

## Pension Funds and Investment Funds Can with Fewer Restrictions Invest in Asset and Mortgage-Backed Securities

*10 Feb 2021*

The Regulation Amending the Pension Funds Regulation ("**Amendment Regulation**"), and the Communiqué Amending the Communiqué on Principles of Investment Funds ("**Amendment Communiqué**"), published in the Official Gazette numbered 31343 and dated 23 December 2020, pave the way for pension and investment funds to increase investment in asset and mortgage-backed securities.

The Amendment Regulation and the Amendment Communiqué remove certain restrictions on pension and investment funds wishing to invest in mortgage-backed securities issued by asset finance funds established by mortgage finance institutions, and consumer credit-backed securities issued by asset finance funds established by mortgage finance institutions.

Investment funds covered by the Amendment Communiqué are no longer subject to the following investment restrictions:

A fund may not invest more than 10% of its net asset value in a single issuer's money market instruments, capital market instruments, and derivatives tied to such instruments, exclusive of asset and mortgage-backed securities with respect to which the applicable percentage is 25%; and the

1. limitation set forth in section (b), immediately following this section (a), is no longer applicable.
2. A maximum of 40% of a fund's portfolio may be comprised of money market and capital market instruments of a single entity holding a 5% or greater stake in the fund.
3. A fund may not invest more than 20% of its net asset value in money market and capital market instruments of the same group of companies<sup>[1]</sup>

Furthermore, pension funds covered by the Amendment Regulation are no longer subject to certain restrictions on investment in mortgage-backed securities issued by asset finance funds established by mortgage finance institutions, and other capital market instruments issued by mortgage finance institutions, as follows:

1. Not more than 10% of a fund's portfolio may comprise money market and capital market instruments of a single issuer. Furthermore, A maximum of 40% of a fund's portfolio may be comprised of money market and capital market instruments of a single entity holding a 5% or greater interest in the fund. Regarding capital market instruments issued by asset leasing companies, the 10% restriction mentioned in the first sentence of this section increases to 25%.
2. Not more than 30% of a fund's portfolio may comprise money market and capital market instruments of a single group of companies. The Capital Markets Board defines a *group of companies* as a parent company and its subsidiaries and affiliates, whether or not actively engaged in the same sector or industry, and each legally independent from the others, but affiliated in terms of capital, management, and auditing, and with all organizational and financial matters coordinated by the parent company.

The Amendment Communiqué and the Amendment Regulation, though deregulatory in nature, leave intact the restriction that asset and mortgage-backed securities may not exceed 35% of a fund's portfolio.

In addition, funds covered by the Amendment Communiqué and the Amendment Regulation may invest only in investment-grade asset-backed and mortgage-backed securities - rated AAA, AA+, or AA by a rating agency authorized by the Capital Markets Board; should the rating of a portfolio asset be adjusted below AA, it must be divested, provided, however, that divestiture does not materially harm holders of the fund.

The Regulation fixes at zero per one hundred thousand of net asset value the registration fee for index funds that track the BIST Industrials Index ("**Index**"), invest in securities issued by an Index constituent, or with names indicative of the Index.

Prior to the Amendment Regulation, the registration fee was calculated as of the last business day of each calendar quarter, and at a rate of three per one hundred thousand of a fund's net asset value. That amount was required to be deposited in the Capital Markets Board's special account within ten business days of the quarter's end, and a copy of all relevant advisory notes and calculation statements submitted concomitantly to the Capital Markets Board.

You may access the Turkish version of the Amendment Communiqué [here](#), and the Turkish version of the Amendment Regulation [here](#).

[1] For the Capital Markets Board's definition of *group of companies*, see section 2(b) below.

## Related Practices

- [Securities and Capital Markets](#)
- [Venture Capital and Private Equity](#)
- [Emerging Growth and Early Stage Financing](#)

---

## Related Attorneys

- [DR. E. SEYFİ MOROĞLU, LL.M.](#)
- [C. HAZAL BAYDAR, LL.M.](#)