

Anti-money laundering measures tightened following failed coup attempt

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White Collar Crime, Turkey

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Introduction

Following the failed coup attempt and subsequent unrest, the Council of Ministers declared a state of emergency on July 20 2016. **(1)** The state of emergency authorises the Council of Ministers to take immediate measures, including via executive orders.

Executive Order 667 was the first order issued after the state of emergency was declared. It shut down a number of public and private institutions and many civil servants were discharged from their positions due to their alleged connection with the coup attempt, in order to ensure national security. Further financial measures were also adopted, in order to prevent money laundering and the illegal international transfer of assets of the suspected institutions and persons.

Anti-money laundering regulation

The Regulation on the Suspension of Transactions within the Scope of the Prevention of Laundering Proceeds of Crime and the Financing of Terrorism entered into force on July 29 2016. The regulation requires responsible parties (ie, financial institutions, banks and independent audit companies) to report any suspicious transactions to the Financial Crimes Investigation Board (MASAK) and request the suspension of such transactions. Even though the duty to report suspicious transactions is not a new concept, the regulation provides detailed provisions on the suspension of suspicious transactions along with applicable timelines.

The regulation also illustrates possible situations in which a transaction may be deemed suspicious, including the following:

- the transaction is extraordinary;
- after checking various resources and databases, it is understood that the persons conducting the transactions are or may be linked to crime; or
- the transaction's completion may prevent the confiscation of funds that are considered to be linked to the financing of terrorism or render the confiscation proceedings more difficult.

The minister of finance can decide whether a reported transaction should be suspended. Suspicious transactions may be suspended for up to seven working days, during which MASAK will examine them. The suspension decision will be notified to the parties electronically. The responsible parties must not finalise the transaction until notified of the minister's decision.

MASAK can also identify a suspicious transaction *ex officio*. Foreign anti-money laundering institutions or authorities can request the suspension of suspicious transactions, as long as the reciprocity condition is satisfied.

Executive Order 670 came into force on August 17 2016 and extended the suspension timelines. Accordingly, during the state of emergency, reported transactions can be suspended for (and the minister's decision can be rendered within) 30 working days instead of seven.

Comment

Given the above, it is advisable that the stricter provisions on money laundering introduced in response to the state of emergency be closely followed. Further, special attention should be paid to the revised timelines and procedures that the executive orders introduced which are applicable during the state of emergency.

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Endnotes

(1) The order was initially introduced for three months. On October 11 2016 the Grand National Assembly extended the state of emergency for another three months as of October 19 2016.

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