

## **Blockchain Technology, Cryptocurrencies and their legal status in Turkey**

### **What is Blockchain technology and cryptocurrency?**

Blockchain technology is one of the driving forces of the recent digitalisation trend. Blockchain technology refers to a distributed ledger system where each transaction is engrained in a digital “block”, the succession of which form a “chain” information which cannot be altered, corrupted or deleted retrospectively. In addition to storing data in a secure form, other advantages of the blockchain system is that it is decentralised and transparent. These advantages make blockchain ideal for use in financial transactions based on cryptocurrencies.

Cryptocurrency is an encrypted string of data or a “hash”, encoded as a unit of currency.<sup>1</sup> The cryptocurrency phenomenon begun with Bitcoin, defined as a “peer-to-peer electronic cash system” by its founder Satoshi Nakamoto.<sup>2</sup> Bitcoin is a cryptocurrency (or a digital coin) based on blockchain technology. Currently, the market of blockchain based cryptocurrencies is developing rapidly.

Unlike the technical advantages presented by blockchain technology, its legal qualification remains ambiguous. With respect to application of blockchain technology, while some countries are explicitly against the use of cryptocurrency, in many others the use thereof is not regulated.

### **Turkey**

There is no specific regulation on cryptocurrencies under Turkish Law. However, the Financial Crimes Investigation Council (Masak) published criteria on Bitcoin transactions, the non-compliance with which result in the relevant transaction to be reported as a Suspicious Transaction.<sup>3</sup>

On the other hand, on 25 November 2013, in reaction to the rising popularity of cryptocurrencies, the Banking Regulation and Supervision Agency (BRSA) announced that cryptocurrencies such as Bitcoin cannot be considered as e-money<sup>4</sup> since pursuant to Law No. 6493 on Payment and Security Settlement Systems, Payment Services and Electronic Money Institutions electronic money is defined as “*the monetary value issued against a fund accepted by the issuing institution, stored electronically, used for carrying out the payment transactions defined by this Law, and accepted as a payment instrument by the real and legal entities other than the institutions issuing electronic money*”.

The Capital Markets Board (CMB), which regulates capital markets and financial instruments in Turkey, announced on 27 November 2017 that cryptocurrencies such as Bitcoin cannot be considered as capital markets instruments.<sup>5</sup> In addition, on 17 September 2018, CMB published a resolution (No. 47/1102) on digital assets to inform the sector that they are working on secondary legislation on digital assets. Thereafter, on 3 January 2019, CMB published a Draft Communiqué on Equity-Based Crowd-Funding, which generally regulates, among others, principles and procedures of equity-based crowd funding activities and establishment, authorisation and activities of crowd funding platforms.

Thereupon, the 11th Development Plan of Turkey was published on Official Gazette no. 30840 dated 23 July 2019 (“**Plan**”). According to the Plan, there is a strategy to make Istanbul a regional technology hub within next year. The Plan foresees the development of blockchain technology in Turkey. A landmark investment so far is the blockchain project between financial institutions implemented by the Istanbul Stock Exchange.

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<sup>1</sup> Memorandum from Skadden, Arps, Slate, Meagher & Flom LLP & Affiliates, Heather Cruz et al., SEC Issues Guidance on Regulation of Initial Coin Offerings (August 1<sup>st</sup>, 2017).

<sup>2</sup> Ahmet Usta, Block Chain 101, BKM press.

<sup>3</sup> Available at [http://www.masak.gov.tr/userfiles/file/sektorel\\_sib\\_rehberleri/rehberler/MSK-RHB-ŞİB-001-1.3.pdf](http://www.masak.gov.tr/userfiles/file/sektorel_sib_rehberleri/rehberler/MSK-RHB-ŞİB-001-1.3.pdf).

<sup>4</sup> Available

[https://www.bddk.org.tr/WebSitesi/turkce/Duyurular/Basin\\_Aciklamalari/12574bitcoin\\_hk\\_basin\\_aciklamasi.pdf](https://www.bddk.org.tr/WebSitesi/turkce/Duyurular/Basin_Aciklamalari/12574bitcoin_hk_basin_aciklamasi.pdf)

<sup>5</sup> Available at <http://www.spk.gov.tr/yayingoster.aspx?vid=1130&ct=f&action=displayfile>

Following publication of the Plan, we anticipate that a new wave of legislation may be in the near horizon in Turkey given the rapid rise of blockchain technology and digital money around the globe.