

## NETTING ANALYSER LIBRARY

The Futures & Options Association  
2nd Floor  
36-38 Botolph Lane  
London EC3R 8DE

23 January 2013

Dear Sirs

### FOA Collateral Opinion

You have asked us to give an opinion in respect of the laws of the Republic of Turkey ("**this jurisdiction**") in respect of the Security Interests given under Agreements in the forms specified in Annex 1 to this opinion letter (each an "**Agreement**") or under an Equivalent Agreement (as defined below). References to "**Core Provisions**" include Core Provisions that have been modified by Non-Material Amendments (as defined herein).

Terms used in this opinion letter and not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

We understand that your fundamental requirement is for the effectiveness of the Security Interest Provisions of the Agreement to be substantiated by a written and reasoned opinion. Our opinion on the validity of the Security Interest Provisions is given in paragraph 3 of this opinion letter.

References herein to "*this opinion*" are to the opinions given in paragraph 3.

### 1. TERMS OF REFERENCE AND DEFINITIONS

1.1 Subject as provided at paragraph 1.2, this opinion is given in respect of

1.1.1 persons which are companies incorporated under the Commercial Code (as defined below) as a (a) joint stock company (*anonim şirket*), (b) limited liability company (*limited şirket*), (c) company with unlimited liability shareholders (*kollektif şirket*), (d) unlimited liability company (company having certain shareholders with unlimited liability (*komandit şirket*); and

1.1.2 in respect of paragraph 3.3, the entities referred to in such paragraph,

insofar as each may act as a counterparty (a "**Counterparty**") providing Collateral (as defined in paragraph 1.3) to a member firm of the Futures and Options Association (each a "**Firm**") under an Agreement.

- 1.2 However, this opinion is also given in respect of Counterparties providing Collateral to a Firm that are any of the following, subject to the terms of reference, definitions, modifications and additional assumptions and qualifications set out in the applicable Schedule:
  - 1.2.1 Banks incorporated under the Banking Law (as defined below);
  - 1.2.2 Insurance Companies incorporated under the Insurance Law (as defined below)
  - 1.2.3 Investment firms/broker dealers under the Capital Market Law (as defined below);
  - 1.2.4 Funds organised as investment funds under the Capital Market Law (as defined below) (Schedule 1);
  - 1.2.5 Pension Funds established under the Individual Retirement Saving and Investment Law (as defined below) (Schedule 2); and
  - 1.2.6 Individuals acting as merchants (Schedule 3).
- 1.3 This opinion is given in respect of cash and account-held securities which are the subject of the Security Interest Provisions ("**Collateral**"). The amount and value of such Collateral may fluctuate from time to time on a day to day, and possibly intra-day basis.
- 1.4 In this opinion letter:
  - 1.4.1 "**Security Interest**" means the security interest created pursuant to the Security Interest Provisions;
  - 1.4.2 "**Equivalent Agreement**" means an agreement:
    - (a) which is governed by the law of England and Wales;
    - (b) which has broadly similar function to any of the Agreements listed in Annex 1;
    - (c) which contains the Core Provisions (with no amendments, or with Non-material Amendments); and

- (d) which neither contains (nor is modified, amended, or superseded by) any other provision which may invalidate, adversely affect, modify, amend, supersede, conflict with, provide alternatives to, compromise or fetter the operation, implementation, enforceability and effectiveness of all or part of the Core Provisions (in each case, excepting Non-material Amendments);

References to the "**Agreement**" in this letter (other than specific cross references to clauses in such Agreement and references in the first paragraph of this letter) shall be deemed also to apply to an Equivalent Agreement;

- 1.4.3 A "**Non-material Amendment**" means an amendment having the effect of one of the amendments set out at Annex 3;
- 1.4.4 "**Capital Market Law**" means Capital Market Law (Law No. 6362) published in the Official Gazette dated 30 December 2012, No. 28513.
- 1.4.5 "**Civil Code**" means Civil Code (Law No. 4721) published in the Official Gazette dated 22 November 2001, No. 24607
- 1.4.6 "**CMB**" means the Capital Market Board, the Prime Ministry of the Republic of Turkey (*T.C. Başbakanlık Sermaye Piyasası Kurulu*).
- 1.4.7 "**Commercial Code**" means Turkish Commercial Code (Law No. 6102) published in the Official Gazette dated 14 February 2011, No. 27846.
- 1.4.8 "**Communiqué**" means the Communiqué on the Dematerialised Capital Market Instruments (Serial IV, No: 28) issued by the CMB.
- 1.4.9 "**Consumer Law**" means the Law on the Protection of Consumers (Law No. 4077) published in the Official Gazette dated 8 March 1995, No. 22221.
- 1.4.10 "**CRA**" means the Central Registry Agency of the Republic of Türkiye (*Merkezi Kayıt Kuruluşu A.Ş.*).
- 1.4.11 "**Enforcement and Bankruptcy Law**" means Enforcement and Bankruptcy Law (Law No. 2004) published in the Official Gazette dated 19 June 1932, No 2128.
- 1.4.12 "**Individual Retirement Saving and Investment Law**" means Individual Retirement Saving and Investment Fund (Law No. 4632) published in the Official Gazette dated 7 April 2001, No. 24366.

- 1.4.13 **"Insolvency Proceedings"** means insolvency, bankruptcy or analogous proceedings (where, for the purpose of paragraph 3 of this opinion, the occurrence of such proceedings in respect of the Counterparty falls within the definition of Event of Default under the Agreement).
- 1.4.14 **"Insurance Law"** means the Insurance Law (Law No. 5684) published in the Official Gazette dated 14 June 2007, No. 26552.
- 1.4.15 **"Investment Fund Communiqué"** means the Communiqué in relation to the Investment Funds (Serial No. VII/10) (*Yatırım Fonlarına İlişkin Esaslar Tebliği*) issued by the CMB and published in the Official Gazette dated 19 December 1996, No. 22852.
- 1.4.16 **"ISE"** means Istanbul Stock Exchange (*İstanbul Menkul Kıymet Borsası A.Ş.*)
- 1.4.17 **"Official Gazette"** means the Official Gazette of Turkey.
- 1.4.18 **"Private International Law"** means the International Private Law and Procedural Law (Law No. 5718) published in the Official Gazette dated 12 December 2007, No. 26728.
- 1.4.19 **"Turkey"** means the Republic of Turkey (*Türkiye Cumhuriyeti*).
- 1.4.20 **"enforcement"** means, in the relation to the Security Interest, the act of:
- (i) sale and application of proceeds of the sale of Collateral against monies owed, or
  - (ii) appropriation of the Collateral,
- in either case in accordance with the Security Interest Provisions.
- 1.4.21 in other instances other than those referred to at 1.4.4 above, references to the word **"enforceable"** and cognate terms are used to refer to the ability of a Party to exercise its contractual rights in accordance with their terms and without risk of successful challenge. We do not opine on the availability of any judicial remedy.
- 1.4.22 terms defined or given a particular construction in the Agreement have the same meaning in this opinion letter unless a contrary indication appears;
- 1.4.23 any reference to any legislation (whether primary legislation or regulations or other subsidiary legislation made pursuant to primary legislation) shall be

construed as a reference to such legislation as the same may have been amended or re-enacted on or before the date of this opinion letter;

1.4.24 certain terms relating specifically to the Agreement or to the provisions thereof are set out at Annex 2; and

1.4.25 headings in this opinion letter are for ease of reference only and shall not affect its interpretation.

## **2. ASSUMPTIONS**

We assume the following:

- 2.1 That the Agreements are legally binding and enforceable against both Parties under their governing laws.
- 2.2 That the Security Interest Provisions are enforceable under the governing law of the Agreement to create a Security Interest.
- 2.3 That each Party has the capacity, power and authority under all applicable law(s) to enter into the Agreement; to perform its obligations under the Agreement; and that each Party has taken all necessary steps to execute, deliver and perform the Agreement.
- 2.4 That each Party has obtained, complied with the terms of and maintained all authorisations, approvals, licences and consents required to enable it lawfully to enter into and perform its obligations under the Agreement and Transactions and to ensure the legality, validity, enforceability or admissibility in evidence of the Agreement in this jurisdiction.
- 2.5 That the Agreement has been properly executed by both Parties.
- 2.6 That the Agreement is entered into prior to the commencement of any Insolvency Proceedings in respect of either Party.
- 2.7 The Agreement has been entered into, and each of the transactions referred to therein is carried out, by each of the parties thereto in good faith, for the benefit of each of them respectively, on arms' length commercial terms and for the purpose of carrying on, and by way of, their respective businesses.
- 2.8 That the Agreement accurately reflects the true intentions of each Party.

- 2.9 That no provisions of the Agreement, or a document of which the Agreement forms part, or any other arrangement between the Parties, invalidate the enforceability or effectiveness of the Security Provisions or the Rehypothecation Clause under the governing law of the Agreement.
- 2.10 That there is no other agreement, instrument or other arrangement between the Firm and the Counterparty which modifies or supersedes the Agreement.
- 2.11 That all acts, conditions or things required to be fulfilled, performed or effected in connection with the Agreement and the creation and perfection of the security interests thereunder pursuant to laws of any jurisdiction other than this jurisdiction have been duly fulfilled, performed and effected.
- 2.12 There is no authorisation, approval, permission, licence, filing or consent, in connection with any Security Interest, required to be obtained before enforcement of the Security Interest in a jurisdiction other than this jurisdiction.
- 2.13 That there are no provisions of the laws of any jurisdiction (apart from this jurisdiction) which would be contravened by the execution or the delivery of the Agreement.
- 2.14 That, except with respect to our opinion at paragraph 3.3, any accounts and the assets expressed to be subject to a Security Interest pursuant to the Security Provisions may be located either within or outside this jurisdiction.
- 2.15 That any cash comprising the Collateral is in a currency that is freely transferable internationally under the laws of all relevant jurisdictions.
- 2.16 That no provision of the Agreement that is necessary for the giving of our opinions and advice in this opinion letter has been altered in any material respect. In our view, an alteration contemplated in the definition of "Equivalent Agreement" above would not constitute a material alteration for this purpose. We express no view whether an alteration not contemplated in the definition of Equivalent Agreement would or would not constitute a material alteration of the Agreement.
- 2.17 The Parties' purpose in entering into a Transaction does not include any financing or financing of an acquisition of shares in contravention to Articles 379 and 380 of the Commercial Code.

### 3. OPINIONS

On the basis of the foregoing terms of reference and assumptions and subject to the qualifications set out in paragraph 4 below, we are of the following opinion.

#### 3.1 Valid Security Interest

3.1.1 The Security Interest Provisions would create a valid security interest over the Collateral **provided that** all formalities required to be fulfilled for the perfection of the Security Interest are duly completed in the relevant jurisdictions.

3.1.2 Following the occurrence of an Event of Default, including as a result of the opening of any Insolvency Proceedings, the Non-Defaulting Party would be entitled to enforce the Security Interest in respect of the Collateral.

3.1.3 There is no rule of the laws of this jurisdiction which would impose a moratorium or stay which would prevent, delay or otherwise affect the right of the Non-Defaulting Party to enforce the Security Interest in respect of the Collateral. However, if the competent court will give a judgement for :

- (a) the postponement of bankruptcy (*iflasın ertelenmesi*);
- (b) the reorganisation by way of abandonment of the debtor's assets (*malvarlığının terki suretiyle konkordato*);
- (c) the restructuring of capital stock companies by way of conciliation (*sermaye şirketlerinin uzlaşma yoluyla yeniden yapılandırılması*); or
- (d) ordinary compositions of debts (*adi konkordato*),

of the Counterparty, the Non-Defaulting Party cannot enforce the Security Interest in respect of the Collateral during such composition, restructuring or postponement of bankruptcy period. Following the occurrence of above, a moratorium will be in place so that the Counterparty cannot be subject to any enforcement proceedings and all the enforcement proceedings initiated before would cease. Please note that if composition, restructuring or postponement of bankruptcy will be adjudicated for a Counterparty, secured creditors of the Counterparty can start proceedings for the enforcement of the Security Interest, however, they are not allowed to foreclose relevant Collaterals during the composition, restructuring or postponement of bankruptcy period. While the Collaterals may not be foreclosed during such period, the exercise of early

termination and close-out netting or set-off rights, are not, in our view, stayed. The termination and close-out netting provisions would only constitute contractual remedies.

3.1.4 Following exercise of the Firm's rights under the Security Interest Provisions, there are no rules of law of this jurisdiction which would affect the ranking of the Firm's rights to the proceeds of realisation of the Collateral in relation to the interests of the Counterparty and any other person. However, as explained in paragraph 3.1.5, the courts of this jurisdiction may give effect to the insolvency laws of the Counterparty's home jurisdiction, where different from this jurisdiction.

3.1.5 Pursuant to Article 9 of the Private International Law, the capacity of a legal person is subject to the laws of the jurisdiction where its headquarter is located. Therefore, the courts of this jurisdiction may give effect to the insolvency laws of the Counterparty's home jurisdiction, where different from this jurisdiction

3.1.6 Following exercise of the Firm's rights under the Security Interest Provisions, there are no rules of law of this jurisdiction which would affect the ranking of the Firm's rights to the proceeds of realisation of the Collateral in relation to the interests of the Counterparty and any other person other than those referred to in paragraph 4.4.

### **3.2 Further acts**

No further acts, conditions or things would be required by the law of this jurisdiction to be done, fulfilled or performed under the laws of this jurisdiction in order to enable the Non-Defaulting Party to enforce the Security Interest in respect of the Collateral other than those qualified in paragraph 4.4.

### **3.3 Foreign Collateral Providers**

Moreover, the opinions given at paragraphs 3.1 and 3.2 also apply in respect of any Counterparty that is not established or resident in this jurisdiction, where any accounts and the assets expressed to be subject to a Security Interest pursuant to the Security Provisions are located within this jurisdiction.

### **3.4 Right of re-use**

With respect to the Eligible Counterparty Agreement 2011, the Retail Client Agreement 2011, the Professional Client Agreement 2011 (or an Equivalent Agreement in the form of one of the foregoing), the Rehypothecation Clause would be

effective in accordance with its terms, such that that Firm is entitled to borrow, lend, appropriate, dispose of or otherwise use for its own purposes all non-cash Collateral, subject to the further rights and obligations set out in the Rehypothecation Clause.

The opinion given at this paragraph 3.4 does not apply in respect of an Equivalent 2011 Agreement without Core Rehypothecation Clause.

#### 4. QUALIFICATIONS

The opinions in this opinion letter are subject to the following qualifications:

- 4.1 The Security Interest Provisions would create a valid security interest over the Collateral.
- 4.2 The Security Interest has not been avoided by the competent court because they are granted during certain suspect period preceding the Insolvency of the Counterparty as a result of such Collateral constitutes a preference (however called whether or not fraudulent) in favour of the secured Party or any other basis. Accordingly, the Insolvency Representative and other creditors of the Insolvent Party may, by commencing an avoidance action procedure in a commercial court, challenge certain arrangements or dispositions made by the insolvent Counterparty during the period preceding any relevant bankruptcy judgment. Pursuant to Article 279 of the Enforcement and Bankruptcy Law, transactions of an insolvent debtor involving (i) the posting of collateral for an existing but unsecured obligation with no pre-existing undertaking to post collateral for such transaction; (ii) settlement of a monetary claim other than in cash or commonly used payment means; (iii) settlement of a claim before its maturity date; and (iv) annotations registered in a land registry to strengthen personal rights, may be subject to an avoidance if such a transaction was concluded within the 1 (one) year preceding the bankruptcy date
- 4.3 According to Article 21 of Private International Law *in rem* rights (such a security interests created under a pledge) on assets are subject to the laws where such assets are located (*lex loci situs*). Pursuant to Article 939 of the Civil Code, in order to perfect security interest on cash or securities, their possession must be transferred to the pledgee or its agent and the Parties must execute a written pledge agreement. In case of pledge over a bank account Parties must execute a written pledge agreement and the pledge must be notified to and acknowledged by the account bank. Security interest on dematerialised securities are perfected by registration of relevant security interest at institutions where such dematerialised securities are registered. Accordingly, in order to create security interest over dematerialised Collaterals in this jurisdiction (i) such Collaterals must transferred in the form of book-entry securities

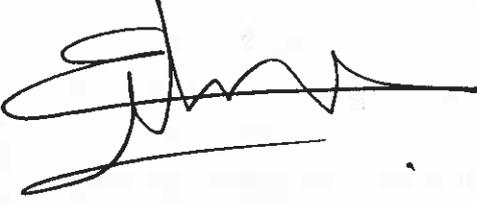
to the pledgee's sub-account pursuant to Article 18/A of the Communiqué to perfect the delivery condition of the pledge and to effect the registration of the pledge in favour of the pledgee on the records of CRA and (ii) the relevant custodian or broker firm must deliver to the pledgee a certificate evidencing the registration of the pledge in favour of the pledgee on the records of CRA.

- 4.4 To the extent the relevant security interest has been perfected in accordance with applicable perfection requirements as defined in paragraphs 4.3, 4.6 and 4.7 herein and such security interest was not voided by an avoidance action, pursuant to Article 206 of the Enforcement and Bankruptcy Law, proceeds of pledged assets collateralising a Counterparty's secured receivable shall be paid to such secured creditor after deduction of enforcement costs and taxes payable in connection with the relevant Collateral. However, a creditor which has a security interest on cash could set-off that cash against its receivables after occurrence of an Event of Default. Additionally, in the case of a creditor which has security interest on treasury bills or securities traded on an exchange market, in our opinion, it can sell such securities for satisfaction of its claims on the price prevailing at the relevant exchange market **provided that** such creditor is authorised contractually under the pledge agreement to foreclosure such securities by way of private sale.
- 4.5 In accordance with Article 21 of the Private International Law, ownership and other *in rem* rights over accounts or other assets of a Turkish borrower in other jurisdictions shall be subject to the laws of such other jurisdiction where such accounts or assets are located (*lex loci situs*). As a matter of Turkish law, a Counterparty is not prevented from creating Security Interest in respect of a Collateral located in other jurisdictions outside Turkey. According to Article 954 of the Civil Code, validity and perfection of security interest over cash, movable assets and receivables are subject to transfer of possession to the pledgee or its agent. If cash, bank accounts where such cash is deposited and other movable assets are outside Turkey, then, creation of security interest over such assets will be subject to the laws of the jurisdictions where such assets are located at the time of creation of the relevant security interest.
- 4.6 Security Interest over negotiable instruments such as share certificates representing shareholding in a corporation incorporated in Turkey or debentures which are issued by Turkish entity under Turkish law will be subject to Turkish law in respect of perfection formalities. Pursuant to Article 956 of the Civil Code, transfer of title over :
- (i) negotiable instrument securities issued in bearer form shall be subject to transfer of possession over such securities;

There are no other material issues relevant to the issues addressed in this opinion letter which we draw to your attention.

This opinion is given for the sole benefit of the Futures and Options Association and such of its members (excluding associate members) as subscribe to the Futures and Options Association's opinion library. This opinion may not be relied upon by any other person unless we otherwise specifically agree with that person in writing, although we consent to it being shown to such Future and Options Association members' affiliates (being members of such persons' groups, as defined by the UK Financial Services and Markets Act 2000) and to any competent authority supervising such member firms and their affiliates in connection with their compliance with their obligations under prudential regulation.

Yours faithfully,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end.

- (ii) negotiable instrument securities issued in the name of a person shall be subject to execution of a written agreement, endorsement of and transfer of possession over such securities.

Additionally, according to Article 490 of the Commercial Code, creation of any *in rem* right, including pledge, over a share certificate representing a shareholding in the capital of a company incorporated in Turkey is subject to :

- (i) execution of written agreement;
- (ii) endorsement and delivery of such shares; and,
- (iii) registration of title transfer or pledge at the issuer's share ledger.

- 4.7 Pursuant to Article 6 of the Public Finance and Debt Management Law (Law No. 4749), Turkish Government debt instruments issued in dematerialized form are registered in Turkish Central Bank (*Türkiye Cumhuriyet Merkez Bankası*) (hereinafter referred to as the "**Central Bank**"). Turkish Government debt instruments are held in a pool account of a broker or custodian opened at the Central Bank for their clients. Security interest over Turkish Government debts will be subject to execution of a pledge agreement and must be notified to the relevant broker or custodian.
- 4.8 The Collateral created by a pledge cannot be acquired by the pledgee because of the *lex commissaria* principle applicable under the laws of this jurisdiction which prevent a pledgee to acquire a pledged Collateral against its outstanding receivables. Accordingly, if the title of the Collateral is not transferred to the secured Party, the secured Party cannot off-set the Collateral against its receivables and is required to enforce the Collateral by way of selling it to a third party and set-off the proceed of such sale against its receivable under an Agreement..
- 4.9 Valid perfection of a Security Interest in respect of a Collateral is subject to fulfilment of the relevant legal formalities. Accordingly, the commitment of a Counterparty to provide additional Collateral in the future will be recognized only as a contractual obligation of the relevant Counterparty. But, this would not substitute or satisfy perfection requirements in order to create Security Interest in respect of the relevant Collaterals. Therefore, the Security Interest in respect of such future Collateral will only be valid and enforceable if the relevant formalistic requirements necessary to be fulfilled in order to create a Security Interest will be completed.
- 4.10 Pursuant to second paragraph of Article 961 of the Civil Code, the account bank can only transfer money deposited in a pledged account with the pledgor's consent. In our opinion, such consent can be given in the relevant pledge agreement.

## SCHEDULE 1 INVESTMENT FUNDS

Subject to the modifications and additions set out in this Schedule 1 (*Investment Funds*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are Investment Funds. For the purposes of this Schedule 1 (*Investment Funds*), "Investment Fund" means investment fund (*yatırım fonu*) established in this jurisdiction pursuant to Article 52 of the Capital Market Law.

Except where the context otherwise requires, references in this Schedule to "*paragraph*" are to paragraphs in the opinion letter (but not to its Annexes or Schedules) and references to "*sections*" are to sections of this Schedule.

### 1. ADDITIONAL ASSUMPTIONS

We assume the following:

- 1.1 The founder of the Investment Fund is authorised to enter into Transactions pursuant to the permission it obtained from the CMB for the establishment of the Investment Fund.
- 1.2 The Transactions are not fall within the scope of portfolio restrictions imposed by the CMB for the management and operation of Investment Funds portfolios pursuant to the provisions of the Investment Fund Communiqué and the Transaction do not infringe the Investment Fund's statute (*fon içtüzüğü*) approved by the CMB.

### 2. MODIFICATIONS TO OPINIONS

On the basis of the terms of reference and assumptions and subject to the qualifications (in each case set out in this opinion letter as modified, or added to, by this Schedule), we are of the following opinion.

#### 2.1 Valid Security Interest:

- (a) Under the laws of this jurisdiction, the Investment Funds do not have legal entity and therefore they are not subject to the Insolvency Proceedings. The assets of an Investment Fund are separate and segregated from the assets of its founder. The founder shall represent, manage and supervise the assets of the Investment Fund certificate holders invested in the relevant Investment Fund in accordance with the statutory agency contract between the founder and the Investment Fund certificate holders and the founder has fiduciary title over the assets of the Investment Fund certificate holders in the Investment Fund.

- (b) The assets of such Investment Funds cannot be pledged or provided as security pursuant to second paragraph of Article 53 of the Capital Market Law unless such security interest is created for the account of the Investment Fund in accordance with the provisions of the relevant Investment Fund's statute (*fon iç tüzüğü*) as Collateral for the borrowings, derivative transactions and similar transactions entered into on behalf of the Investment Fund.

## SCHEDULE 2 PENSION FUNDS

Subject to the modifications and additions set out in this Schedule 2 (*Pension Funds*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are Pension Funds. For the purposes of this Schedule 2 (*Pension Funds*), "Pension Fund" means a pension funds (*emeklilik yatırım fonu*) established by an individual retirement insurance company in this jurisdiction pursuant to Article 15 of the Individual Retirement Saving and Investment Law.

Except where the context otherwise requires, references in this Schedule to "*paragraph*" are to paragraphs in the opinion letter (but not to its Annexes or Schedules) and references to "*sections*" are to sections of this Schedule.

### 1. ADDITIONAL ASSUMPTIONS

We assume the following:

- 1.1 The founder of the Pension Fund is authorised to enter into Transactions pursuant to the permission it obtained from the CMB for the establishment of the Investment Fund for the statute (*fon içtüzüğü*) of the Pension Fund.
- 1.2 The Transactions are not fall within the scope of portfolio restrictions imposed by the CMB for the management and operation of the Pension Funds' portfolios pursuant to Article 17 of the Individual Retirement Saving and Investment Law and the Transaction do not infringe the Pension Fund's statute (*fon içtüzüğü*) approved by the CMB.

### 2. MODIFICATIONS TO OPINIONS

On the basis of the terms of reference and assumptions and subject to the qualifications (in each case set out in this opinion letter as modified, or added to, by this Schedule), we are of the following opinion.

#### 2.1 Valid Security Interest:

- (a) Under the laws of this jurisdiction, the Pension Funds do not have legal entity and therefore they are not subject to the Insolvency Proceedings. The assets of a Pension Fund are separate and segregated from the assets of its founder. The founder shall represent, manage and supervise the assets of the Pension Fund certificate holders invested in the relevant Pension Fund in accordance with the statutory agency contract between the founder and the Pension Fund

certificate holders and the founder has fiduciary title over the assets of the Pension Fund certificate holders in the Pension Fund.

- (b) The assets of such Pension Funds cannot be pledged or provided as security (apart from for those Transactions in relations to its portfolio) and they can neither be attached by third persons nor constitute a bankruptcy estate pursuant to Article 17 of the Individual Retirement Saving and Investment Law.

**SCHEDULE 3  
INDIVIDUALS**

Subject to the modifications and additions set out in this Schedule 3 (*Individuals*), the opinions, assumptions and qualifications set out in this opinion letter will also apply in respect of Parties which are Individuals. For the purposes of this Schedule 3 (*Individuals*), "Individuals" means real persons who are merchants. Pursuant to Article 43 of the Enforcement and Bankruptcy Law, real persons who are not merchants are not subject to Insolvency Proceedings and when such a non-merchant real person fails to pay his or her debt, debt collection proceedings set out in the Enforcement and Bankruptcy Law shall apply. Additionally, in our opinion, the enforceability and validity of the Netting Provision, Set-off Provisions and Title Transfer Provisions contained in an agreement on the terms of the forms specified in the Agreements or contained in an Equivalent Agreement will not be upheld before a Turkish court pursuant to Articles 6 and 10 of the Consumer Law as those provisions will be considered as unfair contractual terms against the interest of a consumer (additionally, those are also incompliant with the mandatory provisions for consumer loans set out in Article 10 of the Consumer Law). Because protection of consumers in this jurisdiction is a public policy issue, Turkish law shall mandatorily apply to the Agreements and the Equivalent Agreements. Under Article 3 of the Consumer Law Consumer is defined as persons purchasing a good or a service for unprofessional and non-commercial purposes. Consumers are not allowed to enter into cross border derivative Transactions pursuant to the provisions of the Decree No. 32.

Pursuant to Article 12 of the Commercial Law, merchant real persons are required to own and operate a commercial enterprise (*ticari işletme*). Commercial enterprises are enterprises set up by real or legal persons and which are commercially organised and have separate accounts for the purpose of engaging commercial activities. The real or legal persons managing and operating such commercial enterprises are considered to be merchants under Article 12 of the Commercial Code. These are the permanent organisations established for the purpose of generating profit by means of capital, equipment and labour. Merchants real persons must also registered at the trade registry (*ticaret sicili*) under Article 18 of the Commercial Code.

Except where the context otherwise requires, references in this Schedule to "*paragraph*" are to paragraphs in the opinion letter (but not to its Annexes or Schedules) and references to "*sections*" are to sections of this Schedule.

**1. ADDITIONAL ASSUMPTIONS**

We assume the following:

- 1.1 The Individual owns and operates a commercial enterprise (*ticari işletme*) as described in Article 12 of the Commercial Code and registered in the relevant Trade Registry as merchant (*tacir*).
- 1.2 The Individual is of full age (*reşit*) and able to make fair judgement (*mümeyyiz*).
- 1.3 The Individual has not entered into the Transactions under threat or duress.
- 1.4 The Individual is alive and has not been incapacitated by a competent court judgement or adjudicated by a competent court judgement to be represented by a guardian (*vasi*) or supervised by a statutory advisor (*yasal temsilci*) or an administrator (*kayım*).
- 1.5 The Individual is domiciled and resident in Turkey.

**ANNEX 1**  
**FORM OF FOA AGREEMENTS**

1. Professional Client Agreement (2007 Version), including Module G (*Margin and Collateral*) (the "**Professional Client Agreement 2007**")
2. Professional Client Agreement (2009 Version), including Module G (*Margin and Collateral*) (the "**Professional Client Agreement 2009**")
3. Professional Client Agreement (2011 Version) including Module G (*Margin and Collateral*) (the "**Professional Client Agreement 2011**")
4. Retail Client Agreement (2007 Version) including Module G (*Margin and Collateral*) (the "**Retail Client Agreement 2007**")
5. Retail Client Agreement (2009 Version) including Module G (*Margin and Collateral*) (the "**Retail Client Agreement 2009**")
6. Retail Client Agreement (2011 Version) including Module G (*Margin and Collateral*) (the "**Retail Client Agreement 2011**")
7. Eligible Counterparty Agreement (2007 Version) including Module G (*Margin*) (the "**Eligible Counterparty Agreement 2007**")
8. Eligible Counterparty Agreement (2009 Version) including Module G (*Margin*) (the "**Eligible Counterparty Agreement 2009**")
9. Eligible Counterparty Agreement (2011 Version) including Module G (*Margin*) (the "**Eligible Counterparty Agreement 2011**")

For the avoidance of doubt none of the forms of the Agreements listed at this Annex 1 include or incorporate the Title Transfer Securities and Physical Collateral Annex to the Netting Modules published by the Futures and Options Association.

Where the form of any Agreement listed in this Annex 1 (as published by the Futures and Options Association) (the "**FOA Published Form Agreement**") expressly contemplates the election of certain variables and alternatives, the Agreements listed above shall be deemed to include any such document in respect of which the parties have made such expressly contemplated elections (and have made any deletions required by such elections, where such deletions are expressly contemplated in the event of such election by the applicable FOA Published Form Agreement).

Each of the Agreements listed in this Annex 1 may be deemed to include Agreements identical to the relevant FOA Published Form Agreement, save for the substitution of Two Way Clauses in place of the equivalent terms in the FOA Published Form Agreement.

**ANNEX 2**  
**DEFINED TERMS RELATING TO THE AGREEMENTS**

1. The "**Eligible Counterparty Agreements**" means each of the Eligible Counterparty Agreement 2007, the Eligible Counterparty Agreement 2009 and the Eligible Counterparty Agreement 2011 (each as listed and defined at Annex 1).
2. The "**Professional Client Agreements**" means each of the Professional Client Agreement 2007, the Professional Client Agreement 2009 and the Professional Client Agreement 2011 (each as listed and defined at Annex 1).
3. The "**Retail Client Agreements**" means each of the Retail Client Agreement 2007, the Retail Client Agreement 2009 and the Retail Client Agreement 2011 (each as listed and defined at Annex 1).
4. An "**Equivalent 2011 Agreement without Core Rehypothecation Clause**" means an Equivalent Agreement in the form of the Eligible Counterparty Agreement 2011, Retail Client Agreement 2011 or Professional Client Agreement 2011 but which does not contain the Rehypothecation Clause.
5. "**Core Provisions**" means:
  - (a) with respect to all Equivalent Agreements, the Security Interest Provisions; and
  - (b) with respect to Equivalent Agreements that are in the form of the Eligible Counterparty Agreement 2011, Retail Client Agreement 2011 or Professional Client Agreement 2011 (but not with respect to an Equivalent 2011 Agreement without Core Rehypothecation Clause), the Rehypothecation Clause.
6. "**Rehypothecation Clause**" means:
  - (i) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.13 (*Rehypothecation*);
  - (ii) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.15 (*Rehypothecation*);
  - (iii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.13 (*Rehypothecation*); and

- (iv) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as a clause referred to in any of the foregoing paragraphs (i) to (iii) of this definition (except insofar as variations may be required for internal cross-referencing purposes);

7. "Security Interest Provisions" means:

(a) the "Security Interest Clause", being:

- (i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 8.6 (*Security interest*);
- (ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 8.6 (*Security interest*);
- (iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.7 (*Security interest*);
- (iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 8.8 (*Security interest*);
- (v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 8.8 (*Security interest*);
- (vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.9 (*Security interest*);
- (vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 7.6 (*Security interest*);
- (viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 7.6 (*Security interest*);
- (ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.7 (*Security interest*); and
- (x) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as a clause referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes);

- (b) the "**Power to Charge Clause**", being:
- (i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 8.10 (*Power to charge*);
  - (ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 8.10 (*Power to charge*);
  - (iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.10 (*Power to charge*);
  - (iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 8.12 (*Power to charge*);
  - (v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 8.12 (*Power to charge*);
  - (vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.12 (*Power to charge*);
  - (vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 7.10 (*Power to charge*);
  - (viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 7.10 (*Power to charge*);
  - (ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.10 (*Power to charge*); and
  - (x) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as a clause referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes);
- (c) the "**Power of Sale Clause**", being:
- (i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 8.11 (*Power of sale*);
  - (ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 8.11 (*Power of sale*);

- (iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.11 (*Power of sale*);
  - (iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 8.13 (*Power of sale*);
  - (v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 8.13 (*Power of sale*);
  - (vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.13 (*Power of sale*);
  - (vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 7.11 (*Power of sale*);
  - (viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 7.11 (*Power of sale*);
  - (ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.11 (*Power of sale*); and
  - (x) in relation to an Equivalent Agreement, a clause that is identically the same in form and language as the clauses referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes);
- (d) the "**Power of Appropriation Clause**", being:
- (i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 8.12 (*Power of appropriation*);
  - (ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 8.12 (*Power of appropriation*);
  - (iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.12 (*Power of appropriation*);
  - (iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 8.14 (*Power of appropriation*);
  - (v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 8.14 (*Power of appropriation*);

- (vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.14 (*Power of appropriation*);
  - (vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 7.13 (*Power of appropriation*);
  - (viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 7.13 (*Power of appropriation*);
  - (ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.12 (*Power of appropriation*); and
  - (x) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as a clause referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes);
- (e) the "**Lien Clause**", being:
- (i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 8.13 (*General lien*);
  - (ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 8.13 (*General lien*);
  - (iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 8.14 (*General lien*);
  - (iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 8.15 (*General lien*);
  - (v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 8.15 (*General lien*);
  - (vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 8.16 (*General lien*);
  - (vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 7.12 (*General lien*);
  - (viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 7.12 (*General lien*);

- (ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 7.14 (*General lien*); and
  - (x) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as a clause referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes); and
- (f) the "**Client Money Additional Security Clause**", being:
- (i) in the case of Agreements in the form of the Professional Client Agreement 2007, clause 7.8 (*Additional security*) at module F Option 4 (where incorporated into such Agreement);
  - (ii) in the case of Agreements in the form of the Professional Client Agreement 2009, clause 7.9 (*Additional security*) at module F Option 1 (where incorporated into such Agreement);
  - (iii) in the case of Agreements in the form of the Professional Client Agreement 2011, clause 7.9 (*Additional security*) at module F Option 1 (where incorporated into such Agreement);
  - (iv) in the case of Agreements in the form of the Retail Client Agreement 2007, clause 7.8 (*Additional security*) at module F Option 4 (where incorporated into such Agreement);
  - (v) in the case of Agreements in the form of the Retail Client Agreement 2009, clause 7.9 (*Additional security*) at module F Option 1 (where incorporated into such Agreement);
  - (vi) in the case of Agreements in the form of the Retail Client Agreement 2011, clause 7.9 (*Additional security*) at module F Option 1 (where incorporated into such Agreement);
  - (vii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2007, clause 6.8 (*Additional security*) at module F Option 4 (where incorporated into such Agreement);
  - (viii) in the case of Agreements in the form of the Eligible Counterparty Agreement 2009, clause 6.9 (*Additional security*) at module F Option 1 (where incorporated into such Agreement);

- (ix) in the case of Agreements in the form of the Eligible Counterparty Agreement 2011, clause 6.9 (*Additional security*) at module F Option 1 (where incorporated into such Agreement); and
  - (x) in the case of an Equivalent Agreement, a clause that is identically the same in form and language as the clauses referred to in any of the foregoing paragraphs (i) to (ix) of this definition (except insofar as variations may be required for internal cross-referencing purposes).
8. **"Two Way Clauses"** means each of the Futures and Options Association's Short-Form Two-Way Clauses 2007, the Short-Form Two-Way Clauses 2009, the Short-Form Two-Way Clauses 2011, the Long-Form Two-Way Clauses 2007, the Long-Form Two-Way Clauses 2009 and the Long-Form Two-Way Clauses 2011.

**ANNEX 3**  
**NON-MATERIAL AMENDMENTS**

1. Any change to the numbering or order of a provision or provisions or the drafting style thereof (e.g., addressing the other party as "you", "Counterparty", "Party A/Party B") provided in each case that the plain English sense and legal effect both of each such provision and of the Agreement as a whole (including the integrity of any cross references and usage of defined terms) remains unchanged.
2. Any change to a provision or provisions by defining certain key terms (e.g., party, exchange, currency, defaulting party or non-defaulting party) and using these terms in large caps throughout the Agreement provided in each case that the plain English sense and legal effect both of each such provision and of the Agreement as a whole (including the integrity of any cross references and usage of defined terms) remains unchanged.
3. An addition to the list of events that constitute an Event of Default (e.g. without limitation, the failure to deliver securities or other assets, a force majeure, cross default or downgrading event the death or incapacity of a Party or its general partner any default under a specified transaction or a specified master agreement), such change may or may not be coupled with a grace period or the serving of a written notice on the Defaulting Party by the Non-Defaulting Party, such change may be expressed to apply to one only of the Parties.
4. Any change to an Insolvency Event of Default (i) introducing a grace period for the filing of a petition for bankruptcy proceedings (of e.g. 15 or 30 days), (ii) modifying or deleting any such grace period, (iii) requiring that the filing of the petition is not frivolous, vexatious or otherwise unwarranted or (iv) that the non-defaulting party has reasonable grounds to conclude that the performance by the defaulting party of its obligations under the Agreement, Transactions, or both, is endangered.
5. Any change to an Insolvency Event of Default more particularly describing (i) the relevant procedures that would or would not constitute such event of default or termination event (ii) the relevant officers the appointment of which would or would not constitute such Insolvency Event of Default.
6. Any change to an Insolvency Event of Default extending its scope to events occurring with respect to the credit support provider, an affiliate, a custodian or trustee of a Party.

7. Any change to an Insolvency Event of Default replacing such event of default with a provision aligned to Section 5(a)(vii) of the 1992 or 2002 ISDA Master Agreement (or relevant part thereof).
8. Any change to the Agreement requiring the Non-defaulting Party when exercising its rights under the Security Interest Provisions (or other provisions) or making determinations to act in good faith and/or a commercially reasonable manner.
9. Any change clarifying that the Non-defaulting Party must, or may not, notify the other party of its exercise of rights under the Security Interest Provisions or other provision.

