors dated 02.04.2018 and numbered 253.)**

## **From Participation Banks Association of Turkey:**

### **Purpose and scope**

**ARTICLE 1 -** (1) The purpose of this Communiqué is to determine procedures and principles on the formation, working, and duties of the Advisory Board established within the Participation Banks Association of Turkey to ensure that participation banking activities are carried out in accordance with professional principles and standards.

### **Basis**

**Article 2 -** (1) This Communiqué is prepared based on the provisions of sub-paragraphs (a), (b), (c), (d), and (e) of the first paragraph of Article 80 of the Banking Law dated 19/10/2005 and numbered 5411 and the provisions of sub-paragraphs (b), (c), (d), (e), (i), (m), and (t) of the second paragraph of Article 4.

### **Definitions**

**ARTICLE 3 -** (1) In this Communiqué, the following refers to;

- a) Law: Banking Law No. 5411
- b) Board: Banking Regulation and Supervision Board
- c) Agency: Banking Regulation and Supervision Agency
- d) Association: Participation Banks Association of Turkey
- e) Board of Directors: Participation Banks Association of Turkey Board of Directors

### **Formation of the Advisory Board**

**ARTICLE 4 -** (1) The Advisory Board consists of seven members appointed by the Board of Directors for a period of five years within the scope of the third paragraph of this article. The approval of the Board is received while appointing members of the Advisory Board. Members whose term of office has ended can be re-elected.

(2) The Advisory Board elects a Chairperson among its members to regularly perform the duties assigned under the provisions of this Communiqué and a Vice-chairperson to serve in the absence of the chairperson.

(3) It is obligatory among the members of the Advisory Board that three of them have a PhD degree in Islamic sciences, one is among the candidate(s) recommended by the Presidency of Religious Affairs among the members of the High Board of Religious Affairs, and one of them has undergraduate or

graduate degrees in business, economics, finance, banking, law, and equivalent branches, and at least seven years of managerial experience in the participation banking field.

(4) A sufficient number of full or part-time personnel is appointed by the Board of Directors in order to ensure that the activities of the Advisory Board are carried out effectively to conduct research activities, to prepare working reports, to record the decisions made, to inform and follow-up the relevant parties, and to fulfil other duties assigned by the Advisory Board, and the Secretariat of the Advisory Board is established. Consultancy service is received when deemed necessary.

(5) The following conditions are looked for in those who are appointed as members and personnel of the Advisory Board.

(a) Not to be deprived of public rights,

(b) Not to have been sentenced to imprisonment for one year or more for a deliberate crime, even if the periods specified in Article 53 of the Turkish Criminal Code have passed or have been pardoned,

(c) Not to have any association left with the military service,

(d) Not to have a security investigation or archive search about them.

(6) Members and personnel of the Advisory Board cannot have qualified shares, have duties, or directly or indirectly provide services to the institutions that fall within the scope of the area of the Agency.

(7) Financial and social rights of the Advisory Board members and personnel are determined by the Board of Directors every year. The expenses needed for the activities of the Advisory Board are covered from the annual budget of the Association.

(8) Advisory Board members cannot be discharged for any reason before the end of their term of office. However, the Board of Directors may discharge members who are deemed to be unable to work due to serious illness or disability, to not meet or to have lost the necessary conditions for an assignment, or who do not attend three meetings without any excuse within a year, or who are convicted for their crimes. The Board of Directors can replace this dismissed member with a new one within a month according to the provisions of this Communiqué.

### **Working Procedures and Principles of the Advisory Board**

**ARTICLE 5** - (1) The Advisory Board convenes at least once a month when deemed necessary upon the call of the Chairperson.

(2) The meeting agenda, place, and time are determined by the Chairperson and notified to all members at least 3 business days prior to the meeting date. An agenda item can be added to the meeting with the proposal of at least two members.

(3) According to the agenda item of the meeting, representatives of a relevant institution or experts in their fields can attend the Advisory Board meetings. However, decisions are only made at the session where members are present.

(4) The Advisory Board convenes with the presence of at least four members and takes decisions with the unanimous vote of at least three members. Decisions are written with their Sharia basis. The decisions include the summary of the subject examined and discussed, the Sharia basis of the decision, and the justifications of the opposing members. Decisions are signed by the members attending the meeting. Members who oppose decisions report their reasons within fifteen days from the date of the meeting.

(5) Members who have attended the meeting but do not sign the decisions or do not notice reasons for the opposing vote within the time limit are deemed not to attend the meeting without an excuse.

(6) The professional principles and standards determined by the Advisory Board, the general decisions taken, and other Advisory Board decisions that are deemed appropriate for publication by the Board of Directors are published on the Association's website.

(7) The Advisory Board does not make any evaluation about works and transactions whose legal process is ongoing or has been decided by the court.

### **Duties of the Advisory Board**

**ARTICLE 6 -** (1) The Advisory Board conducts the following duties:

a) Determining the professional principles and standards that must be adopted by participation banks by following the standards published by international institutions in the field of participation banking,

b) When deemed necessary, making general decisions in order to eliminate the application differences between participation banks,

c) Making an assessment regarding the compliance of the works and transactions of participation banks with the professional principles and standards determined within the scope of sub-paragraph (a) and general decisions taken under sub-paragraph (b),

d) Upon application, providing opinions on interest-free financing activities to public institutions and organisations, other organisations that act like public institutions and other institutions,

e) Organising programs for the promotion or training of participation banking professional principles and standards, publishing and participating in programs organised for this purpose within the framework of the principles determined by the Board of Directors and the approval of the Chairperson of the Board.

(2) Boards of directors at participation banks are responsible for the implementation of the decisions taken under sub-paragraphs (a) and (b) of the first paragraph and the determined professional principles and standards, taking the necessary measures for their implementation and submitting the information and documents requested by the Advisory Board. Boards of directors of participation banks fulfil this responsibility through units operating within the scope of internal systems.

(3) Applications under item (d) of the first paragraph are made to the Association in writing. The contrary acts of the applicants against the opinions issued by the Advisory Board do not constitute an obligation whatsoever for the Association or the Advisory Board. This is announced to the applicant in the opinion text and to the public on the Association website in case of contrary applications. The Board of Directors

decides on the payment and the fees to be collected within the scope of the activity of expressing an opinion.

(4) Disputes between participation banks and their customers on matters covered by professional principles and standards are resolved by the relevant participation bank. The Association can be consulted about the decisions taken by the participation banks on the dispute. The Association may resolve disputes of the same type based on the decisions of the Advisory Board or submit it to the Advisory Board to be evaluated together. The Advisory Board may decide whether the decisions taken by the participation banks within the scope of the dispute will be fully implemented, changed, or cancelled.

(5) The Advisory Board explains all activities carried out within the scope of this Communiqué in the annual report and submits it to the Board of Directors. The Board of Directors sends this report to the Agency every year until the end of February and publishes it on the Association's website. The principles regarding the content and preparation of the annual report prepared under the provisions of this article are determined by the Board of Directors.

(6) The Advisory Board fulfils the duties assigned to it within the scope of this Communiqué under its own responsibility, impartially, and independently.

(7) An executive or administrative duty cannot be assigned to the Advisory Board within the scope of the activities of the Association. The duties and authorities assigned to the Association's bodies within the framework of the relevant legal regulations cannot be transferred to the Advisory Board in any scope or manner.

### **Bank and customer secret**

**Article 7** - (1) Advisory Board members, personnel, representatives of institutions, and organisations participating in the meetings of the Advisory Board, experts, and staff of the Association cannot disclose to third parties the secrets of the bank and its customers, which they have learned with their titles and duties. The provisions of the relevant law are applied to those who disclose the secrets of the bank and its customers and commercial secrets.

### **Detection of Non-Conformities and Sanctions**

**ARTICLE 8** - (1) An administrative sanction is imposed by the Board of Directors in accordance with the provisions of Article 81 of the Law on participation banks that are found to be in breach of the decisions taken under sub-paragraphs (a) and (b) of the first paragraph of Article 6 of this Communiqué and the determined professional principles and standards.

(2) Participation banks that are subject to administrative sanctions within the scope of the provisions of the first paragraph are notified to the Agency within three business days following the notification date.

### **Validity**

**ARTICLE 9** - (1) This Communiqué enters into force on the date when the approval decision of the Board of Directors is notified to the Association following the approval of the Board of Directors.

### **Execution**

**ARTICLE 10** - (1) The provisions of this Communiqué are executed by the Participation Banks Association of Turkey.

**PROVISIONAL ARTICLE 1-** The Advisory Board that must be established in accordance with the provisions of this Communique and its personnel start their duties within two months at the latest following the effective date of the Communique.

- *The first paragraph of Article 4 of the Communique was revised by the decision of the Board of Directors dated 29/04/2020 and numbered 288*