

A New Economic Reform Movement: Special Risks Management Center

Pelin Baysal & Ilgaz Önder

Economic politics refer more and more to insurance sector with targets to be reached. With the amendment effective as of May 20, 2021, the Extraordinary Risk Management Center did not only change its name, but also gained a legal personality and a new mission. The purpose of the Center is now to respond the needs that private insurance companies fail to resolve. In this vein, State-Backed Credit Insurance, as a “special risk”, entered under the Center’s roof and has undergone a study to respond the SMEs financial needs. The regulator’s recent provision dated July 6, 2021 rendering this insurance policy as a security eligible for the banks and finance institutions is a step to this end.

With the amendment to the Insurance Act, Art 33/A, Special Risk Management Center (the “Center”) was founded on 20 May 2021 as a legal entity. The Center’s business and transactions would be managed by a public insurance and/or reinsurance company as being the “operator” of the Center. That being said, Ministry of Treasury and Finance, (the “Ministry”) in its capacity as the chairman of board of directors, is also directly involved in Center’s operation. As understood from the press releases, the company as the operator of the Center is appointed to be *Türk Reasürans*, incorporated by the state in 2019 to penetrate and foster Turkish reinsurance market.¹

The Center, which previously existed as the Extraordinary Risk Management Center without possessing a legal entity, but rather standing as a conglomerate of public insurance companies; in this new era would devote its sources not only to “terror, war, natural disasters and similar extraordinary perils”, but to all the fields where the real sector needs to be supported. According to the amendment, the insurance products to be evaluated in this framework would be determined by the presidential decrees in view of recommendations of Insurance and Annuity Regulation and Supervision Institution (the “Regulative Body”) that are found appropriate by the Ministry. The press releases, however, already indicate that compulsory insurances for the mining workers, liability insurances for medical practitioners and State-Backed Credit Insurance are prioritized items on *Türk Reasürans’* agenda.

In case no sufficient insurance and / or reinsurance cover is found for these risks or in cases of risks, such as nuclear emergencies, that need to be insured as a matter of public policy, the State is expected to provide necessary coverage through the Center. The Center is also entitled

¹ “The Center Will Deliver Solutions for the Sector’s Problems”, Sigortacı Gazetesi, 07.06.2021 <https://sigortacigazetesi.com.tr/ozel-riskler-yonetim-merkezi-sektorun- ihtiyaclarina-cozum-uretecek/>

to provide reinsurance coverage to the *ad hoc* syndicates for agriculture and earthquake risks. If deemed necessary, the Center can also provide coverage for civil vessels and airplanes.

The Center's corporate structure, principles and governing rules, scope of its powers and responsibilities will be regulated by the Regulative Body. The procedures for the coverage for the vessels and planes will be regulated by the Ministry separately. These awaited regulations are expected to iron out the defects and ambiguities experienced in the prior term where each "extraordinary risk" had been dealt by a different insurance company. The new system united under the Center's roof is more likely to provide the target audience, particularly the SMEs, with more satisfactory and unequivocal insurance products.

A New Hope for State-Backed Credit Insurance

A positive impact of this new system would be felt also in respect of State-Backed Credit Insurance. According to the expectations, the regulation would make it easier for the banks to accept this insurance policy as a security and therefore to provide the SMEs with the much-needed financing.

This insurance, basically and primarily, aims to provide the SMEs with the relief in case the receivable arising from sale contracts is not collected on time. Insurance company enrolled in this system promises to pay the defaulted receivables to the SMEs according to the Ministry's general conditions and other terms prescribed by the Center.²

The Ministry's "Economic Reforms" booklet released on 12 March 2021 also spared a part for this insurance for which both the government and the real sector have great hopes in combatting the impacts of the Covid-19 pandemic.³ The government, with a decision of the Council of Ministers, introduced this insurance in 2018⁴; however, since then this insurance could not go beyond being an exceptional insurance product issued by a few insurers for a few large-scale businesses. This new phase backed by the state has aimed at rendering this product to be provided by all the insurance companies for the enterprises of all scales. This has become possible since the risk undertaken by the system would be reinsured by the state to the extent that the underwriting insurers fail to attract sufficient interest from the reinsurers abroad.⁵ The procedural and substantive rules governing this system would be regulated by the presidential decrees, according to which, the required funds would be paid from the Ministry's budget to the Center.⁶

² Communique on Tariffs and Instructions for State-Backed Credit Insurance Regarding SMEs, published on Official Gazette no. 30635 dated 24.12.2018; see also Circular no. 2020/7 on Determination of Credit Limits for the Purchasers within the Scope of State-Backed Credit Insurance Regarding SMEs, as published by the Ministry of Treasury and Finance on 01.04.2021.

³ Economic Reforms, the Ministry of Treasury and Finance, 12.03.2021 (<https://ms.hmb.gov.tr/uploads/2021/03/Ekonomik-Reformlar-Kitapcigi.pdf>)

⁴ Decision no. 2018/11892 on Operation of State-Backed Credit Insurance for SMEs, published on Official Gazette no. 30456 dated 22.06.2018.

⁵ Communique on Procedural and Substantive Rules Governing the State-Backed Insurance for SMEs, published on Official Gazette no. 20636 dated 24.12.2018.

⁶ Decision no. 4092 on Reinsurance Coverage to be Provided by the State, published on Official Gazette no. 31519 dated 22.06.2021.

That being said, this insurance product could not reach the desired success in the market so far even though the scope of the target audience has been widened over the time, especially by stretching the criterion sought for the SMEs. Manifestly, this is partly because of the fact that the policy conditions do not perfectly match with the SMEs' customary business practices and realities. For example, it is not always easy for SMEs to make a tradeoff between the premiums to be paid and the rewards to be reaped under the coverage. This is the case especially given that the scope of this insurance does not respond each and every need in the business such as sales contracts in foreign currencies as per the governing regulations. Besides, it is not always preferable for the SMEs to promptly inform the insurer on the adverse changes relating to their customers and/or file loss notifications shortly after the due date for the outstanding insured receivable; since this would mean that the insurer starts the legal proceedings against the debtor and possibly damages the existing commercial relationships.

Hence, the amendment to the Insurance Act has laid to foundations of further endeavors to render this insurance as an appealing tool for the SMEs despite all its drawbacks. This amendment vests the Center with a legal and tangible personality and foresees an enhancement in this insurance tool's characteristics as a matter of security for the bankers.⁷ Indeed, there has been no obstacle against this insurance policy to be regarded as a security; however, this was not sufficient on its own for the banks. The Banking Regulation and Supervision Agency, following this development, amended the respective regulation on 6 July 2021 and expressly allowed the banks to treat this policy as a strong security.⁸ By this way, for example, the banks could, in a tripartite scheme involving the insurer, can offer requested funds to SMEs whereas they will be endorsed in the policy as a loss payee. Even in case of non-payment, the bank would know that it would be ultimately paid by the credit insurer. As projected in the Economic Reform booklet dated 12 March 2021, these developments may pave the way for easier access to financing for the SMEs.

Despite all these developments, however, whether this insurance would reach the desired success and to what extent the banks will provide funds to the SMEs based on the face value of these insurance policies are still a question mark. After all, the banks would evaluate net realizable value of these policies, just like they do for all other security tools, and give loans according to margin applied to the insurers' promised liability with respect to each customer of the insured. Nevertheless, it would be still early to say that this insurance has achieved the target even if the banks begin placing trust in these insurance policies. The Center has a long way in front of it until it accommodates the expectations and interests of the insurance sector and real sector.

⁷ "The Center Will Deliver Solutions for the Sector's Problems", Sigortacı Gazetesi, 07.06.2021. <https://sigortacigazetesi.com.tr/ozel-riskler-yonetim-merkezi-sektorun-ihityaclarina-cozum-uretecek/>

⁸ Regulation on Procedural and Substantive Rules for Classification of Loans and Provision Reserved, published on Official Gazette no. 29750 dated 22.06.2016 and amended on 06.07.2021.