

“Promoting Security and Stability through Good  
Governance”  
FIRST PREPARATORY MEETING  
Anti-Money Laundering and Countering the Financing  
of Terrorism  
Vienna, 6-7 February 2012

ENGLISH only



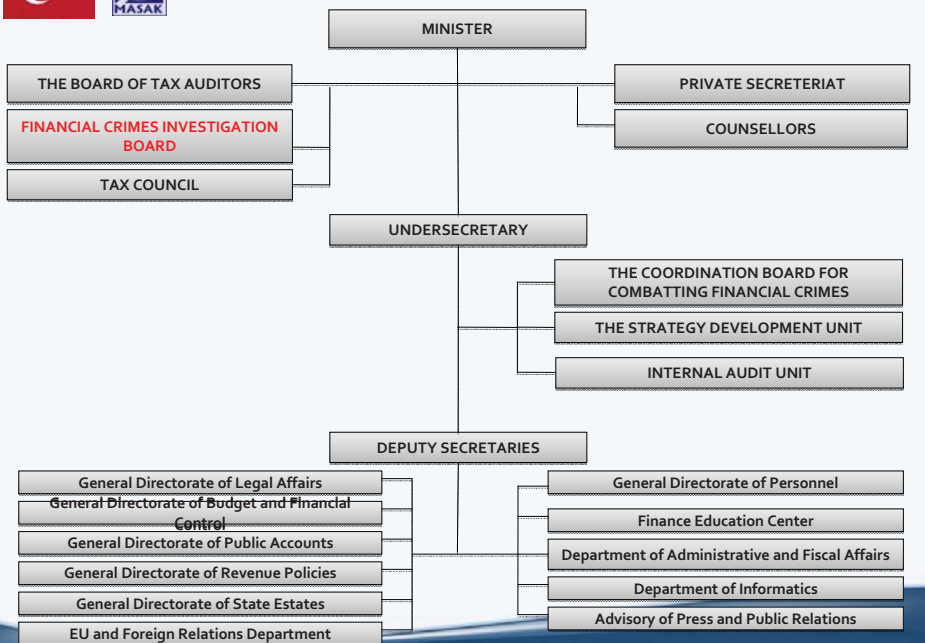


## Financial Crimes Investigation Board (MASAK)

- MASAK was established with the enactment of Law no. 4208 on *Prevention of Money Laundering* on 19.11.1996 and started to carry out its functions on 17.02.1997

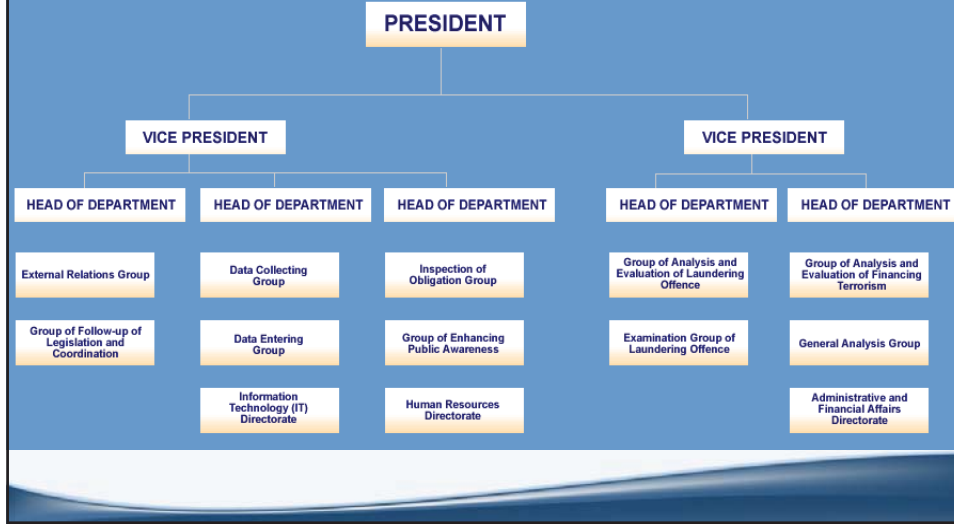


## Organization Chart of Ministry of Finance





## MASAK ORGANIZATION CHART



## Mission and Vision of MASAK

### Mission

With regard to preventing money laundering and detecting this offence

- to make policies and to contribute making regulations
- to collect information fast and reliably and to analyze them
- to carry out investigation and research and
- to convey the information and the results to relevant authorities

### Vision

To become a leading institution that helps to create an efficient economy and a clean society by combating laundering of illicit proceeds and corruption effectively.



## **Duties and Powers of MASAK**

In accordance with the Law No:5549 which entered into force in October 2006, duties and functions of MASAK have been re-established.

### **Core FIU Functions**

Receiving STRs  
Analysis and Evaluation of STRs  
Dissemination

### **Other Functions**

Regulation  
Investigation  
Inspection  
Coordination  
International Cooperation



## **Investigation Function**

- Investigations are conducted through FCI experts
- During the investigation, if required, MASAK can request law enforcement and other relevant units to make examinations in their fields.
- ML and TF cases are sent to the public prosecutor's office for legal action in cases where serious suspicion exists.



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### **Inspection Function**

Inspection function covers inspection of compliance with obligations and examination of violations of obligations.



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### **Coordination Function**

MASAK

- Implements regulations;
- Coordinates institutions and organizations,
- Conducts joint activities with other public institutions and
- Exchanges views and information to prevent ML.



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## **International Cooperation Membership to Anti-Money Laundering & Financing of Terrorism Bodies**

- FATF (1991)
- The Egmont Group(1998)
- Euroasian Group (observer status)
- Moneyval (observer status)



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## **International Conventions Ratified by Turkey**

- UN Convention Against Illicit Traffic in Narcotic Goods and Psychotropic Substances (the Vienna Convention)
- UN Convention Against Transnational Organized Crime (Palermo Convention)
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Strasbourg Convention)
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (Awaiting ratification)



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### **International Conventions Ratified by Turkey**

- CE Criminal Law Convention On Corruption
- CE Civil Law Convention On Corruption
- UN International Convention for the Suppression of the Financing of Terrorism (New York Convention)
- UN Convention Against Corruption (Merida Convention)



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### **Regulation**

To prepare draft laws and regulations, in the scope of AML/CFT.

### **Legislation which entered in to force after the establishment of MASAK**

- Regulation on The Examination of Laundering Offence (04.08.2007)
- Regulation on Measures Regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism (09.01.2008)
- Regulation On Program of Compliance With Obligations Of Anti-money Laundering And Combating The Financing Of Terrorism (16.09.2008)



## Regulation

### Legislation which entered in to force after the establishment of MASAK

- Financial Crimes Investigation Board General Communiqué No. 5 (09.04.2008)
- Financial Crimes Investigation Board General Communiqué No. 6 (27.09.2008)
- Financial Crimes Investigation Board General Communiqué No. 7 (02.12.2008)
- Financial Crimes Investigation Board General Communiqué No. 8 (26.05.2009)



## Money Laundering Offence

Money laundering concept has entered our legal system by Law No: 4208 concerning the Prevention of Money Laundering, dated November 1996.

### Turkish Legislation Regarding Money Laundering

- Law No. 5237 Turkish Penal Code
- Law No. 5271 Criminal Procedure Code
- Law No. 5549 on Prevention of Laundering Proceeds of Crime
- Regulation on Measures Regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism





## Money Laundering Offence

### Turkish Legislation Regarding Money Laundering

- Regulation on The Examination of Laundering Offence
- Regulation On Program of Compliance With Obligations Of Anti-money Laundering and Combating The Financing Of Terrorism
- Financial Crimes Investigation Board General Communiqué No. 5
- Financial Crimes Investigation Board General Communiqué No. 6
- Financial Crimes Investigation Board General Communiqué No. 7
- Financial Crimes Investigation Board General Communiqué No. 8
- General Communiqué of Suspicious Transaction Reporting Regarding Terrorist Financing



## Money Laundering Offence

Article 282 of Turkish Penal Code;

“ A person who **transfers abroad** the proceeds acquired through **an offence requiring a minimum penalty of six months or more imprisonment**, or **processes such proceeds in various ways in** order to conceal the illegitimate source of such proceeds or to give the impression that they have been legitimately acquired shall be sentenced to imprisonment for a term of **3 to 7** years and judicial fine of up to twenty thousand days.”



## Money Laundering Offence

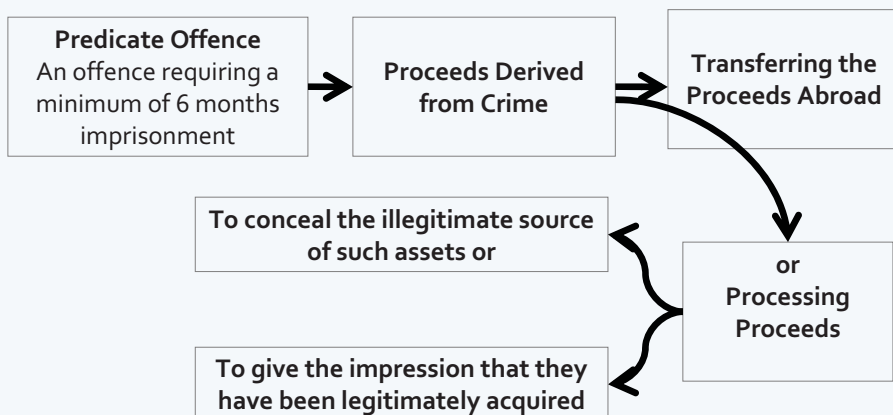
In June 2009 with the Law Amending the Turkish Criminal Law and Some Other Law, a new sub paragraph in article 282 is added;

purchasing, acquiring, possessing and using the proceeds are explicitly punished as:

“A person who without participating in the commitment of the money laundering offence, **purchases, acquires, possesses** or **uses** the proceeds which is the subject of that offence knowing the nature of proceeds shall be sentenced to imprisonment from **two years to five years.**”



## Money laundering offence in Turkish Law





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## Sanctions Regarding Money Laundering

- Imprisonment
  - 3-7 years for the acts set in p.1
  - 2-5 years for the acts set in p.2
- Judicial fine up to 20.000 days (100.-TL-2.000.000.-TL)
- Confiscation of goods and benefits (Turkish Penal Code, Articles 54-55)



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## Aggravating circumstances (Turkish Penal Code, Article 282 )

- In case ML is committed **by public servants or particular professionals**, during the execution of their professions, the sentence to **imprisonment shall be increased by half of it.**
- In case ML is committed in the context of the activities of a **criminal organization** designed for the purpose of committing offences, **the sentence shall be increased by one fold of it.**



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### **Exemption from Punishment (Turkish Penal Code, Article 282)**

Before initiating the prosecution procedure, **whoever enables the competent authorities to seize the proceeds** subject of the offence or facilitates seizing the proceeds by informing competent authorities about where the proceeds are concealed shall not be sentenced .



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### **Sanctions for Legal Persons**

- Administrative Fine (10.000.-TL - 2.000.000.-TL) (Law Number 5326, Article 43/A)
- Confiscation of the Legal Entity (Turkish Penal Code, Article 60)
- Cancellation of License (Turkish Penal Code, Article 60)



### **Terrorist Financing Offence**

In order to strengthen the CFT capacity of MASAK, a department only responsible for analysing and assessing TF cases was established in MASAK on 08.11.2007

### **Turkish Legislation Regarding Terrorist Financing**

- Law No: 3713 Anti-Terror Law (amended by Law No. 5532)
- Law No. 5237 Turkish Penal Code
- Law No. 5271 Criminal Procedure Code
- Law No. 5549 on Prevention of Laundering Proceeds of Crime
- Council of Ministers Decisions issued in accordance with UNSCRs.
- Regulation on Measures Regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism



### **Terrorist Financing Offence**

### **Turkish Legislation Regarding Terrorist Financing**

- Regulation On Program of Compliance With Obligations Of Anti-money Laundering And Combating The Financing Of Terrorism
- Financial Crimes Investigation Board General Communiqué No. 6
- General Communiqué of Suspicious Transaction Reporting Regarding Terrorist Financing



## Terrorist Financing Offence

### Article 8 of Law No: 3713 on Fight Against Terrorism

“Whoever knowingly and willfully **provides or collects** fund for committing partially or fully terror crimes, shall be punished as a member of an organization. The perpetrator is punished in the same way even if the funds have not been used.

Funds cited in the first paragraph of this Article shall mean money or all types of property, right, credit, revenue and interest, value of which may be presented by money, and benefit and value that was collected as a result of conversion thereof.”



## Sanctions Regarding Terrorist Financing

### Law to Fight Terrorism, Article 314

...

(2) Any person who becomes a member of the organisation defined in section one shall be sentenced to a penalty of **imprisonment for a term of five to ten years.**

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### Law Number 5237

- Confiscation of benefits (Turkish Penal Code, Articles 55)
- Confiscation of goods (Turkish Penal Code, Articles 54)



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### **Aggravating circumstance (Law to Fight Terrorism, Article 8 / A)**

- In case the perpetrator is a public officer and the crime is committed through the use of the office the imprisonment penalty is **increased by half**.



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### **Administrative Fine and Security Measures For Legal Entities**

- Administrative Fine (10.000 TL-2.000.000 TL) (Law Number 5326, Article 43/A)
- Confiscation of the Legal Entity (Turkish Penal Code, Article 60)
- Cancellation of License (Turkish Penal Code, Article 60)



**Thank you for your attention...**

**Bora AKMAK**

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