

## **CIRCULAR ON REGISTRATION OF FINANCIAL LEASE CONTRACTS COVERING FINANCIAL LEASES OF LEGAL PERSONS RESIDING ABROAD TO LEGAL PERSONS RESIDING IN TURKEY**

### **Purpose and Scope**

**ARTICLE 1 – (1)** The purpose of this Regulation is to determine the principles and procedures regarding the registration of financial lease contracts covering financial leases of legal persons residing abroad to legal persons residing in Turkey.

### **Basis**

**ARTICLE 2 – (1)** This Regulation has been prepared on the basis of Article 21 of the Financial Leasing, Factoring and Financing Companies Law of 11/21/2012, No. 6361

### **Definitions**

**ARTICLE 3 - (1)** In implementation of this Circular, the following terms and phrases have the meanings assigned to them below:

- a. Law: Financial Leasing, Factoring and Financing Companies Law No. 6361
- b. Association: Association of Financial Leasing, Factoring and Financing Companies
- c. Financial lease: A leasing transaction enabling one of the following aspects on condition to be based on a financial leasing contract; transferring the possession of an asset by the lessor authorized pursuant to this Law or related legislation to the lessee at the end of the lease giving the lessee the right to purchase the asset at a sum less than its current market value at the end of the lease period, lease period shall cover more than eighty percent of the asset's economic life, or the sum of current value of lease payments to be made pursuant to the financial leasing contract shall constitute more than ninety percent of the current market value of the asset.
- ç. Contract: Financial lease contracts concluded as per the Law,
- d. Contract Registration Fee: Fee determined by the Association and approved by the Banking Regulation and Supervision Agency,

(2) Cross border leasing transactions from abroad at least for two years, of air transport vehicles, and engines, as well as components and parts thereof, to airway companies performing passenger and freight carrying activities to be made by companies, institutions and financial leasing companies having the related authority pursuant to the legislation of the country in which they are established, based on the financial leasing contracts are deemed as financial leasing within the scope of this Law without being subject to the limitations in paragraph c.

### **Contract Registration**

**ARTICLE 4 - (1)** A Contract will be registered when it bears the following conditions:

- a) Documents provided in Annex-1, as annexed to the Registration Request Form, as provided in Annex-2, must be submitted to the Association before the subject product of the contract enters into Turkey. An amendment of the contract may not depend on the submittal of any other document other than indicated herein.
- b) For cross border leasing transactions from abroad, contracts for air transport vehicles, vessels, medical devices and high technology products that were certified such features by the relevant authority and whose annual average lease payment is more than USD 100,000 will be registered.
- c) Such contract must not include provisions against the law.
- ç) It must be declared and undertaken that the contract complies with the financial lease definition. This declaration should also include as to which criteria mentioned in Article 3 the contract meets.
- d) As per Article 26/1 of the law, if the lessee transfers its title of lessee and its rights and obligations under the lease upon the written approval of the lessor, contract modification due to this transfer will be registered as per Article 21 of the law.
- e) The lessor company has to be duly authorized to make financial leasing transactions in the country of its establishment. However, as for the financial leases as per Article 3.c/2, since the lessor is not required to be a financial leasing company, only requirement for the company is that it has the authorization to make lease transactions.
- f) The lessor company must prove and document that it has the ownership of the leased property.
- g) In case a modification contract is prepared between the parties, a financial leasing amendment contract, drawn up at Notary Public and its notarized Turkish translation should be annexed to the insertion request filed by the company or the attorney law office representing it to the Association. If the subject of the amendment contract is the modification by the lessor of the financial lease, the original contract must be inclusive of a clause allowing the transfer to a third person and the documents proving that the new lessor, to which the rights and obligations of the former lessor, also bears the qualifications as the former lessor does and the company's subject and purpose allows entering into financial lease transactions must be submitted to the Association. However, as for the financial leases under Article 3/2, the documents proving that the new lessor bears the same qualifications as the former lessor does and the company's subject and purpose allows entering into financial lease transactions must be submitted to the Association.
- ğ) In order to request the insertion of an amendment of the contract, an application must be filed to the Association before the end of the contract term.

**Cancellation of the Contract:**

**ARTICLE 5 – (1)** Cancellation of the contract from the registry is done after the contract term. Before the end of a contract term, a registration may be canceled upon the termination of the contract before its original term with a contract of termination or upon a court order or, for transactions cited in Article 3.c/2, upon a document taken from the General Directorate of Civil Aviation indicating that the subject product was canceled from the registry as per the Convention on International Interests in Mobile Equipment Aircraft Protocol.

**Documents to be obtained from abroad**

**ARTICLE 6 – (1)** It is essential that documents to be obtained from abroad in connection with applications covered by this Circular are approved by the competent authorities of the relevant countries and by the Turkish Consulates in such countries or as per the provisions of the Convention on Lifting Requirement for Certification of Foreign Official Documents prepared in the framework of the Conference of the Hague on Inter-State Particular Law and adopted by the Law No. 3028 of 06/20/1984 and that notarized translations of documents are attached to applications.

**Acceptance of the request**

**ARTICLE 7 -** Applications not filed in accordance with the principles and procedures specified herein will not be accepted.

**Entry into Effect ARTICLE 8 – (1)** This Law shall be effective on the date of its publication.

**Execution**

**ARTICLE 9 - (1)** The Association enforces this Circular.

This Circular is made effective by the letter of Banking Regulation And Supervision Agency of July 31, 2015 with No. 24049440-045.01[13/1.1]-19623.

## ANNEX-1

### DOCUMENTS REQUIRED

1. A financial lease contract prepared before a Notary Public or prepared through approval and its notarized translation,
2. Certificate of Authorizations, certificate of signatures or power of attorneys of the persons signing the contract on behalves of the Lessee and the Lessor,
3. Original document with an Apostille seal of the document indicating that the Lessee has the permission to operate in financial lease transactions (leasing transactions cited in Article 3/2 herein) and its notarized translation,
4. If the subject product is other than an aircraft, vessel and medical device, the original or notarized copy of the document given by a specialized agency indicating that the product is of high technology.
5. Technical Approval Certificate given by General Directorate of Civil Aviation,
6. Pro-forma invoice,
7. Bank document proving that the registration fee was deposited to the Association's account

**REGISTRATION REQUEST FORM**

**ASSOCIATION OF FINANCIAL LEASING, FACTORING AND FINANCING COMPANIES**

ISTANBUL  
...../...../.....

**SUBJECT** Registration of the Cross Border Leasing Contract

We request the registration of the contract signed between our company ..... and ..... and certified by the Notary Public of ..... with No. .... and date ..... on importing ..... through financial leasing, whose specifications are given below, as per the Financial Leasing, Factoring and Financing Companies Law No. 6361.

All documents and files with regard to this matter have been prepared in line with the Circular of your Association, dated ..... with No. .... and presented herewith.

Authorized signatory  
Applicant's Full Name,  
Signature and Title

**Information on the Leased Product Information on the Financial Lease Contract**

<b>Type</b>	<b>Serial No.</b>	<b>Motor Type</b>	<b>Contract Date</b>
<b>Contract End of Date</b>	<b>Product Year</b>	<b>Quantity</b>	<b>Engine Serial Number</b>
<b>Total Lease Amount</b>		<b>Pro-forma Amount</b>	<b>Purchase Option</b>

**Annex:** .....Cluster  
.....File