

## COMMUNIQUE ON PRINCIPLES REGARDING İTMK

(Serial: III, No: 33)

### SECTION ONE

#### Objective, Scope, Justification and Definitions

##### Purpose and scope

**Article 1-** (1) This By-law is to regulate the principles regarding issuance of İTM K.

##### Legal background

**Article 2-** (1) This By-law is issued under the authority provided by the Article 13/A of the Capital Market Law.

##### Definitions

**Article 3-**(1) Abbreviated terms in this By-law have the following respective meanings:

- a) BRSA : Banking Regulation and Supervision Agency.
- b) Issuers : Banks as defined in the Article 3 of Banking Law, no. 5411 and mortgage finance corporations as defined in Article 39/A of Law that issue İTMK within the context of this By-law.
- c) Substitute asset : Capital market instruments determined in the Article 10 of this By-law.
- ç) Mortgage loan : Residential mortgage loans and commercial mortgage loans.
- d) Residential mortgage loan : Loans secured by a mortgage on at least one residential property that are registered as dwelling in the land registry.
- e) Commercial mortgage loan : Loans secured by a mortgage on a property excluding the land and residential property that are registered as dwelling in the land registry.
- f) İTMK : İpotek teminatlđ menkul kıymet (Turkish mortgage covered bond)
- g) Law : Capital Market Law.
- h) Board : Capital Markets Board.
- i) Qualified investors : Local and foreign mutual funds, pension funds, investment trusts, intermediary institutions, banks, insurance companies, portfolio management companies, mortgage finance corporations, pension and relief funds, foundations, funds established according to Temporary Article 20 of Social Securities Law, no. 506, benevolent societies and other investors to be accepted as similar to these organizations by the Board and real and legal entities that have total asset amount equal to at least 1 million TRY in terms of cash in Turkish and/or foreign currencies and in terms of capital market instruments, by the date of public offering of İTMK.
- j) Cover register : Registration system defined in the Article 8 of this By-law.
- k) Cover Matching Principles : The principles defined in the section five of this By-law.

- l) Cover assets : Any asset registered in the cover register according to this By-law, including mortgage loans, substitute assets and claims under derivative contracts.
- m) Total liabilities : The total amount of İTMK outstanding plus the liabilities resulting from derivative contracts registered in the cover register.
- n) Derivative contracts : Forward, futures, option, swap and similar contracts.

## **SECTION TWO**

### **General Provisions**

#### **Definition**

**Article 4 – (1)** İTMK is a debt security, which is a general obligation of the issuer and secured by the cover assets. İTMK may be issued at fixed or variable rate, at a discount or premium value and may be in the form of registered or bearer bond.

(2) İTMK may be traded at the stock exchange by the request of the issuer and approval of the related exchange.

#### **Protection of the name “İpotek Teminatlı Menkul Kıymet”**

**Article 5 - (1)** The terms “İpotek Teminatlı Menkul Kıymet”, “İTMK” or any other equivalent terms shall not be used for the securities which are not issued under the provisions of this By-law.

#### **Requirements for the issuers**

**Article 6- (1)** Banks or mortgage finance corporations shall satisfy the following conditions to issue İTMK.

- a) The office, technical facilities and organizational structure, necessary for the issuance of İTMK shall be in place.
- b) Within the context of the Article 7 of this By-law, a risk management system shall be established for the risks stemming from İTMK issuance.

(2) The banks and the mortgage finance corporations that meet the conditions above apply to the Board with the documents verifying that they meet the conditions. If the applicant is the bank, the Board shall ask the opinion of BRSA to verify that there is no obstacle for the bank to be an issuer. Within the context of information and documents provided by the applicant, the Board decides on whether the bank has the qualifications to be an issuer or not.

#### **Risk management system**

**Article 7 – (1)** For satisfying the cover matching principles defined in section five, the risk management system of the issuer;

- a) Shall ensure that the risks, which are related to İTMK issuance, including credit risk, interest rate risk, exchange rate risk, other market risks, counterparty risk, operational risk and liquidity risk, be determined, measured, risk policies and their application systems be set, risks be analyzed and revised, reported, investigated, controlled and supervised.
- b) Shall include the written procedures to be applied for reducing the risks when the limits determined for these risks are exceeded.
- c) Shall be adapted rapidly to changing market conditions.
- d) Shall be revised at least once a year.

## **SECTION THREE**

### **Cover Assets and Cover Register**

#### **Cover register**

**Article 8 –** (1) Cover register is the registry system in book form and/or in electronic form, kept for distinguishing cover assets from the other assets of the issuer. Cover register is kept by the issuer. Standards related to registration of cover assets shall be determined by the Board upon the consent of BRSA.

(2) Cover register shall be predicated on all the operations and conflicts related to cover asset.

#### **Eligibility requirements for the mortgage loans**

**Article 9 –** (1) Mortgage loans granted by the issuer itself or taken over from another housing finance institution or receivables taken over from Housing Development Administration, meeting the requirements laid down may be entered on the cover register by the issuer.

- a) Mortgage loans, extended before the “Law Amending the Laws Related to Housing Finance System”, no. 5582 came into force, shall be accepted as in the scope of housing finance in line with the interim provision 11 of that Law.
- b) Mortgage loans, extended after the “Law Amending the Laws Related to Housing Finance System”, no. 5582 came into force, shall be in line with the provisions of that Law.
- c) Principal and interest payments shall be secured by collateral.
- d) The property securing the mortgage loan shall be within the borders of the Republic of Turkey and shall have the authorization to occupy.
- e) For the entire term of the loan contract, the property securing the mortgage loan shall have been insured against the earthquake if it is obligatory according to Article 2 of “Decree Law of Compulsory Earthquake Insurance”, and shall be insured against fire against any kind of natural disaster providing the issuer with the right of pledging on indemnity to be added to cover assets.
- f) There shall have not been any due repayment at the time mortgage loan is registered in the cover register.
- g) Market value of the property securing the mortgage loan shall have been calculated.

(2) The subparagraphs (a) and (b) of the first paragraph shall not be applied for the receivables taken over from Housing Development Administration.

(3) The market value of the property securing the mortgage loan shall be determined in line with the provisions of Communiqué Serial: VIII, No:35 on Principles Regarding Appraisal Companies.

#### **Eligibility requirements for the substitute assets**

**Article 10-** (1) The following assets may be entered into the cover register as substitute assets.

- a) Cash,
- b) Liquidity instruments issued by Central bank of The Republic of Turkey and deposits other than legal reserves which are kept in central bank,
- c) Public domestic and external debt instruments.
- d) Securities issued under treasury reimbursement guarantee as defined in “The Law on Regulating Public Finance and Debt Management”, No: 4749 published in the Official Gazette dated March 28, 2002.
- e) Securities issued or guaranteed by governments or central banks of OECD member states,
- f) Other assets approved and disclosed to public by the Board.

(2) The substitute assets registered into the cover register are held in an account separate from the other accounts of the issuer at authorized custodian institutions. It shall be written in the contracts regarding these accounts that those assets are the collateral of İTMK.

### **Eligibility requirements for the derivative contracts**

**Article 11 - (1)** The derivative contracts hedging the cover assets against interest or currency risk in order to meet obligations stemming from İTMK may be entered on a cover register providing that those contracts meet the requirements laid down.

- a) The derivative contract shall be traded in exchanges or the counterparty of the derivative contract shall be a bank, a credit institution, an insurance company or a central clearing agency which are all authorized by the regulatory authority of the country in which these institutions are established and the rating of that counterparty shall be at minimum investment level.
- b) The derivative contract shall have a clause that prohibits the contract counterparty from terminating the contract in the event of bankruptcy of the issuer until İTMK issued by the issuer is redeemed.
- c) The counterparty of the derivative contract shall approve the entry of the derivative contract into the cover register.
- d) Netting agreements between issuer and derivative counterparty shall be executed separately for the registered and other derivative contracts.

(2) The derivative contracts registered into the cover register are held in an account separate from the other accounts of the issuer at authorized custodian institutions. It is stated in the contracts regarding these accounts that those derivative contracts are the collateral of İTMK.

### **Protection of cover assets**

**Article 12 – (1)** Within the context of the article 13/A of the Law, the cover assets shall not be used for any other purpose, shall not be pledged, shall not be used as collateral, shall not be distrained, shall not be subject to precautionary measure decisions of courts, and shall not be included into the bankruptcy process, even for the purpose of the collection of the government receivables until İTMK issued by the issuer is redeemed.

(2) A bank account separate from the other accounts of the issuer shall be opened for the cash flows related with cover assets in a bank. Cash inflows from cover assets shall be deemed in cover assets and directly transferred to this account from the credit accounts.

(3) In cases where the issuer is unable to make payments to İTMK holders and cover assets are not enough to cover İTMK holders' receivables, İTMK holders whose receivables have not been covered by the cover assets may extend their claims to the other assets of the Issuer.

## **SECTION FOUR Cover Monitor**

### **Appointment of the cover monitor**

**Article 13 – (1)** The issuer appoints an audit firm, authorized and listed by the Board for auditing in capital markets, as the cover monitor by resolution of its board of directors. The audit firm appointed as the cover monitor appoints two persons as representatives by resolution of its board of directors.

The representatives;

- a) Shall meet the requirements provisioned for auditors in the regulations of the Board regarding independent auditing,
- b) Shall have at least 3 years auditing experience in the fields of capital markets and banking,
- c) Shall not have been sentenced for the violation of Banking Law, no. 5411 dated 19/10/2005, Repealed Banking Law, no. 3182 dated 25/04/1985 and no.4389 dated 18/06/1999, Law on

Prevention of Money Laundering, no. 4208 dated 13/11/1996 and the provisions related with money lending activities and shall not have any controlling shares of banks which have been transferred to the Savings Deposit Insurance Fund within the context of Banking Law, no.5411, Repealed Banking Law, no.3182 and No:4389,

- d) Even if pardoned, shall not have been sentenced for heavy imprisonment or imprisonment for over five years except for negligent offenses and shall not be sentenced for :
  - i. The offenses of infamous crimes such as embezzlement, peculation, extortion, bribery, theft, fraud, forgery, breach of trust, fraudulent bankruptcy,
  - ii. Smuggling except for consumption purposes,
  - iii. Involvement in fraudulent activities in official tenders and in sale /purchase transactions,
  - iv. Revealing secrets of the State,
  - v. Tax evasion and or attempt for tax evasion
- e) Shall not have been subject to legal prosecution due to bankruptcy,
- f) Shall not be subject to a liquidation decision with respect to the Decree by-law "Regarding the Transactions of Bankers in Financial Difficulty", no. 35 dated 14/1/1982 and its annexes.

(2) In cases where the cover monitor and the representatives are appointed and replaced, this must be notified to the Board. Within the context of the article 13/A of the Law, the Board is authorized to replace or demand to replace the cover monitor or representative who are not able to fulfill the requirements to be the cover monitor or representative anymore or have misfeasance or malfeasance in carrying out the duties given by the Law or this By-law.

(3)The cover monitor and representatives shall conform to the principles of the Board's independent audit ing standards and they can not delegate their responsibility of performing their duties.

#### **Duties of the cover monitor**

**Article 14-** (1) The cover monitor is obligated to monitor whether the issuer acts in accordance with the clauses of the Law and this By-law. The cover monitor shall;

- a) Ensure that true records in the cover register are maintained by the issuer in accordance with the clauses of Law and this By-law,
- b) Confirm the additions to the cover registry which are done by the issuer by examining the credit documents, custody accounts, derivative contracts, other necessary data and documents; and demands from the issuer of taking the assets out from the cover assets and deleting the related registries from the cover register if the assets are not appropriate within the context of this Communiqué.
- c) Confirm and examine the demands from the issuer regarding the taking out of assets from the cover assets and deletion of the related registries from the cover register within the context of Law and this Communiqué.
- d) Examine the compliance with the cover matching principles, stated in the fifth section, at least once in two weeks, and submit the report to the issuer regarding the results of the examinations,
- e) Notify the Board immediately about the situations that contradict with the clauses of the Law and this By-law or endanger the rights of İTMK holders.
- f) Take the precautionary actions and notify the Board immediately in cases where the information provided by the issuer is not true.

- g) Report to the Board quarterly about the results of examinations which are done within the context of (d) of this article.
- h) Perform other duties which can be demanded by the Board.

(2) The issuer shall not take the assets out from the cover assets and delete related registries from the cover registry without the approval of the cover monitor.

(3) Within the context of sub clause (b) of the first paragraph, it is enough to examine the mortgage loans which are selected by random sampling method and cover at least 1 % of all mortgage loans in terms of quantity and nominal amount. In terms of appraisal of real estate, the conformity with the last paragraph of Article 9 of this By-law is examined.

#### **Powers of the cover monitor**

**Article 15-** (1) Within the context of the article 13/A of the Law, the cover monitor is entitled to demand any kind of information and document about mortgage loans, substitute assets or derivative contracts from the issuer and title offices, to inspect relevant records and to get information from the employees. Due to article 13/A in the Law, the issuer and title offices are obligated to provide the information and documents requested by the cover monitor. If the cover monitor is blocked to reach the information and documents he requested, he shall inform the Board immediately.

### **SECTION FIVE Cover Matching Principles**

#### **Cases where the mortgage loans not included in the calculations regarding the cover matching principles**

**Article 16-** (1) The following are not included in calculations related to cover matching principles;

- a) Mortgage loans which can not meet the requirements stated in Article 9 of this By-law or the ones considered to be non performing receivables as defined in "Regulation on the Principles and Procedures Related to the Determination of the Loans and Other Receivables for which Provisions Shall be Set Aside by Banks and to the Provisions to be Set Aside" published in the Official Gazette dated 7/9/2000, no. 24163.
- b) The portion of the residential mortgage loan, in excess of 75% of the value of the residential property securing the loan,
- c) The portion of the commercial mortgage loan, in excess of 50% of the value of the real estate property securing the loan.

(2) The Issuer shall monitor the changes in prices of the properties and determine the ratio of the change at least as of each year-end. In case of existence of generally accepted index which is calculated from the changes in prices of the properties, this index shall be taken into consideration when determining the ratio of change. If a decrease in prices of the properties is identified in general or regional, limitations stated in sub clause (b) and sub clause (c) of the first paragraph are calculated after the value of the related property has been decreased by the average change ratio. If there are signs of a substantial decrease compared to market average in the value of the property the issuer shall ensure the property be revaluated by an appraiser.

(3) Limitations stated in sub clauses (b) and (c) of the first paragraph are applied as the last identified value of the related real estate.

(4) Second paragraph of this article is applied when the mortgage loans are registered to the cover registry. The issuer shall provide the cover monitor with the information about the methods used to monitor the changes in property prices.

### **Calculation of net present value**

**Article 17-** (1) The net present values of the mortgage loans, substitute assets and İTMK are calculated by discounting the net present value of expected future cash flows by using the interest rates obtained from yield curves.

(2) Expected cash flows are discounted by using yield curves of the related currency unit. The yield curve, which is obtained through weighted average interest rates of public domestic debt instruments at Istanbul Stock Exchange daily, is used for cash flows denominated in YTL. The yield curves announced by the corresponding central banks and from the resources determined by the Board are used for cash flows denominated in currencies other than YTL. For the maturities with unknown interest rates; interest rates are derived by using maturities with known interest rates prior to and after that maturity. Interest rate of the longest maturity with the known interest rate shall be used for maturities longer than that maturity.

(3) Estimated early payment ratios and early payment fees, if any, are considered in the calculation of expected cash flows of mortgage loans. Early payment ratios are estimated by using the difference between interest rate of each mortgage loan and market interest rate and early payment statistics of similar mortgage loans from past periods. It is assumed that interest rate will not change during maturity of the mortgage loans for variable mortgage loans.

(4) Expected cash flows of cover assets traded on stock exchange shall be discounted by using the weighted average prices and rates realized at the exchange at the date of valuation, although traded on stock exchange, cover assets not subject to sale and purchase at the date of valuation shall be discounted by using internal rate of return of the last transaction date (discount rate equalizing daily cash inflows to cash outflows). Second paragraph of this article is applied when discounting expected cash flows of other cover assets.

(5) Expected cash flows of debt securities embedded with call options and expected cash flows of the İTMK embedded with call options, which are included in substitute assets, are calculated assuming that the option will be exercised in the nearest call date.

(6) Net present value of derivative contracts equals to fair value of these contracts.

(7) The net present values of foreign currency positions shall be converted into YTL at the foreign exchange buying rate published daily by Central Bank of the Republic of Turkey.

### **Limitation for commercial mortgage loans and substitute assets**

**Article 18-** (1) Net present value of commercial mortgage loans and substitute assets, which are included in cover assets, shall not exceed 15 % of total net present value of cover assets for each.

### **Limitation for derivative contracts**

**Article 19-** (1) The issuer can enter into derivative contracts for the purpose of hedging the cover assets. However the share of the claims under the derivatives included in the cover assets in terms of the total amount of the cover assets as well as the share of the liabilities under these derivatives in terms of the total liabilities greater than 15 percent can not be registered to the cover registry and can not be taken into consideration in the calculations regarding the cover matching principles. The calculation shall be made on the basis of the net present value.

### **Nominal value matching**

**Article 20-** (1) The nominal value of the mortgage loans and substitute assets shall not be less than the nominal value of the İTMK.

(2) Outstanding principal amounts of mortgage loans and issuing price of discounted debt securities are taken into account when calculating the nominal value.

(3) Derivative contracts are not taken into account when calculating the nominal value matching.

### **Interest revenue matching**

**Article 21-** (1) The total amount of interest revenue expected to be obtained from cover assets in one year period following the date of calculation, can not be less than the expected interest payments arising from total liabilities for that period.

### **Net present value matching**

**Article 22-** (1) The net present value of the cover assets must exceed the net present value of total liabilities at least in a specified rate decided by the issuer. This specified rate can not be less than %2. The excess cover consists of substitute assets stated in Article 10 and is registered to the cover registry. The portion of substitute assets put as excess cover, are not taken into account for the limitations stated in Article 18.

### **Stress test**

**Article 23-** (1) The sensitivity of net present value matching to the changes in interest rates and exchange rates is measured by stress test. In all alternative scenarios excess cover, stated in Article 22, shall be ensured.

(2) In order to measure the impact of interest rate changes, the yield curves used to calculate the net present value shall be shifted upwards or downwards by 3 points for YTL and 1, 5 points for foreign currencies for each maturity. The rates shall be set zero when the rates become negatives after shifts.

(3) In order to measure the impact of exchange rate changes, 30% markdowns or markups of foreign currency buying rate announced by Central Bank of the Republic of Turkey, shall be applied to the cash flows in foreign currencies.

### **Infringement of cover matching principles**

**Article 24-** (1) Limitations stated in Articles 18, 19, 20, 21 and 22 shall be controlled every working day by the issuer and the stress test, stated in article 23, shall be exercised at least once a week. Information and documents related with the controlling of mentioned limitations and results of stress tests shall be kept at least for 5 years period in a safe and secure facility.

(2) Issuer shall take necessary precautions immediately when conformity with cover matching principles including the specified rate of excess cover within the context of Article 22 is not provided in any stress scenarios. In this context, issuer can enter new assets into the cover register or buy back the İTMK issued before and can give them to the cover monitor. Issuer keeps these İTMKs in an authorized custodian at an account separate from the other accounts. Cover monitor has the right of possession over this account. İTMKs that were bought back by the issuer and given to cover monitor are deducted from circulation and not considered in the calculations related to cover matching principles.

(3) Cover assets may be deleted from cover register with the approval of cover monitor or cover monitor may give the İTMK back to the issuer if that does not cause any infringement of cover matching principles, including the specified rate of excess cover within the context of Article 22, in any stress scenarios.

## **SECTION VI Registration of İTM K**

### **Obligation of Registration**

**Article 25-** (1) The issuer shall apply to the Board with demand of registration of İTMK to be issued. The documents attached to the application to the Board shall be submitted completely and incomplete applications are not taken into consideration by the Board. The Board may request that the applications be done in electronic form.



### **Registration of İTMK to be offered to the public**

**Article 26-** (1) The issuers shall apply to the Board in writing together with the prospectus and all other information and documents that will be determined by the Board for the registration of İTMK to be offered to the public. Cover monitor and representatives must be appointed before the registration application to the Board.

(2)The Board evaluates the applications for registration of İTMK within the framework of public disclosure by taking into account whether prospectus and circular include all information considered necessary by the Board and registers İTMK to be sold through public offering. The registration document is prepared related to registered İTMK. Without the registration document it is impossible to continue the issuance and sale of İTMK.

(3)As a result of the evaluation, if the information in prospectus and circular are found insufficient and not reflecting the truth fairly and causing public abuse, the Board may refrain from registration of related İTMKs by stating its justification.

(4) İTMK selling applications may be made separately per issue as well as in a way comprising all İTMK issues to be made for a 5 years period. If the latter type of application is made, the issue shall be made in 5 years following the date of İTMK registration. In this period, İTMK may be sold in series and sub-series. Issuers shall submit circular, information regarding cover assets and all documents required by the Board at least 10 business days before the issuance of each series. Board approves circular after necessary examinations are completed. Issuer can not start the selling process without Board approval.

(5)Being registered with the Board shall not be used for advertisement purposes and doesn't mean that the Board or State gives an official guarantee to the İTMK issued and the related issuers. In the prospectus, circular and all other announcements and explanations, direct or indirect expression that can be interpreted as an official guarantee is given by the Board or State for registration with the Board shall not be used.

(6)The prospectus and circular regarding İTMK to be offered to the public must be prepared including the necessary and detailed information required by regulations and the Board regarding the issuer, issuer's financial situation, scope and results of its operations, must be appropriate with the minimum standards determined by the Board, must include the additional information requested by the Board during the registration application and all the information and explanations must be based on documents.

(7)The information in prospectus and circular about the operational results and financial position, related with the audited terms, of the issuers that are subject to the external auditing according to the provisions of the related regulations of the Board must be parallel to those reports given by the related auditing firms and its conformity must be approved by the auditing firms.

(8)The public offering and payments of principal and interest of the İTMK must be conducted through intermediary institutions that have the license for intermediation in public offerings.

(9)Prospectus and circular must also be signed by intermediary institutions and cover monitor. Excluding the information under responsibility of auditing firms stated in the eighth paragraph of this article, intermediary institutions and cover monitor are responsible for the unfair reflection of the facts in the information contained in prospectus and circular according to the second paragraph of the Article 7 of the Law.

(10)After the Board's registration document, the prospectus shall be registered within one week at the Trade Registry where the issuer is registered and shall be announced in Turkish Trade Registry Gazette.

(11)The circular must be announced in the minimum two nationwide and daily newspapers minimum three, maximum seven days before the beginning of sale, within seven days following the registration of prospectus.

(12) The Board, in accordance with the Article 22/b of the Law, may suspend temporarily the sale procedures of İTMK issued or offered to public by intervening to their sale.

(13)Any amendments or new issues regarding the information in the prospectus and circulars, that occur during or before the sales process and which if not declared shall result in a loss for the investors, must be declared to

the Board in written form, within at most three business days following the occurrence, by the fund board before the commencement of the sale or within the sales process by suspending the sale, or by ensuring that the intermediary institutions offering the sale suspend the sales process.

(14) Changes and new issues shall not be declared to the public by amending the prospectus and circular without the Board's approval or shall not be put into enforcement. After the Board's approval, the changes in the prospectus shall be registered at the commercial register office and be declared, and the changes in the circular should be announced in the newspapers where this circular have been declared.

(15) The sales period of the İTMK that will be sold to the public shall be defined in the circular. İTMK that are not sold in the selling period are cancelled.

(16) Information required by the Board in relation to the sales results shall be submitted by the Fund board in an accurate and complete manner within six business days following the end of the sale period.

(17) Due to public offering of İTMK, the texts of advertisements and announcements to be published shall be submitted to the Board at least 2 business days before the publication date. No information other than those in the prospectus and circular shall be included in the advertisements, announcements and any kind of releases. The Board may require making changes in the texts if it deems necessary and the unchanged texts shall not be published.

(18) At the date of circular is announced, if announcements wanted to be made through newspapers, the advertisement and announcement must be made at the same newspapers. After the circular is announced, announcements and advertisements may be continued by means of any way on condition that the dates of newspapers which the circular was published are clearly disclosed. Locations where the prospectus and circular are obtained shall be disclosed in the texts of advertisements and announcements made after mortgage İTMK registration.

(19) No prospectus or circular is prepared in case of İTMK sold to the qualified investors or abroad. Article 27 shall be applied for the registration of İTMK sold in this manner.

#### **Registration of İTMK to be sold by private placement**

**Article 27-** (1) Issuer applies to the Board by means of a letter including information regarding cover assets and other documents determined by the Board so as to register İTMK that will be sold by private placement. No prospectus or circular is prepared for such kind of İTMK sale. Cover monitor and representatives must be appointed before the registration application to the Board.

(2) The Board evaluates the application by taking into account whether information required by the Board is submitted in an accurate and complete manner and registers İTMK. The registration document regarding registered İTMKs is prepared. Issuer can not start the issuance and selling process without having the registration document.

(3) An application to sell İTMK may be made separately per issue as well as in a way comprising all İTMK issues to be made for a 5 years period. If the latter type of application is made, the issue shall be made in 5 years following the date of İTMK registration. In this period, İTMK may be sold in series and sub-series. Issuers shall submit information regarding cover assets and all documents required by the Board at least 10 business days before the issuance of each series. Board approves the sale after necessary examinations are completed. Issuer can not start the selling process without Board approval.

(4) Information required by the Board about sales results of İTMK sold through private placement must be submitted by the issuer or related intermediary institution to the Board in an accurate and complete manner within six working days following the end of the sales period.

(5) Being registered with the Board shall not be used for advertisement purposes and doesn't mean that the Board or State gives an official guarantee to the İTMK issued and the related issuers. In the announcements and

explanations regarding the sale, direct or indirect expression that can be interpreted as an official guarantee is given by the Board or State for registration with the Board shall not be used.

(6) If registered İTMKs are sold again that the issuance falls in the scope of public offering as defined in Article 3 of the Law, then prospectus and circular shall be prepared according to Article 26.

#### **Registration Fee**

**Article 28 –** (1) Within the context of third paragraph Article 28/b of the Law, the registration fee, which will be calculated as %0,005 of the net present value of cover assets on the last working day of each quarter period on a calendar year basis, shall be paid to the Special Account of the Board within ten working days following the end of each period and copies of the calculation table and the payment receipts shall be submitted to the Board.

### **SECTION VII**

#### **Failure of the Issuer to Meet the Standards Required To Be Issuer, Transfer of the Management of the Issuer to Public Authorities**

##### **Failure of the Issuer to Meet the Standards Required Being Issuer**

**Article 29-** (1) The Board shall decide that the issuer failures to meet the standards to be an issuer if the following conditions occur:

- a) Revocation of the operating permission of the issuer,
- b) In the event of notice that issuer has failed to meet criteria stated in Article 6,
- c) Notification of BRSA regarding related bank that there is a matter preventing to be an issuer to the Board,
- ç) Failure of rectifying the violations of provisions stated in the Law and this By-law within two weeks,
- d) Failure of making payments related to İTMK within two weeks, although it is overdue,
- e) No issuance by the issuer within three years following the Board decision that issuer has the authority to issue İTMK,
- f) No issuance by the issuer within three years following the complete redemption of the İTMK,

(2) In case the issuer fails to meet the standards to be an issuer, the Board simultaneously shall appoint another authorized bank or mortgage finance corporation, cover monitor or another audit firm as the manager, for the pursuit of the best interest of the İTMK holders, in order to manage cover assets and make payments to the İTMK holders in proportion to income from cover assets without assuming the liabilities related to İTMK. If the manager is a bank, the Board shall obtain BRSA's opinion on whether there is any matter preventing to be a manager.

(3) The fee that will be paid to the manager shall be determined by the Board and shall be financed through the income obtained from cover assets. Appointment of the manager ends the duty of the cover monitor. In case the issuer fails to meet the standards to be an issuer, income obtained from cover assets shall be used before all else, for the payments arising from total liabilities and for the payments the manager fees. Within the context of Article 13/A of the Law, until the İTMKs are completely redeemed, cover assets can not be distrained including the collection of the public receivables, can not be subject to precautionary measure decisions of courts and can not be included into the bankruptcy estate of the issuer.

(4) For the purpose of making payments arising from total liabilities in due time, manager may manage the cover assets actively, sell assets and buy new assets if necessary, take credit or make repo transactions.

(5) With the consent of the Board, the manager may transfer cover assets and total liabilities partially or totally to another bank or mortgage finance corporation authorized by the Board as the issuer. If the transferee is a bank, the Board shall ask the opinion of BRSA. As a new issuer, the transferee bank or mortgage finance corporation is liable for payments arising from total liabilities. New issuer obtains ownership of the cover assets with completion of the transfer. After total liabilities are completely met, the surplus of cover assets, if any, belongs to new issuer. New issuer may merge transferred cover assets with those of other ITMKs, if any, issued before. In cases where manager gets an additional payment from new issuer in exchange for transfer of cover assets and total liabilities, this additional payment is refunded to the original issuer.

(6) In cases that a new issuer could not be found and income obtained from cover assets is not sufficient; the manager is not liable for making payments arising from total liabilities. In this case, the manager allocates the income obtained from cover assets both to ITMK holders and counterparties of derivative contracts, which are recorded in the cover registry, in proportion to their claims. The manager may propose the early redemption of the ITMK in cases where it is necessary for the best interest of ITMK holders. If approved by the Board, manager may cash in the cover assets and exercise the redemption of the ITMK. ITMK holders and counterparties of derivative contracts, whose receivables have not been paid, may extend their claims to the other assets of the issuer. Surplus cover asset is returned to the issuer after total liabilities and the manager fees are paid.

#### **Transfer of Management of Issuer to Public Authorities**

**Article 30-** (1) With the consent of the Board, the issuer, whose management is transferred to public authorities but the operation permission of the issuer is not revoked, may transfer cover assets and total liabilities partially or totally to another bank or mortgage finance corporation authorized by the Board. If the transferee is a bank, the Board shall ask the view of BRSA. As a new issuer, the transferee is liable jointly with the original issuer for payments arising from total liabilities. New issuer obtains the ownership of cover assets with completion of the transfer. After total liabilities are completely met, the surplus of cover assets, if any, belongs to new issuer. New issuer may merge the cover assets that it acquired with those of other ITMKs, if any, issued before. Issuer may get an additional payment from new issuer in exchange for transfer of cover assets and total liabilities.

(2) As long as cover assets and total liabilities are not totally transferred to a new issuer and the operation permission of the issuer is not revoked, the issuer continues to manage the cover assets and make payments arising from total liabilities. If the operation permission of the issuer is revoked, provisions of Article 29 shall be applied.

#### **Appraisal of the Real Estate Securing the Loans Granted Before This By-Law is Enacted**

**Interim Provision 1-** (1) In case the value of the real estate securing the loans granted before the enactment of this by-law has been appraised by a report prepared by an independent licensed appraiser in accordance with the Board's relevant regulations and standards, it is assumed that the obligation stated in the third paragraph of Article 9 has been met. However, in cases where the licensed appraiser is a staff member of the institution granting the loan, then he/she must be conducting the appraisal independently from the division and the staff authorized for the credit decision.

#### **Validity**

**Article 31-** This by-law shall become valid upon the date of publication.

#### **Enforcement**

**Article 32 -** The clauses in this By-law shall be enforced by the Board.