



Turkish Real Estate Investment Funds

The first four years

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Turkish Real Estate Investment Funds in a Nutshell



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Real Estate Investment Funds (“REIFs”) have been introduced into Turkish law with the Capital Markets Board of Turkey (“CMB”) Communiqué on “Principles Regarding Real Estate Investment Funds” (“REIF Communiqué”), which was published in the Official Gazette dated 3 January 2014 (No. 28871). This Communiqué was put in place to provide the regulatory framework for the establishment and operation of Turkish REIFs, the sale of Turkish REIF Units to Qualified Investors (“QIs”), and related transparency and reporting requirements for REIFs.

Turkish REIFs are contractually formed open-end funds. They have no legal personality and are managed by Portfolio Management Companies (“PMCs”) or PMCs with limited activities such as Real Estate Portfolio Management Companies (“REPMCs”) ¹ that have to be established in joint stock company form. One PMC or REPMC may manage several REIFs. An REIF is set up as a specialized fund which is accessible to only QIs.

The Communiqué introduced a lightly regulated and flexible regulatory model, in line with the international market standards and customary practices for REIFs. Similar to the Alternative Investment Fund managers Directive (“AIFMD”) the Communiqué sets forth provisions on custodianship, transparency and reporting requirements for sponsors and/or managers.

- Contractually formed
- Sale to QIs only
- Established and managed by Turkish PMCs or REPMCs licensed by the CMB
- No legal personality but for the purposes of registration to Land Registry Office and tax
- Exclusively invest in Real Estate Investments and Other Allowable Investments
- Assets safe-kept by an independent custodian
- Fully exempt from corporate taxation

¹ There is another type of PMC which is called a “Real Estate and Private Equity Portfolio Management Company”. These type of PMCs are able to establish both REIFs and Private Equity Investment Funds.

Turkish REIFs

Turkish REIFs are defined as asset pools (collective investment schemes) with no legal personality, established and managed by PMCs or REPMCs that have operating licenses from the CMB, for a definite or indefinite period of time, on behalf of QIs, on the basis of fiduciary ownership, for the purpose of making real estate investments in a wide range of real property assets such as land, real property, residences, offices, shopping malls, hotels, logistical centers, warehouses, parks, and hospitals.

REIFs have “legal personality” only for the purposes of land registration, changes related to registration, cancellations and corrections at the Land Registry Office and for tax purposes.

This document provides an overview of Turkish REIFs. It covers the structure, economics, management, custody, fundraising, fund closings and terms, reporting requirements and certain Turkish regulatory matters, and principal documents involved in forming a Turkish REIF. It also explains the tax treatment of Turkish REIFs and their investors.

The key characteristic features of REIFs

- REIF units can only be sold to QIs;
- *de minimis rule*: the minimum amount of the fund to be raised and invested must be at least TRY 10 million within one year following issuance of units (otherwise the fund must be liquidated);
- REIFs can only be established and managed by Turkish PMCs or REPMCs, which hold licenses issued by the CMB;
- the founder (founding Turkish PMC or REPMC) may manage the fund itself, or alternatively, third party Turkish PMCs or REPMCs can be assigned as the manager;
- the founder must have the required organization structure and the personnel set forth in the Communiqué.
- unlike Real Estate Investment Companies (“REICs”), REIFs do not have legal personality (except for property and tax law purposes) but rather they are asset pools contractually created with a Circular²;
- REIFs cannot engage in any activity other than Real Estate Investments and Other Allowed Investments (e.g., investment fund participation units, repo and reverse repo transactions);
- unlike REICs, REIFs cannot invest in real estate development projects. However, exceptionally, REIFs can invest in real estate development projects with a building license and conducted by Housing Development Administration (TOKİ), Turkish Provincial Bank (İller Bankası A.Ş.), municipalities, and their subsidiaries or associated parties.
- at least 80% of the total value of a REIF should be composed of Real Estate Investments;
- assets of REIFs should be kept by an independent portfolio custodian;
- assets of REIFs must remain separate from the assets of the founder (principal), the custodian, and the manager;
- REIFs are regulated and supervised by the CMB; and
- REIFs are fully exempt from corporate taxation.

² A Circular is an «adhesion contract» by and between the founder of the REIF, its custodian, its portfolio manager and QIs describing general transaction terms regarding the custody of the fund’s assets and the management of the fund’s portfolio pursuant to the principles of fiduciary ownership. It is standard form document and does not bear the signatures. Investors are deemed to have accepted the terms of the Circular when they invest in the fund.

Expert view: First 4 years of Turkish REIFs



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As mentioned in the latest PwC-ULI joint report, Emerging Trends in Real Estate Europe 2018, Europe's real estate industry remains “cautious but positive” as it comes to terms with today's low-return market and the longer-term disruptive forces of technology and social change³. Similarly we are “cautious but positive” on the future of Turkish REIFs.

Turkey has been one of the major emerging markets in the real estate industry since 2003. Despite certain global, regional and domestic instability in recent years, not only domestic but also international investors continue to consider Turkey to be an emerging market in the real estate sector, particularly because of its high population growth and strong demand for housing.

Despite the hardships of the last couple of years, according to Investment Support and Promotion Agency of Turkey reports, over the last decade the real estate sector accounted for approximately 8.4% of GDP, and on the investment side, FDI inflows stood at USD 10.8 billion, with real estate and construction garnering USD 4.2 billion (38.8%) of total FDI in 2017⁴. Recently, in the Turkish real estate market, most investors have intended to make investments in residential assets, taking into account government support in that area and for urban transformation projects.

On the other hand, within four years of the introduction of REIFs by the CMB in 2014, which unfortunately coincided with a slow-down in Turkish real estate investments, as of May 2018 6 new REPMC's and 33 REIFs have been established by 14 PMCs (six of them being these new REPMCs) and have issued participation units⁵. Yet so far there is no publicly available data on the quantity of participation units that have actually been sold to investors, or the number and profiles of such investors. These REIFs have various investment strategies, although the majority of them have been established to invest in specific properties (e.g., a shopping mall or residential property), while some focus on land investments and others on specific regions within the scope of their investment strategies. Almost half of these REIFs have been established for an indefinite period of time (which is somewhat unusual in such alike REIFs at a global level), while the rest have terms ranging from 4-12 years. Generally, management

fee charges of managers range from 1-2% per annum and only some charge exit commissions (e.g., 10%), whilst others do not impose such commission charges at all, raising questions as to the sustainability of the model for the PMCs. Further, unlike the common practice of global REIFs, there are 4 REIF units which are traded on an exchange (BIST) and which do not operate on a contractual commitment basis, but rather simply rely on standard format fund circulars.

Although the Turkish REIF regulation is largely in line with global standards, providing a tax efficient, secure and flexible investment platform due to the possibility the Fund, its investors and the PMC/REPMC can freely set contractual terms and conditions for the operation of the REIF through an investors agreement (e.g., setting rules around commitments and the desired governance model), and because there is substantial room for growth, it seems that the Turkish ecosystem needs time to improve and further align with the best global REIF practices, especially when it comes to the fund documentation. Proper fund documentation (e.g. investors agreement) is particularly important to mitigate the potential future disputes among investors and PMC/REPMCs, that have been seen elsewhere, especially after the global economic crisis in the late 2000's. Building investors trust in Turkish REIFs is critical. Turkish investors, traditionally known to be hesitant to invest their savings in financial products, should be given time, and they require patient and convincing effort, deserve world class offerings providing legally and financially secure solutions, much like those international investors would expect to see.

Despite the government's policies encouraging pension funds to invest in REIFs, empirical observations suggest that Turkish pension funds have so far been somewhat hesitant to do so. They seem to need more time to digest the idea of investing in essentially illiquid assets such as REIFs, should they seriously aim to reach out for relatively higher yields, which they are much in need of. Yet given the vast opportunities for returns, we are optimistic about the future appetite of Turkish pension funds as regards REIFs in the long future.

Hence for the future, given their potential, we are “cautious” but rather “positive” regarding the future potential of Turkish REIFs.

**We are
“cautious
but positive”
on the future
of Turkish
REIFs**

3 <https://www.pwc.com/tr/tr/sectorler/gayrimenkul/gayrimenkulde-gelisen-trendler/gayrimenkulde-gelisen-trendler-avrupa-2018.pdf>

4 <http://www.invest.gov.tr/en-US/sectors/Pages/RealEstate.aspx>

<http://www.invest.gov.tr/en-US/infocenter/publications/Documents/REAL.ESTATE.INDUSTRY.pdf>

5 <http://spk.gov.tr/Sayfa/AltSayfa/1257>

Advantages of REIFs

REIFs provides great freedom to the Founders to tailor the specific operation and management of fund investment, within the framework set forth by their charter documents, namely the Circular, Issuance Certificate and Key Investor Information Document. Hence, substantial terms and conditions (e.g., commitments, fund governance, distributions, transfer of participation units, default of investors, covenants, arbitration etc.) regarding the operations of REIFs can be determined flexibly by investors and PMCs by way of signing an Investors (or Fund) Agreement (“IA”)⁶.

Other advantages of REIFs are tax and reduced regulation.

Tax Benefits

Income earned by a Turkish REIF is fully exempt from corporate tax. Moreover, REIF income which is exempted from corporate tax is subject to 0% withholding tax.

REIFs are exempt from corporate tax

Both cash dividend receipts (e.g., periodic distributions from REIFs) and cash proceeds from returning the Units to the Founder for redemption by the QIs possess the same characteristics for Turkish tax purposes. Therefore, in our view, income generated by REIF investors by either means should be treated as “dividend income”.

According to draft guideline issued by Revenue Administration, income derived from the disposal of REIFs participation certificates are “capital gains”; and both capital gains and cash dividends fall under the scope of withholding tax regime (under the Income Tax Law, Temporary Article 67).

Distributions from REIFs are subject to 10% withholding tax

Hence, both the capital gains and dividend income of Turkish resident and non-resident individual QIs participating in REIF(s) are subject to 10% withholding taxation. Turkish resident and non-resident individual QIs participating in REIF(s) are not required to make any tax filing. Thus, 10% withholding is the final Turkish tax burden.

For resident corporate QIs (including non-resident corporate taxpayers that have a permanent establishment such as a branch office in Turkey), income from REIFs are subject to withholding taxation at the rate of 0%. Turkish resident corporate QIs which are required to submit corporate tax return, will include such income in their corporate income.

On the other hand, for non-resident corporate QIs, 0% withholding tax on distributions from REIFs is the final taxation and the non-resident corporate QIs are not required to make any tax filing.

Contracts signed by REIFs in relation to the purchase and sale of property are exempt from Stamp Duty. With respect to other taxes such as VAT and title deed registration fees, there are no specific exemptions for REIFs.

Capital in kind injection of property into a REIF by way of corporate spin-off is not possible.

QI status

REIF Units can only be sold to QIs. Any person owning at least TRY1,000,000 worth of financial assets, including bank reserves and/or capital market instruments shall be classified as a QI. Also, QI status is granted to intermediary institutions, banks, pension funds, and similar financial institutions. Additionally, Central Bank

of Republic of Turkey and other state organizations, alongside international institutions, benefit from QI status. Additionally, companies are eligible for QI status where two of the following criteria are met: a minimum of TRY50 million in total assets; a minimum of TRY90 million in annual net revenue; and/or a minimum TRY5 million in cash capital. The Capital Markets Board may also determine other organizations it deems suitable as QIs.

Buying in

To acquire a stake in REIFs, QIs should first sign-in the required documentation and then buy the Units (which are dematerialized capital market instruments) in exchange for cash only. Units represent their ownership in REIFs but do not have a nominal value. Rather, the value of a Unit is determined by dividing the net asset value of the REIF by the total number of Units. The value of Units must be calculated and notified to QIs at least annually.

Marketing and distribution rules

Marketing and distribution of REIF participation Units requires seeking the appropriate documentation verifying the eligibility of the investors for QI status and Founders must approve transfers and maintain verifying documentation for at least five years. Mutual liability will be shared by the parties in the event of a breach.

Public marketing of the Units is prohibited, including the general solicitation of investors or general advertising of the REIF. Marketing should be targeted towards potential QIs. Meetings scheduled prior to REIF establishment for the purpose of identifying potential QIs are not considered as public marketing.

6 IA is an agreement made between QIs, a PMC and a Fund with respect to the terms and conditions regarding the operations of the fund. Though the regulation does not explicitly require one, since it is legally a natural requirement and as it is a very customary practice elsewhere in the fund industry, *de facto* it should be seen as a requirement.



*REIFs can only be established
and managed by Turkish PMC's*



Exit by redemption or QI to QI transfer

QIs may exit from REIFs either by returning their Units to the Founder (redemption) or transferring them to other QIs (QI to QI transfer), pursuant to the principles established in the Issuance Certificate “IC”⁷. It is, however, possible for Founders to restrict transfers to other QIs. In the event of redemption, the Founder is obligated to ensure that the REIF has sufficient cash to pay to the QIs when QIs redeem their participation Units.

The Founder can purchase up to 50% of the Units for its own portfolio. In this case, such Units are returned to the Fund within two years following the purchase date of the participation Units.

Participation units of REIFs can be listed and traded on BIST following the approval of the CMB regarding issuance. In this respect, there should be related provisions in the IC. The intermediary brokerage house must confirm that the customer is a QI before sending the order. On this basis, however, a new investor may participate in REIFs without the approval of the Founder and without any contract it has explicitly subscribed, which is somewhat beyond what is customary in such, essentially contractual, investment platforms.⁸

Deferring redemption

Redemption may be deferred to the extent the Circular grants the Founder such a right, on lack of liquidity grounds and/or if divestment of the investments can be documented to be economically unfeasible for the QIs. Moreover, as long as it is explicitly provided for within the IC, IA⁸ and the Circular, redemption can be deferred until the date REIF is terminated.

Commission on sale and redemption

Commission may be charged both on the sale of Units to QIs and the redemption of Units by QIs, depending on the terms specified in the IC and IA. Such a commission charge (if any) should be treated as income to the REIF.

However, pension funds that invest in REIFs⁹, are not allowed to pay any entrance, exit or early exit commission.

Safeguards

Additional safeguards are likely to be offered to QIs in the IA, (to a certain extent in the Circular and to a relatively greater extent in the IC), but the minimum legal requirements in REIFs include:

- an Investment Committee
- declaration of participation Unit value to participating QIs at least annually
- mandatory appointment of an auditor in the Issuance Certificate
- credit limitations on the total amount undertaken and the total value encumbered by the REIF founder/manager and mandatory declaration thereof
- custodian is a necessary signatory for significant REIF transactions
- QI notification by REIF Founder/Manager of undertaken investments within 15 days
- independent appraisal by a CMB listed appraiser for significant transactions (sale/lease)
- mandatory expertise required of REIF founder/manager and investment committee
- REIFs must exclusively invest in Real Estate Investments (at least 80% of the total fund value) and Other Allowable Investments
- REIF assets are separate and distinct from assets held by the Founder/Managers/Custodians

⁷ IC is an informative document, requiring CMB approval prior to issuance which shows the characteristics of the fund and the terms of sale of the participation units. IC can be tailored based on the needs of the structure but technically is not an explicitly signed contract.

⁸ A list of the listed REIFs can be found at <https://www.kap.org.tr/tr/YatirimFonlari/GMF>

⁹ According to the Regulation on Principles of Establishment and Activities of Pension Funds, 20% of the Pension Fund portfolio can be invested in investment funds (such as REIFs). However, the investment amount for a single investment fund can not exceed 4% of the fund portfolio.



REIF Management

Management of REIF assets should be for the benefit of and in line with the interests of the QIs. It is governed by the Circular, the IC and the IA. Rules and principles set forth in the CMB Communiqué on Portfolio Management and the Capital Markets Law determine the minimum standards applicable only. However more detailed and tailored governance rules are set forth normally in the IA.

The Founder's Board of Directors represents the REIF in the execution of all activities and this authority can be delegated to one or more board members. Certain duties may not be delegated, such as fund establishment, issuance of units, liquidation, increasing portfolio management fees and other transactions which may potentially impact on the investment decisions of the QIs.

Specific rules regarding governance issues, such as formation and the authority of the Investment Committee, are set forth in the IA.

Real estate expertise requirements

An Investment Committee should be created by the Founder comprising at least three persons: one Founder Board Member with five years of experience in the real estate sector, one appraisal expert holding a Real Estate Appraisal License, and the chief executive of the company.

In addition to the members that are required to meet the minimum member requirement for the Investment Committee, investors can also nominate others to the Investment Committee. There is no limitation on the number of members and no qualification criteria stated in the regulation for members nominated by the Investors. Furthermore, the quorum for the meeting and resolutions as well as for making decisions (for example, decisions on investments, distributions, liquidation of the fund, borrowings, issuance of new participation units) can be determined flexibly by the investors and PMCs in the IA. Thus, privileges in relation to certain decisions can be granted to either party (i.e., investors or the PMC) by regulating the relevant terms in the IA.

In this respect, the flexibility in the governance of Investment Committees provides both investors and managing PMCs with various alternatives for the governance structures of REIFs.

No regulatory cap for management fees

In the absence of a regulation regarding management fee caps in the relevant communiques, management fees may be charged to the REIF at periods determined in the Circular, the IC and the IA. Whether management fees reduce an investor's unfunded commitment is determined in the Circular, the IC and the IA. Also, the management fee may be arranged to reduce after the end of the investment period.

Additionally, there is no regulatory prohibition against a management fee offset mechanism, requiring adjustment to the fund management fee against a percentage of management services, transaction fees and other fees received from the REIF's real estate investments.

Moreover, a Performance Fee may be charged at the end of each end of accounting period or on redemption dates, but exclusively on income from Real Estate Investments, or capital gains upon exit from Real Estate Investments. Again, the Circular, the IC and the IA provide guidance because legislation does not impose any specific methodology for calculating carried interest.

Management must shoulder daily expenses

Management is expected to bear the cost of its own ordinary administrative and overhead expenses incurred in managing the fund, such as employee compensation and benefits, rent, and general overhead.

On the other hand, there is no prohibition against the Founder and/or the manager charging REIFs for organizational expenses for the costs of establishing and managing the REIF after the sale of the participation units. Organizational expenses are borne by the REIF's investors out of their capital commitments, and it is possible to cap such expenses in the IC and the IA.

Establishment Process

The founding PMC or REPMC (Founder) must make an application to the CMB by submitting a draft Circular, standard form and other required documents and information.

CMB carefully scrutinizes the Circular and examines how the Founder has framed operations for the proposed REIF, within two months. Upon approval of the Circular, the CMB grants permission to establish an REIF, and a custodianship agreement should be signed by the Founder and a custodian. The Founder must register the approved Circular with the Trade Registry Office and publish it in the Trade Registry Gazette within six days.

Approval of the IC by the CMB is necessary in order to raise funds from QIs. The Founder must apply to the CMB to start issuance by submitting the IC and other required documents within six months from the registration of the Circular.

Unless it is the first REIF of a Founder, REIF establishment and IC approval applications are submitted together and the CMB reviews such applications simultaneously. A first time applicant Founder, however, must submit applications for REIF establishment and IC approval separately.

CMB determines whether to approve the IC within 20 business days. Where the IC is not approved, the applicant is notified of the reasons for the rejection.

Sale of units

After CMB approval, Units can be sold to QIs through appropriate distribution channels during the sale period announced in the IC, pursuant to principles therein as well as the IA and the Key Investor Information Document ¹⁰ ("KIID"), if any.

In REIFs established for an indefinite period, if QIs would like to see that the Founder has "skin in the game" and is making its own commitment to the fund, the Founder can purchase 50% of the participation Units for its own portfolio. However, such Units must be returned to the fund within two years.

Investment restrictions

REIFs may not engage in any activity other than Real Estate Investments and Other Allowable Investments. At least 80% of the Total Fund Value (Real Estate Investments + Receivables – liabilities) of an REIF must consist of Real Estate Investments. REIFs can invest at most 20% of the Total Fund Value in real estate companies (companies with assets of at least 75% real estate investments on a regular basis).

Investments which alone account for 20% of an REIF's Total Fund Value cannot exceed a proportion of 60% of that REIF's Total Fund Value. The Total Fund Value of a REIF consisting of encumbered real estate property and rights cannot exceed 30% of the REIF's Total Fund Value. REIFs, however, can also be established to invest in a specific real estate property (the 60% threshold does not apply) or in a specific sector (e.g., hotels, shopping malls, etc.).

¹⁰ The Key Investor Information Document summarizes the structure, investment strategy and risk concerning the REIF. The Founder maintains the form accurately, and ensures it is updated promptly and is consistent with the Circular and the IC. Preparation of a KIID is optional.



The Communiqué sets the minimum safeguards for QIs and all others can be structured in the Investors Agreement



Classifying Real Estate Investments

All investments in real estate and related rights are considered real estate investment for REIF purposes. The Founder or the Portfolio Manager of an REIF may engage in the sale, purchase, lease, and promise to sell and buy all types of real estate for the purpose of generating income based on lease, sale and purchase.

Investment in capital markets instruments issued by REICs, real estate certificates, participation units of other REIFs, as well as shares of joint stock companies with a minimum 75% of real estate investments in their total assets, are considered real estate investments under the above thresholds.

Investment Principles

REIF Founders have extensive powers to engage in real estate investment activities on behalf of the REIF, including establishing encumbrances, construction rights and other such rights over realty. These powers are limited in accordance with the REIF Communiqué and their scope is further determined in the Fund Information Documents (i.e., IC, Circular, KIID and IA).

Other Allowable Investments

A part from Real Estate Investments, REIFs are only permitted to invest in the below (Other Allowable Investments):

- shares of joint stock companies registered in Turkey,
- public and/or private debt instruments,
- foreign public and/or private debt instruments and shares of foreign companies as long as the requirements of the Foreign Exchange law are met,
- bank deposits and participation bank account deposits,
- investment fund participation units,
- repo and reverse repo transactions,
- warranties and certificates,
- lease certificates and real estate certificates,
- Settlement and Custody Bank money market transactions,
- cash collateral for derivative market instruments and premiums,
- foreign special purpose investment instruments to be approved by the CMB, and
- other investment instruments to be approved by the CMB.

Rehabilitating breach of restrictions

Compliance with the investment restrictions in the relevant fiscal year's Total Fund Value statement is mandatory.

If the investment restrictions are breached for incidental reasons, other than redemption of participation Units or appreciation in the value of Other Allowable Investments, an application can be made to the CMB to request a one year grace period to rehabilitate the ratio. If the ratio cannot be rehabilitated at the end of such one year grace period, the REIF should terminate its investment activities and deregister with the Trade Registry office within two years.

If the investment restrictions are breached due to the sale of Real Estate Investments, a two year grace period may be granted.

If the ratio cannot be rehabilitated during this time, the REIF should terminate its investment activities and deregister with the Trade Registry within two years. The right to file such request, however, can be exercised only once in any five year period.

Leverage Limitations

REIFs may borrow not exceeding 50% of a REIF's Total Fund Value. When a REIF borrows, the Founder must disclose all information to the CMB and the QIs within 30 days of the end of the fiscal year.

Non-permissible investments and services

The Founder or the Portfolio Manager of an REIF is forbidden to invest in real estate projects and construction or provide any related property management, project development, or project control activities. However, exceptionally, REIFs can invest in real estate development projects with a building license and which are mainly carried out by the Housing Development Administration of Turkey (TOKİ), Turkish Provincial Bank (İller Bankası A.Ş.), municipalities and/or their subsidiaries.

Regular short term sale and purchase of REIF real estate, investment in commodities, or the purchase, sale or lease of real estate abroad by Founders is forbidden.

Additionally, short sale of capital market instruments included in the REIF portfolio, margin trading and borrowing capital market instruments, derivative transactions that will incur an open position value exceeding 20% of the Total Fund Value, by REIF Founders is not permitted.

Dividend Distributions

REIFs may distribute dividends as determined in their ICs and all capital contributions for a particular investment can be returned to the QIs who provided it prior to any other distributions made from the proceeds of that investment. And, it is possible to arrange the distribution waterfall splits over the residual profits in accordance with the rates determined in the Circular, the IC and the IA. Accordingly, in the Circular, the IC and the IA, the waterfall distribution can be designed based on specific needs.

Independent Appraisal required

Certain transactions are subject to valuation by CMB listed appraiser and should be independent from the Founder and/or the Portfolio Manager of the Fund and/or their related parties. Such transactions include: the rental, sale and purchase of real estate and related rights, lien establishment, and other transactions concerning the portfolio deemed appropriate by the CMB.

Minimum Investment Requirement for Pension Funds

The Turkish private pension fund industry, which lags behind that of other OECD-member countries in terms of the 'pension fund to GDP ratio', is severely criticized on the grounds that pension fund returns do not provide expected yields compared to alternative saving/investment vehicles. This is mainly because pension funds invest their portfolios in liquid and fixed income assets (e.g., government bonds, bank deposits), and their investments in listed equities are rather limited. To encourage pension funds to make higher yield investments, albeit in less liquid assets, on 15 December 2016 and 20 June 2017 the Undersecretariat of the Treasury regulated that by 2019 a minimum of 10% of the assets of standard pension funds must be invested in shares of REIFs, private equity investment funds, capital market instruments related with infrastructure projects, and Turkish Sovereign Wealth Funds.

However, despite such 'encouragement' and the fact that there is no legal barrier hindering private pension funds from investing in REIFs, so far private pension companies have not sufficiently grasped the opportunity, probably mainly because this requires a change of mindset regarding investing in less liquid assets and they need some time to digest the rules of the new playground.

Role of the Custodian

Assets of the REIF should be monitored in accordance with provisions of the Communiqué on Custodianship of Portfolios, and documents, records and information should be maintained by the portfolio custodian. All necessary information should be communicated to the Portfolio Custodian within 10 days following the investment date within the framework of the Custodianship Agreement. Real estate and real estate rights included in the Fund portfolio are registered to the Land Registry Office on behalf of the Fund. Land registration is executed on behalf of the fund by the joint signature of the authorized signatories of the Founder and the portfolio custodian.

Primary Protection

REIF assets cannot be set off from the debts and obligations of the Founder to third parties against receivables the Fund will obtain from the same such third parties. Furthermore, REIF assets cannot be pledged or otherwise collateralized for any reason not provided in the IC and the Circular. Additionally, REIF assets benefit from partial immunity in respect of disposal, confiscation, subject to an interim injunction, or included in a bankruptcy estate for purposes, including collection of public debts.

CMB's Watchdog role

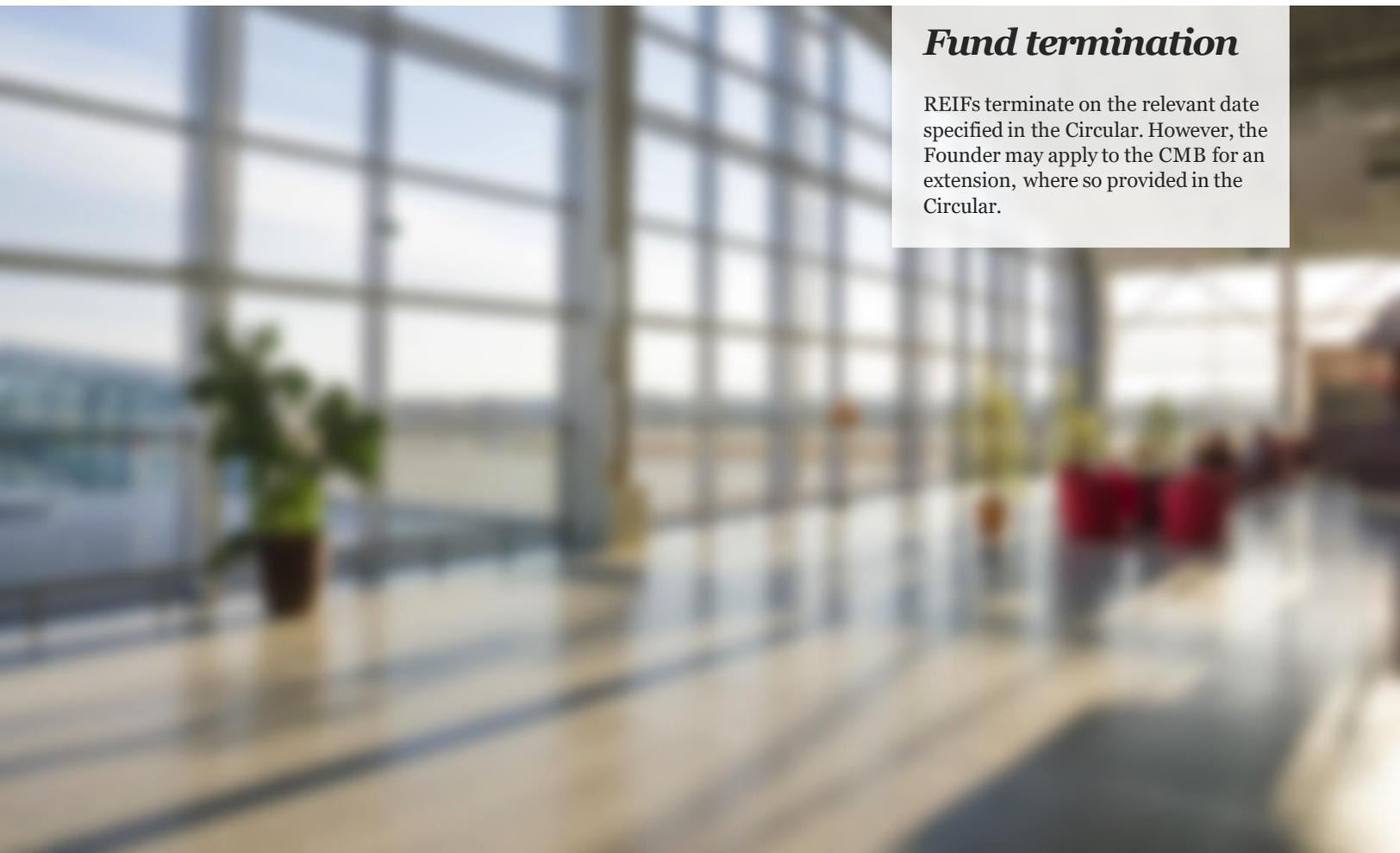
All accounts and operations of the Founder in relation to REIFs are subject to CMB supervision. In addition to periodic reports and financial statements, CMB may request information whenever deemed necessary. Further to CMB fee collection, quarterly price reports including REIF Unit values must be submitted to the CMB, and at least annually to Unit holders.

Reporting to CMB and Unit holders

The Founder and the manager should inform Unit holders regarding information related to any Real Estate Equity Investments within 15 days after the investment date. Related Valuation Reports in relation to real estate and other assets in the portfolio of the Fund to the CMB within 10 business days after the reports are received.

Fund termination

REIFs terminate on the relevant date specified in the Circular. However, the Founder may apply to the CMB for an extension, where so provided in the Circular.



Gündüz Şimşek Gago Attorneys at Law ('GSG Attorneys at Law ') provides solutions for a wide range of legal issues, from incorporation to complex structuring alternatives for domestic and multinational clients in a wide range of industries. GSG Attorneys at Law brings to be table its experience in corporate law, financial law and tax and customs dispute resolution with specialized teams.

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