

New Turkish Commercial Code

A blueprint for
the future





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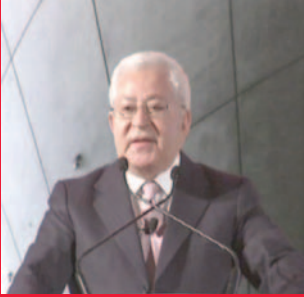
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A Future Unique to a Civilised Society



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This handbook aims to illustrate the modern evolution, important innovations, and reformist approaches of the new Turkish Commercial Code (“New Law”), and to provide details of the law by which Turkish commercial, financial and capital markets will be bound. There is no single, identical future for every individual or every society. Each country defines its own future. Turkey needs to choose its own path to a modern and socially aware future. If we choose wisely we can raise both our country’s profile and our people’s spirits. In order to do this, you have to pay a price, but the price is far less than that paid by a society that fails to keep pace with the realities of the new understanding of commerce. The New Law regulates commercial enterprises, commercial companies, negotiable instruments, transportation operations, maritime law and insurance contracts. Based on the “commercial law understanding” handed down from the 1926 and 1956 commercial codes, the New Law aims to radically change the future of commercial law. The New Law doesn’t just integrate Turkish commercial law with European Union law or create an infrastructure based on Basel II, transparency and an information society; it simultaneously

puts into effect generally accepted financial reporting and auditing principles and paves the way for democracy among shareholders and the use of information technology tools.

The goals of the New Law are to establish and sustain a system of commerce, industry and service supply at a consistently high level; to provide justice; to protect society and safeguard its ethical values, and to focus on modern traders and companies, investors, transporters, the insured and small and medium-sized enterprises (SMEs) – all areas in which competitive enterprises shape our economic environment and where the language of international markets is spoken.

Principles of corporate governance have moved beyond publicly traded companies and have become management best practices, with consequences for all private and public operations. The principles also provide an effective codex for internal and external audit. All this is acknowledged in the New Law and highlighted in this handbook.

I would like to acknowledge the contributions of Bige Tekinalp, who prepared this book for publication with great care. She listened to lectures I gave at more than 100 seminars, panels and meetings, examined their texts, provided commentary on the law and has ensured that this book includes all of the New Law's underlying principles, critical points and new concepts.

I would also like to thank PwC Turkey. By publishing the New Law's articles on commercial enterprises and capital stock companies in their final accepted form, PwC has helped introduce the public to the law in all its richness. This publication allows the goals and purposes of the Draft Turkish Commercial Code Commission to be explained to non-governmental organisations and relevant stakeholders in the New Law. This publication has allowed the Commission to reach the organisations and corporations with which we discussed the New Law, and it has enabled us to bring the New Law, the fruit of a collective endeavour, to the target audience.

Competition in a World without Boundaries



*Cansen Bařaran Symes
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A new world balance is emerging, one in which boundaries have been removed by the global economy and international commerce. By 2050 the size and roles of national economies in the global economy will have changed dramatically. The extent to which Turkey can to make the best use of the opportunities ahead will largely determine how much influence it obtains in the economic and global arena of the future. In an era of change, the new Turkish Commercial Code (“New Law”) will leave its mark on commercial life in Turkey. It truly is a blueprint for the future.

The New Law was prepared after a painstaking five-year study by the Preparatory Commission for the Draft Turkish Commercial Code, under the chairmanship of Prof. Dr. Őnal Tekinalp. In addition to the opinions and viewpoints of academics, professional organisations and nongovernmental organisations received during the preparation period, the opinions of leading Turkish companies were sought before the draft was presented to the Turkish Parliament. During its development, the New Law received support from all political circles, trade unions, non-governmental organisations and professional unions; its enactment was the product of unprecedented social and political consensus.

In the wake of the recent downturn, the global economy is settling at a new balance point. For nations and companies to enhance their competitive strength, their rules must be compatible with global standards. Global competition has put added emphasis on corporate growth and development potential, corporate governance, public confidence, high-quality financial information and transparency.

The New Law redefines the rules governing commercial life in Turkey, with a modern approach that will help take Turkey to the next level in terms of transparency, auditability and reliability. Turkish business life continues to evolve rapidly, and its adoption of more transparent principles of corporate governance will increase the global competitive strength of Turkish enterprises.

The New Law makes Turkish trade legislation compatible with the EU *acquis communautaire* – the legislation that candidate countries must adopt to become EU members – removing a major obstacle to Turkey’s accession to the EU. The more quickly the New Law takes force, the sooner the desired benefits can be obtained. The implementation of supporting regulations for the Code of Obligations and the New Law are

essential. Turkey still has much to do and no time to waste. It is time for Turkey to become creative and move forward. The New Law creates an environment for all these developments.

Objections to the law should not be blown out of proportion or allowed to further delay its effective date. All parties will certainly benefit from transparency and auditability. We believe the ethical and transparent structures the New Law introduces will help commercial life to thrive and will accelerate Turkey’s development. It is time for our companies, investors and entrepreneurs to choose: they must either help lead the change or drop out of the race.

PwC Turkey prepared this summary on the major changes in the New Law’s section on commercial companies with the invaluable efforts of Bige Tekinalp. We are proud of our contributions, but the work is far from over, and we are ready to do our part. PwC Turkey will continue to support and add value to the business life on all topics relating to the New Law.

Effective Date of New Turkish Commercial Code

The New Law was promulgated in the Official Gazette on 14 February 2011. As stated in the New Turkish Commercial Code No. 6102 and Law No. 6103 on Validity and Application of the Turkish Commercial Code, the New Law will become effective on 1 July 2012, excluding two groups of provisions.

- a) The first group comprises provisions relating to Internet sites to be opened by capital stock partnerships for information services. Information on capital stock companies of interest to shareholders, partners, employees, suppliers, creditors and investors will be available on these Web sites. Provisions relating to this mechanism will be applicable as of 1 July 2013.*
- b) The second group comprises provisions that require the audit of capital stock companies to be made in accordance with Turkish Auditing Standards, which are in line with International Standards on Auditing and financial reporting standards. Regulations on financial reporting require tradesmen and enterprises to be subject to Turkish Accounting Standards (TAS) in line with International Financial Reporting Standards (IFRS), effective 1 January 2013.*

A blurred background image of a man in a dark suit and white shirt, seen from the side, speaking at a podium. He is holding a stack of papers. In the background, an audience of people is visible, some of whom are clapping. The setting appears to be a formal conference or meeting room with wood-paneled walls and a chandelier.

I. Common Concepts Related to Corporate Law



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A. Corporate Governance

Corporate governance is the dominant concept in the New Turkish Commercial Code (“New Law”). No longer does corporate governance mean a system of rules applicable only to publicly traded companies; it is a principle that should be applied to all enterprises. It aims to inspire investor confidence and ensure sustainable development. The New Law introduces material provisions regarding good management and internal and independent audit that are to be applied to all capital stock companies. Thus the New Law will embed in Turkish law, simply and understandably, the concept of corporate governance – which has become common in recent years around the world and has grown in complexity, reflecting differences in the economic, financial, political and cultural structures of the countries applying it. The regulation of corporate governance under the New Law can be summarised as follows:

1. The corporate governance approach of the New Law is based on four pillars that have universal characteristics within the context of corporate governance. (1) full transparency, (2) fairness, (3) accountability, (4) responsibility.
2. Full transparency has been sought in (1) financial statements, (2) boards of directors’ (BoD) annual reports, (3) independent audits, (4) transactional auditors, (5) all audit reports of individual companies and group of companies.
3. Fairness has been ensured by establishing a balance of interests and by objective justice.
4. Accountability has been embodied in the BoD reports, flow of information, right to information and oversight.
5. Responsibility has been regulated in parallel with accountability.
6. The rights of shareholders to sue, obtain information and perform oversight have been created along with smooth-running legal mechanisms.
7. The minority rights list has been expanded.
8. Privileged shares have been restricted.
9. Representation opportunities for group of shareholders and the minority in the BoD, have been increased.
10. The Capital Markets Board (CMB) has been provided with exclusive authority to regulate corporate governance. This authorisation will ensure it remains dynamic and up-to-date.
11. The BoDs of publicly held companies are now obliged to publish corporate governance reports.
12. Professionalism and specialisation in bodies has been emphasised.

B. Web Site, Information Society Services and Access Rights of Capital Stock Companies

Under the New Law, all capital stock companies are obliged to create a Web site; if the company already has a Web site, it must allocate part for “information society” services

The New Law defines “information society” as a society with access to information. The following conditions apply to company Web sites:

1.
 - a. all data that is relevant to the company and in which shareholders, minorities, creditors and stakeholders have an interest
 - b. documents and calls regarding General Assembly (GA) meetings
 - c. year-end and interim financial statements and merger and division balance sheets
 - d. audit reports (reports of auditor, operational auditor, special auditor, etc.)
 - e. valuation reports
 - f. offers for exercising pre-emptive right
 - g. announcements related to liquidation
 - h. announcements related to action for cancellation
2. Access to the Web site shall be available to everyone and shall be unrestricted, to ensure the right to and possibility of access.
3. The Web site shall provide the means for electronic GA and BoD meetings and for electronic voting.
4. The Web site is a complete, visual and electronic trade log.
5. The Web site has introduced the concept of stakeholder into Turkish law.
6. The content uploaded on the Web site is kept there for at least six months from the upload date, or it is deemed not to have been uploaded. For financial statements, this period is five years. Although the New Law will be effective as of 1 July 2012, Article 1524 regulating Web sites shall be effective as of 1 July 2013.

C. Single-Shareholder Joint Stock Company (A.Ş.) and Single-Member Limited Liability Company (L.Ş.)

In General

The New Law introduces one other significant innovation that satisfies a major need: single-shareholder A.Ş. and single-member L.Ş. This “one-man company” has been regulated by means of adapting the Twelfth Council Company Law Directive (89/667/EEC) from EU law to Turkish law.

- Single-shareholder A.Ş. and single-member L.Ş. can be incorporated; in addition, if the shareholders/partners of an A.Ş. or a L.Ş. incorporated by and among multiple shareholders/partners drops to a single partner or shareholder, the firm can legally continue its activities.
- If a company is incorporated with a single person, the legal form of the company, the name of the single person, trade name and address will be registered with the Trade Registry and announced.
- If a company is incorporated by and among multiple shareholders or partners and the number of shareholders/partners drops to one, for reasons such as share transfer, withdrawal or dismissal of shareholders/partners, the company can continue to carry out its business in the same manner and maintain its legal personality. This is a direct change from the current Turkish Commercial Code (Code), under which an action for dissolution must be initiated. This situation will be immediately registered with the Trade Registry and announced, and the information regarding the identity of the person who has become the single shareholder/partner will be registered.
- If a company fails to make this introductory and explanatory announcement (a requirement of the principles of transparency and public disclosure), the BoD and the single shareholder/partner – even the other party to the transaction that put the company in such situation – can be held responsible.
- The single shareholder or partner can solely use all powers of the GA and can adopt all resolutions. However, all resolutions adopted in the name of the GA must be specified as GA resolutions and must be made in writing.
- The single shareholder/partner can conduct a transaction with itself in writing. The same rule is also applicable to transactions between the representatives of a single-partner or a single-shareholder company, and the single shareholder/partner himself or the company. The said rule will not apply to operations considered day-to-day transactions.

Doesn't a one-man company contradict the concept of 'company'?

A one-man company does not contradict the concept of “company”. A company is not necessarily a union of people with more than one partner, but an operational organisation that manufactures and supplies goods and services. A company is the name given to an enterprise that functions for the purpose of realisation of its scope of activity. Accordingly, the company can consist of a single shareholder or a single partner; however, it can also have a BoD consisting of 10 to 15 members, various audit committees and several commissions, in line with the principles of corporate governance. The important thing is the appropriateness of the structure for the scope of the activity; best management and audit practices are essential.

The elements that define a company are the managerial organisation needed to achieve its scope of activity, effective audit, ability to compete, and presence in national and international markets. The number of partners is a marginal and insignificant element;

it can be useful when describing a publicly held company or a publicly traded company; however, it does not describe the modern understanding of a company. The number of shareholders is significant only when the shares of a company are being listed on a stock exchange. This characteristic makes the company a publicly traded company. A single-shareholder A.Ş. can easily be converted into a publicly traded company. It would be an excessively formalist approach not to consider an organisation with such flexibility as a company, simply because it has a single shareholder or partner.

Legal systems that do not permit single-shareholder A.Ş. or single-member L.Ş. eliminated the possibility for associations, foundations, unions and universities to incorporate companies related to their operations.

A single-shareholder or partner company responds to the following needs:

1. It provides the opportunity for the owner of an enterprise who wishes to convert its single proprietorship to a new legal type of limited liability company, i.e., for an A.Ş. or a L.Ş. to incorporate a one-man company. Thus, the owner will no longer be forced to add token individuals into the company for its incorporation.
2. When a foundation, association or university wants to incorporate a company, it might naturally be the single partner or shareholder of such a company. Taking on token shareholders or partners into the company along with the actual partner is rarely well-suited to these organisations' purposes.
3. If an A.Ş. or a L.Ş. wants to establish a vendor related to its own scope of operation, it can establish such vendor on its own through a new company. For example, if a company that manufactures refrigerators wants to incorporate a company that produces plastic refrigerator shelves, it would no longer have to take on a partner unnecessarily.
4. As single-shareholder or partner companies are very common in European countries, companies that want to invest in Turkey can make their investments directly as a single shareholder or partner by themselves.

D. Group of Companies

In General

A group of companies (“Group”) which is created for the specific purpose of managing more than one capital stock company, according to predetermined and concrete policies within the context of controlling relationships, has been regulated for the first time in Turkish law by the New Law. A group of companies is known as a “corporate group” in Anglo-American communities and in German law as a “Konzern”.

A significant loophole in the law has been closed and a significant need has been satisfied through this new regulation. By means of these provisions:

- The concepts of a controlling (parent) company, which sustains control, and a dependent company (subsidiary), which is under control, have been clearly defined, and the legal status of these companies and their relationships have been specified.
- The necessity for the transparency principle which forms the foundation of modern corporate law has been fulfilled by setting forth the requirement for controlling and dependent companies to disclose their legal position to the public.
- The BoDs of both controlling and dependent companies are required to report their inter-company relations annually. This ensures that the management of such companies will have detailed information on inter-company relations. In the light of this information, the BoD will be better placed to understand the position of the dependent company. The BoD will be able to clearly determine the losses and profits of each company and make more informed decisions by means of the said report.
- The New Law sets forth that these reports will not be disclosed to the public, but that their results section shall be included in the annual report, maintaining confidentiality as far as is possible.
- The New Law introduces the phenomenon of cross-shareholding and stipulated that it is in conformity with European Union regulations. The abuse of cross-shareholding and situations in which it can be used by the BoD as a weapon to strengthen its management are prevented.

Abuse of Control

The New Law protects the shareholders of dependent companies not included in the Group by means of various rights of action and through other mechanisms. Among these are provisions giving shareholders not included in the Group the opportunity to sell their shares to the controlling partner and to withdraw from the dependent company (a sell-out). Rights of action are introduced for shareholders and creditors to compensate losses of the dependent company within a certain period.

The New Law regulates the legal effects of abuse of control by the controlling company under two major categories

The first category includes the use of control by the parent company:

- For the purpose of the transfer of a business part, funds, personnel, production instruments or profit of the dependent company to another dependent or controlling company included in the Group,
- For the purpose of closing the dependent company down; preventing renovation of its production units, an increase of its capacity or its participation in tenders in favour of another dependent company in the Group,
- For the purpose of inducing the dependent company to be co-signee, to provide a guarantee, to undertake debt or to obtain a credit in favour of another company or parent company in the Group.

The second category includes:

- Having the dependent company merged with another or several other companies within the Group,
- The division of a Group company in favour of the Group,
- The conversion of a Group company for the interest of the Group without just cause,
- Issuance of securities by a Group company in the interest of the Group's benefit,
- Amendment of the articles of association in the interest of the Group.

Means for controlling one trade company by another:

- Holding the majority of voting rights,
- Having the right to ensure election of a certain number of board members that will constitute the decision-making majority,
- Acquisition of the majority of voting rights either independently or with other shareholders or partners through a contract (pool agreements), besides its own voting rights,
- Managing and directing the company as required by a contract subject to the Code of Obligations (control contracts).

In companies traded on the stock exchange, a shareholder who does not have majority shares can be the controlling shareholder in the Company. This can be determined through research by authorities.

Top management can be:

- a local/foreign commercial company,
- a person,
- a legal entity other than the company, such as foundation, association or union,
- a community that is not a legal entity (a community of heirs, an ordinary partnership/consortium),
- The controlling company can be local or foreign. The headquarters can be in or outside Turkey.

In all cases the relevant provisions of the New Law are to be applied.

Full (100 percent) Control Status

If a commercial company owns 100 percent of a capital stock company (full control), this company can give instructions to the dependent company in line with the specified and concrete policies of the Group, with three exceptions:

1. Those exceeding the solvency of the dependent company,

2. Those that jeopardise the existence of the dependent company,
3. Those that may result in a loss of significant assets of the dependent company, In short, in these three cases, even if full control exists, instruction cannot be given.

Responsibility Arising from Trust

If the Group has achieved a significant reputation within the community and has thereby created trust, and that trust is then used by one of the Group companies, then the Group becomes responsible for any consequences of this.

E. Structural Changes in Companies

Common Principles Governing Structural Changes

We can classify the New Law's provisions related to mergers, divisions and conversions under the heading of "structural changes" in commercial partnerships. The common principles applied to all three types of structural changes are as follows:

- **Nationality:** In the New Law, structural changes are carried through in connection with the principle of nationality. Cross-border mergers and divisions are not covered by the New Law.
- **Corporate Mobility:** The New Law allows corporate headquarters to be relocated abroad under certain conditions, just as the previous Code did. However, relocation abroad has been regulated in detail for the first time in Turkish law through the New Law and the law dealing with its application and execution. Relocation of an enterprise's headquarters to Turkey is regulated under the Trade Registry Statute.
- **Protection:** In every merger, division (spin-off/split-up) and conversion, the protection and continuity of partnership shares and rights, rights arisen from redeemed shares, usufruct (the legal right to use and derive profit or benefit from property that belongs to another), rights in debenture and similar bonds related to the transferred, divided or converted company is a core principle in the new company. In this scope the protection of all rights aside from those arising from the partnership shares are new.
- Structural changes are carried out via a merger balance sheet. During this process, if changes in assets and liabilities are sufficiently material to affect the financial results, the valuations will be amended accordingly.
- The right to request inspection is provided for all stakeholders.
- Structural change transactions are to be audited by a transaction auditor.
- Employees have been protected against the side effects of structural changes.
- Legal action for rescission and respective responsibility relevant to structural changes has been stipulated.

The New Law has regulated the structural changes in terms of spin-off, merger and conversion through 60 articles. Most of these provisions relate to protecting the partners, the partnership creditors and the employees and securing their rights and credits. Some protective concepts, the mechanisms and action rights have been subject to common provisions for all structural changes; others are of a similar nature in which the differences have been subjected to specific rules. Spin-off/Split-up is explained in detail in the following section; further detailed information will not be provided in the merger and conversion section.

Division (Spin-Off/Split-Up)

In General

In the current Code, no provision is made regarding the spin-off of capital stock companies, which plays a significant role in the restructuring of companies. The first and only respective legal regulation is the amendment made to Articles 38 and 39 of Corporate Tax Law (CTL) No. 5422 and dated 2001. Articles 19 and 20 of CTL No. 5520, which came into force as of 21 June 2006, superseded these initial rules. Aside from defining full spin-off and partial spin-off (split-up) in CTL, spin-off was not explained. Additionally, no provisions were made to protect the parties of the spin-off and the partners. As significant legal loopholes were found in the first regulation, the spin-off procedure has almost never been initiated in practice. Therefore, the Turkish Ministry of Finance and the Turkish Ministry of Industry and Trade issued a joint communiqué in the Official Gazette on 16 September 2003: the Communiqué regarding the Procedures and Principles related to the Spin-off of Joint Stock Companies and Limited Liability Companies. As this communiqué introduced practical solutions, spin-off of capital stock companies was made possible. However, the Communiqué provided only the procedures and principles for spin-off. There is no legal regulation regarding the method for the split-up of a company.

The New Law, taking Sixth Council Directive 82/891/EEC and Swiss merger law as a model, has introduced into Turkish law the concepts of split-up and spin-off of capital stock companies and cooperatives. The implementation of spin-off and split-up of capital stock companies and cooperatives is now also dealt with in Turkish law.

Types of Division:

In the New Law divisions can be carried out through:

- split-up
- spin-off

These can be:

- Symmetrical (the percentage of shares in the company are preserved)
- Asymmetrical (the percentage of shares in the company are not preserved)

The form of division can be one in which:

- the partners become the partners of the company subject to spin-off
- a subsidiary is created

Definitions

A split-up is a spin-off in which all the assets of a commercial company are divided into units and transferred to an existing or a new company or companies, where the partners of the company subject to spin-off acquire shares and rights in the transferee companies, and where the divided company ceases to exist. A spin-off is a division in which the assets of a commercial company are divided into units and a part of the sections remain with the company subject to spin-off, and another part or parts are transferred to an existing or new company or companies, where the partners of the divided company acquire shares and rights in the transferee companies, and where the divided company continues to exist with the remaining part.

Although the company subject to spin-off is dissolved without liquidation in a split-up (also losing its legal personality after dissolution), in a spin-off the divided company maintains its legal status and legal personality. The division will be valid upon the registration at the Trade Registry.

In a symmetric spin-off, the partners of the company subject to spin-off acquire shares in the transferee company to the extent of keeping the same shareholding ratios as before the spin-off and thus the shareholding ratios are preserved. An asymmetric division is one in which the shareholding rates are not preserved.

A subsidiary is created when the company subject to spin-off becomes a partner in the transferee company.

Protective Provisions and Mechanisms

The regulation of spin-off has fundamentally changed in the New Law through provisions protecting the partners, creditors and employees of companies participating in the spin-off, in accordance with the provisions of the EU's Sixth Council Directive.

The protective provisions are as follows:

- 1. Continuity of Rights:** The partnership rights of the partners of the transferor company will remain in the transferee company in terms of scope, characteristic and content in the same manner (the principle of continuity of rights). In the context of this principle:
 - It is ensured that the partners of the transferor company acquire shares in the transferee company in proportion to the shares in the transferor company.
 - If privileged shares are available, they are provided.
 - The right to continue having a non-voting share in the transferee company is granted; if not available, the right to acquire a share with voting rights is granted.
 - An equivalent right is granted to the owner of the redeemed share, or the purchase of such share is stipulated.
- 2. Payment for Withdrawal:** Payment for withdrawal to a partner who does not want to participate in a spin-off is provided (with their agreement).
- 3. Spin-off Contract/Plan:** A detailed and transparent division contract/plan must be

prepared by management bodies. The minimum required information that must be entered is clearly specified in the New Law. The spin-off contract and the spin-off plan must be approved by the GAs of the partnerships participating in the spin-off.

4. **Spin-off Report:** The management of the partnerships participating in the division are required to prepare a transparent, informative and legally reliable spin-off report that provides legal certainty of the arrangements. If a new partnership is being incorporated, its articles of association must be attached to the spin-off plan.
5. **Audit:** The partnerships participating in the spin-off must have the spin-off contract or spin-off report and the balance sheet that underlies the spin-off audited by an independent and experienced auditor. If all partners approve, small-size companies can be dispense with the need for audit.
6. **Right to Inspection:** Partners participating in the spin-off have the right to inspect:
 - spin-off contract or plan,
 - spin-off report,
 - audit report,
 - financial statements of last three years, annual reports and interim financial statements, if any.
7. **Securing Credits or Payment of Credits:** Creditors of the partnerships involved in the spin-off transaction will be invited to participate in the spin-off to declare their receivables and to demand security for such receivables. This invitation will be made through an announcement published in the Turkish Trade Registry Gazette and three times in a national newspaper, as specified in the articles of association, and on the company Web site. The claims of creditors making such a demand must be secured or paid within three months of the announcement. The payment of some credits must not create a loss for other creditors.
8. If the partnership with primary liability that has undertaken a debt through a spin-off contract or spin-off plan does not secure or pay the credits, provided certain conditions are met, the other partnerships involved in the division (partnership with secondary liability) will be mutually liable.
9. **Liability:** The debt liabilities of the shareholders of the company subject to spin-off shall continue after the spin-off, provided those debts or the reasons for those debts arose before the declaration of the resolution regarding the spin-off.
10. **Statute of Limitations:** The personal responsibility of the partners will be limited, by the statute of limitations, to three years from the announcement of the spin-off.
11. Service contracts with employees, as well as any right and liability arising from such agreements up to the day of the division, shall be transferred to the transferee company, if the employees do not object. These service contracts will run continue until the end of the legal termination period. The transferor and the transferee shall be mutually liable to the employee for payments which will become due before

the termination date of the service contract. In the New Law, protection is more comprehensive and more secure than what is set forth in Article 6 of the Labour Law.

12. **Legal Action for Rescission:** In the event there is a violation regarding the aforementioned topics, partners of the partnerships who did not cast an affirmative vote on the division resolution and had this duly recorded in the minutes can file an action for rescission within two months of the publication of the spin-off resolution in the Trade Registry Gazette. In the event an announcement is unnecessary, the period will begin as of the date of registration.
13. **Legal Action for Compensation:** Individuals who have participated in the spin-off in any way, as well as those who have conducted an audit of the Company, are responsible to partnerships, partners and creditors for any damage caused by their faults.

Valid and Invalid Spin-Off

Capital stock companies and cooperatives can be divided into capital stock companies and cooperatives.

Transparency in Spin-Off

1. Statutory content for contracts, plans, and reports has been legally specified.
2. Audits will be conducted by expert, independent auditors.
3. All spin-off-related documents will be posted on the company's Web site.

Mergers

The New Law defines both types of mergers:

- merger by acquisition
- merger by formation of a new company

No other type of merger is recognised.

Valid and Invalid Mergers

A New Law provision lists which company or cooperative can merge with which company or cooperative.

Merger of Commercial Enterprise

A commercial enterprise can merge with a company through takeover.

Provisions and Mechanisms that Protect Shareholders, Creditors and Employees

The protective provisions and mechanisms are primarily the same as those for spin-off transactions, with these differences:

1. The merger contract or merger report, annual activity report, audit report and financial statements for the last three years, including financial interim reports if necessary, shall be presented to the owners of the redeemed share, bearers of securities and any

other stakeholders for their inspection, in addition to the partners of the partnerships taking part in the merger.

2. Small-sized partnerships can dispense aforementioned inspection provided all the partners approve.
3. Creditors of the partnerships participating in the merger must declare their claims within three months as of the date on which the merger became legally valid (publication in the Trade Registry Gazette).

Conversion of Legal Form of Companies

1. Conversion is regulated in a single article in the existing Code. In the 1970s, the Turkish Corporate Law made valuable contributions by clarifying every aspect of the concept and explained the classifications and specified protective principles and regulations. The Supreme Court of Appeals followed the doctrine explicitly and made the principal decisions regarding conversions. By 1980, this concept had become well known throughout Turkey.
2. The New Law codifies this concept. However while the doctrine, in the context of the existing Code, has accepted the freedom to select the legal form without any restriction, the New Law has a provision listing valid (legitimate) conversions.
3. The provisions in the New Law regarding protection of shareholders, creditors and employees have closed a significant loophole that existed in the former Code. These provisions and transparency mechanisms are the same as for division.
4. The stakeholders' rights to inspect and their rights of legal action, as well as to audit the conversion, which do not exist in the current Code, are regulated by the New Law through comprehensive and effective provisions.

F. Reforms for Commercial Books in Conformity with Turkish Accounting Standards (identical to IFRS)

In General

1. The section related to commercial books, with provisions concerning financial statements of equity capital companies and group of companies, and provisions concerning the annual report of the BoD, introduced remarkable changes.
 - The rules related to bookkeeping, opening balance sheet, financial statements, balance sheet principles, prohibition on capitalisation, provisions, prepaid expenses and deferred income, valuation, custody and disclosure are completely new.
 - Additionally, the New Law no longer contains the use of commercial books as proof, which is a practice no longer applied in modern laws.
2. The New Law empowered the Turkish Accounting Standards Board (TASB) as sole and exclusive authority to set and publish Turkish Accounting Standards (TAS). Its

objectives are:

- To enable Turkish companies to use financial reporting generally accepted in international markets and to enable them to be competitive players in these markets,
- To publish TAS which are identical to the IFRS,
- To increase the sustainable competitive advantage of Turkish enterprises by using an international language,
- To facilitate Turkey's strategic depth in economic politics.

Enforcement

The New Law contains detailed provisions concerning the application of TAS.

- The rules related to enforcement of related provisions about TAS are as follows: TAS/ Turkish Financial Reporting Standards are effective from 1 January 2013 for:
 - a) Large sized equity capital companies and their subsidiaries in consolidation, affiliates and groups of companies,
 - b) Companies issuing marketable instruments trading in exchanges or other markets, intermediary institutions, portfolio management companies, and other companies in the scope of consolidation,
 - c) Banks and their subsidiaries identified under Banking Law Article 3,
 - d) Insurance and reinsurance companies identified under the Insurance Law,
 - e) Pension fund companies identified under the Individual Pension Savings and Investment System Law.
- TAS that are already published and will be published specific to small and medium sized companies (TAS for SMEs) and for every legal and real entity excluding the above is effective from 1 January 2013.
- Articles 397 and 406 of the New Law, related to audit of A.Ş., are effective as of 1 January 2013.
- The related companies are obliged to apply TAS published by the TASB in relation to commercial books, separate and consolidated financial statements on 1 January 2013 or at a later date for the beginning of the special accounting period.

The companies mentioned above are obliged to adjust their balance sheets after the period ending 31 December 2012, and the later period for those with a special accounting period, in compliance with TAS; they are obliged to prepare their opening balance sheet at 1 January 2013 or at a later date regarding the beginning of the special accounting period in compliance with TAS.

- Any traders remaining, outside the SMEs and large sized companies mentioned above, are obliged to apply the TAS published by the TASB related to commercial books, separate and consolidated financial statements on 1 January 2013 or at

a later date in line with the beginning of their special accounting period. These traders are obliged to adjust their balance sheet after the period ending 31 December 2012 and the later period for those with a special accounting period in accordance with TAS, and they are obliged to prepare their opening balance sheet at 1 January 2013 or at a later date for the beginning of the special accounting period, in compliance with TAS.

- The independent auditor should be appointed before 1 March 2013 by the authorised body of the company. The mission of the current auditor expires after this appointment under Law No. 6762.

The balance sheet for the period ending 31 December 2012, or at a later date for the beginning of special accounting periods, is audited by the appointed auditor under the provisions of Law No. 6762. The opening balance sheet at 1 January 2013 or a later date for the beginning of special accounting periods is audited by the appointed auditor under the New Law and in accordance with its provisions.

The auditor appointed in accordance with the New Law conducts the audit within the scope of the New Law. However, the auditor presents the prior year financial statements prepared in accordance with Law No. 6762 and other regulations for the purpose of comparison.

- The GA is gathered when the mission of the auditor or auditors has expired in accordance with Law No. 6762 and the procedure is conducted in conformity with Article 367 of Law No. 6762.

Turkish Accounting Standards (TAS)/Turkish Financial Reporting Standards (TFRS)

The New Law requires that the financial statements of all enterprises, regardless of whether they are public or not, be prepared in conformity with TAS/TFRS published by the TASB. TAS is the Turkish translation of IFRS.

The New Law aims to enable the comparison of financial statements prepared in accordance with TAS/TFRS with financial statements prepared in accordance with IFRS. And the New Law intends to make financial information prepared in accordance with TAS/TFRS accepted in the international markets by introducing a uniform application and principles to accounting and reporting practices. Concepts like materiality, comparability, substance over form and true and fair view, which previously did not have a significant role, will be included in the conceptual framework of TAS in line with IFRS.

Turkish Accounting Standards Board

Has published:

- Standards of TAS/TFRS related to large-sized companies, the Capital Markets Board, banks, insurance companies and pension companies and
- Special reporting standards for SMEs

Why IFRS?

The global need for a unique financial reporting standard with universal characteristics emerged in recent decades as a natural result of increasing cross-border investments and transparent capital markets. The most comprehensive solution was introduced by the International Accounting Standards Board (IASB). The implementation of IFRS, as published by the IASB, has become widespread. Today, including the member states of the European Union, Australia, Canada, Russia and South Africa have adapted their own laws and regulations to IFRS. Large economies are also in the process of adapting to IFRS. There are also efforts to achieve uniformity of US GAAP (the US financial reporting standards) and IFRS. In light of all these developments, the way for Turkey to be a part of world economy and multinational investment and trade community is to reform its own local accounting legislation and regulations in conformity with IFRS. The New Law achieves this.

G. Audit in Equity Capital Companies

Basics and Fundamentals

The New Law introduces a fundamental system change with a reformist understanding and a contemporary evolution in the auditing of equity capital companies, namely joint stock companies, companies with limited liability and companies limited by shares and group of companies. This change makes a substantial contribution to establishing trust in national and international markets and creating a new perspective for Turkey. The provisions with an advanced understanding of audit will change the structure and organisational chart of joint stock companies and limited liability companies, which will be subject to audit for the first time in Turkey, both at a theoretical and pragmatic level.

The fundamentals of this concept conforms entirely to the contemporary approaches and to the new regulations adopted in the US and EU as a result of the widely publicised international accounting scandals. The new audit will be conducted as follows:

1. by an auditor who is expert, professionally competent, technically equipped, attentive in a legal sense and aware of its responsibility,
2. by an independent auditor in compliance with International Auditing Standards,
3. in accordance with professional ethics,
4. with all due professional scepticism,
5. transparently.

Audit of Separate and Consolidated Financial Statements

Independent audit in the New Law, contrary to the previous Code, is not restricted only to one equity capital company, but also includes the audit of group of companies; the independent audit is subject to the same principles and provisions. Further, there will be no different application from the standpoint of auditing and standards, whether the equity

capital company is open to the public or not, or regardless of size. Additionally, whether the companies are subject to consolidation, or are local or foreign, makes no difference in the characteristics, subject or scope of the audit or standards applied.

Unqualified Opinion

Financial statements, on which an unqualified opinion is issued, can be made the subject of all kinds of decisions taken by the GA.

Unaudited Financial Statements or Qualified, Disclaimer and Adverse Opinions

Unaudited financial statements are considered not to have been prepared; as a result they cannot be subject to any decision or legal issues. An entity cannot adopt a resolution related to an audited financial statement with an adverse opinion or an opinion with a disclaimer; any such decision shall be deemed void.

The disagreements between the company and the auditor are not enough for a disclaimer of opinion. A disclaimer of opinion is another form of qualified opinion and the legal result of both opinions are identical. The criteria mentioned in the New Law are required for a disclaimer to be issued. These criteria include but are not limited to the following:

- Unavailability of books for auditing and reaching conclusions,
- Restrictions by the company of subjects to be audited,
- Refusal of the company to be audited.

In the case that an adverse opinion or a disclaimer of opinion has been issued, the BoD cannot resume its mission; the directors must submit their resignations. The GA is obliged to appoint a new BoD, and the new BoD is responsible for taking the steps necessary to receive an unqualified opinion.

The financial statements over which a qualified opinion has been issued are valid and can be subject to decisions of the GA. However, criticised matters should be adjusted in the GA.

Characteristics of Independent Audit

- **Expertise:** expertise is defined as the possession of professional training and developed and updated qualified information of an auditor, whether the auditor is a person or an audit company. The auditor is an independent auditing company. In small and medium-size capital stock companies, the audit can be conducted by one or more Sworn Financial Advisor and/or Certified Public Accountant (Yeminli Mali Müşavir, YMM, and/or Serbest Muhasebeci Mali Müşavir, SMMM). The New Law introduces another change: auditing of transactions such as incorporation, capital increase and reduction, merger, spin-off, conversion of type of the company must be performed by transaction auditors. In addition, the New Law allows the application of special audits under certain conditions. Special audit is conducted to inspect particular issues (probability of fraud, inconsistency in financial statements, information given to some shareholders not shared to GA, etc.).

- **Independence:** independence with objectiveness is defined as the absence of a material direct or indirect relationship with the company, of involvement in company; of relation with shareholders, relatives or employees of the company.
- **Objectivity:** objectivity means the independent audit must be conducted in accordance with the code of ethics of the profession, without bias or undue influence.
- **Objective:** the audit must be performed in accordance with Turkish Auditing Standards, which are identical to International Standards on Auditing (ISA), in order to integrate with international markets and to speak the language of these markets.
- **Code of ethics:** prescribes how professionals conduct their business within the framework of applicable professional standards, laws and regulations. Professional discipline and professional ethics are the most significant assurance of audit.
- **Transparent audit:** the results of the audit of a company or the Group are posted on the Web site; the statements can be accessed via the Web site for a period of five years, and the audit report is written in a clear, simple and understandable language necessary for the type, scope and results of the audit. The report must be prepared in such a manner that it can be compared with the prior year. The transparency of the report points to the fact that it will contain assessments of the BoD's review, together with the opinions of the auditor in this regard. The auditor's report must also be transparent.
- **Auditor cannot terminate the audit engagement:** Unless the audit contract is annulled, the auditor cannot terminate the audit engagement without any justifiable reason. Disagreement with the company management is not considered as a justification of terminating the audit engagement. .

Professional Ethics

An audit conducted in compliance with the professional ethics and in accordance with the standards must be careful about:

- Independence,
- fairness and integrity,
- objectivity.

Additionally, competence, professional knowledge and diligence are requisites.

During the audit, adherence to confidentiality, professional behaviour and rules, and technical standards is essential.

Professional ethics are both the main support of the moral legitimacy of an audit and the source of its legal responsibility. If the basic principles above are approached with a lack of interest, superficial discourse, indifference and an abstract and impractical perception of the gravity of the matter, the ethical basis for the audit will collapse, and the auditor will be held responsible for the consequences. As the audit standards must be considered as a whole, the auditor must adhere to these standards at all stages of the audit.

Professional Scepticism

Scepticism is among the main prerequisites for the audit. The auditor conducts the planning for the audit and must display a certain amount of scepticism while putting it into practice, and the auditor must always consider the possibility that something can exist to obstruct the honest disclosure of financial statements and the real financial status of the enterprise and operational results. ISA defines scepticism as follows:

“An attitude of professional scepticism means the auditor makes a critical assessment, with a questioning mind, of the validity of audit evidence obtained and is alert to audit evidence that contradicts or brings into question the reliability of documents and responses to inquiries and other information obtained from management and those charged with governance.”

Assurance that the Audit is Free from Material Misstatement

The audit to be conducted in accordance with ISA should be designed in a fashion to ensure that it is free of material misstatement in the methodology, the specified scope or the results. This requires:

- The use of tests.
- The performance of reviews regarding whether there are risks resulting from the design and structure of the accounting and internal control systems.
- The audit evidence.

Auditor

The auditor is a person whose profession is auditing and who has received auditing training or is an institution consisting of auditors. Law No. 3568 specifies the conditions to become an auditor.

Turkish Auditing Standards Board

The Justice Commission, through Temporary Article 2 of the New Law, has resolved to establish an Auditing Standards Board. The provision related to this authorised organisation, referred to as the “Board”, is as follows: “Until a Turkish Auditing Standards Board with a judicial personality is established, the Turkish Auditing Standards, mentioned in Article 397, are determined by a board affiliated to the Union of Certified Public Accountants of Turkey (TÜRMOB) in harmony with ISA. A regulation, regarding which institutions and organisations’ representatives will constitute the board and its work principles and procedures, will be prepared by TÜRMOB and published upon the approval of the Ministry of Finance.”

Characteristics of the audit concept

1. All equity capital companies are subject to audit.
2. The audit is conducted by an independent auditing firm. An audit by a YMM and/or a SMMM is also considered an independent audit. An audit by a YMM and/or a SMMM is temporary according to the New Law. The purpose of the New Law is to ensure incorporation/institutionalisation.

3. Partners/shareholders of an independent audit firm can only be YMM and/or SMMM; individuals outside the profession cannot be partners in these institutions.
4. Independent audit firms will be regulated by a new statute in accordance with the New Law.
5. The auditor must be entirely independent. The New Law stipulates this clearly and allows for no exceptions.

Right to Access Information

An audit of the separate or consolidated financial statements is based on the accounting of the company, namely its books, records and documents. The auditor must receive information from the relevant individuals regarding this data. Therefore, the New Law grants the auditor the right/access to comprehensive information in order to be able to understand completely and correctly the data to be audited. This right includes the authority to request the relevant documents. The addressee for such a request is the BoD. The party to be held responsible for the non-disclosure of information or documents is also the BoD. In the event information is not provided by a relevant individual in spite of the direct and express request of the board, the board must provide that information and documentation, unless only the relevant individual possesses the requested information. This liability and responsibility of the board is limited to the company, relevant company employees and the company's business and operations.

In principle, the Board has no responsibility for the behaviour or attitude of third parties. However, the term "relevant" has a wide meaning; it includes third parties who act as assistants and anybody under the control and influence of the BoD. The liable person is not just a member of the BoD but the entire BoD. However, the executive director and/or an authorised member are solely liable and responsible for the records, documents and information relevant to their area of authority. The BoD can assign a board member, a non-board member executive or a representative to fulfil these responsibilities on its behalf.

However, it is advisable that the BoD takes a decision for the auditor to be able to request information from any related person at any level of the company and to avoid any difficulties. The right to request the disclosure of the relevant material and right to information are closely related to the term "disclaimer of opinion" indicated in paragraph 4 of Article 403. The refusal of the BoD can lead to the "disclaimer of opinion", depending on the features of the actual event.

Subject and Scope of Audit

The scope of audit includes:

- financial statements of a company or a Group (New Law Article 398.1),
- determination of whether the financial data held by accounting department is consistent with the audited financial statements and whether it reflects a true and fair view,
- the BoD's annual report, disclosures, discussions and analysis related to financial statements,

- determination of whether a proper early risk-detection system (mechanism) exists to identify any threat to the company or possible risks in a timely fashion and to identify whether this mechanism functions.

The BoD's annual report must be prepared separately but must be presented along with the audit report. The second and third bullet points above are included for the first time in the scope of an audit in Turkish law.

Supreme Auditing Board

The supreme auditing board shall inspect the auditor and audit process in the name of the law. The audit by the supreme board is performed to determine whether the auditor's audit is in conformity with the provisions of the New Law, the standards and the purpose of the audit. The supreme board conducts this audit on site and online, by accessing the auditors' audit documents. This is the first time in Turkish law that the said board has been involved in the review of the auditor's documents. In order to avoid a gap until the establishment of the supreme board, this audit will be conducted by the Turkish Ministry of Industry and Trade.

H. The New Regulation to Enable Payments for Supply of Goods and Services on Time and the Consequences of Late Payments

One radical solution imposed by the New Law is that it includes provisions related to timely payment of invoices or similar demands of suppliers of the companies. In this respect the New Law has solved an ongoing problem. Although, the New Law targets directly companies like supermarkets, hypermarkets, and shopping centres, this provision is not specific only to these companies.

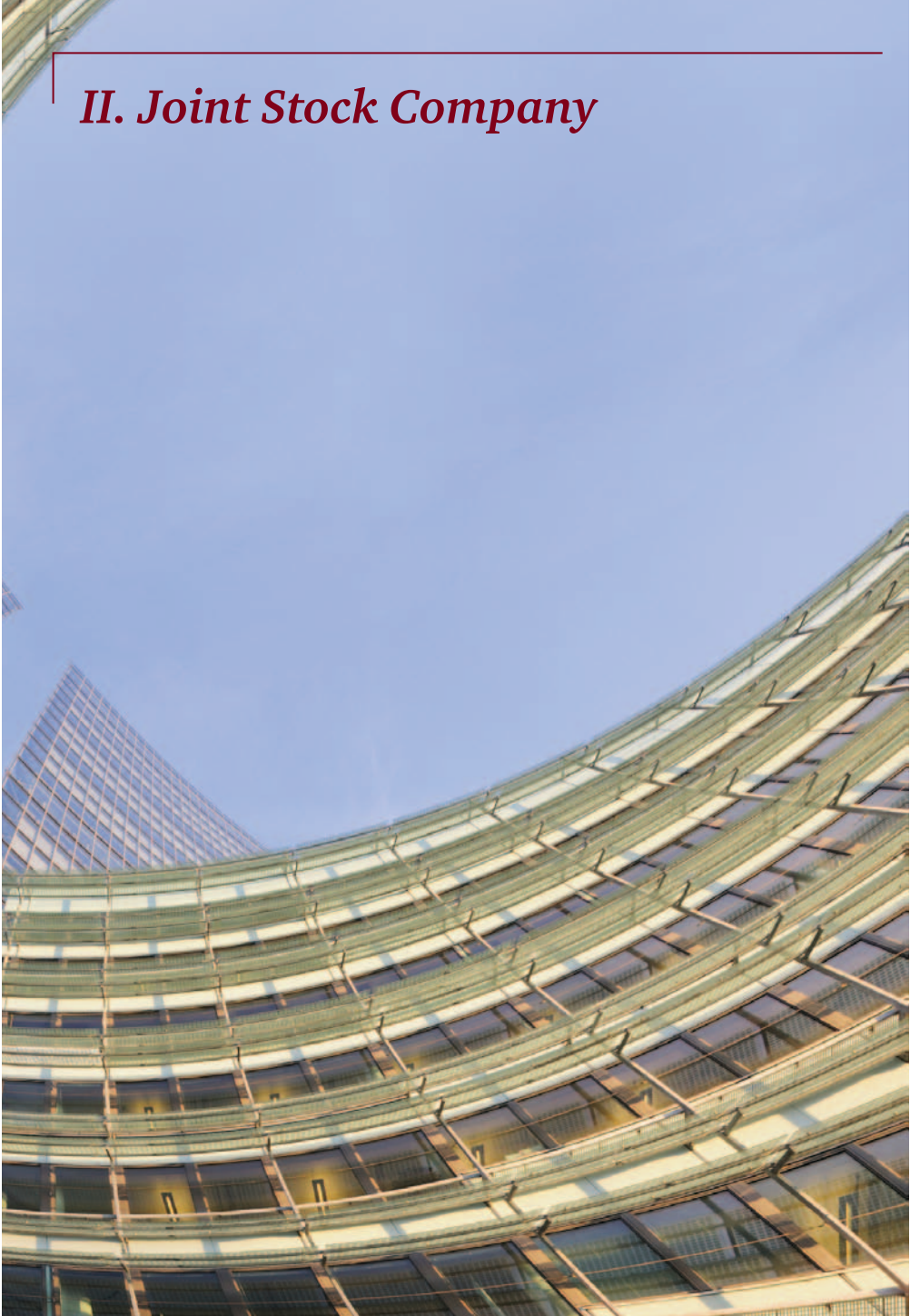
The regulation is introduced in clauses 2 and 7 of Article 1530 of the New Law and is inconsistent with the related EU directive. The EU directive related to late payment covers the public sector and public tenders. However, the New Law covers only parts related to the private sector. Article 1530 does not cover any rule about the invoices of expenses of shelf arrangements, shelf change, heating-cooling systems and sharing of costs related to initial opening of the markets.

Significant Points in the Regulation

1. Payment related to invoices or similar payment demands of suppliers of goods (any sized manufacturer) and service providers must be made within 30 calendar days of the date of the document. Otherwise, creditor will be:
 - in default,
 - required to pay interest for late payment,
 - pay compensation,
 - subject to penal clauses if they exists.

2. If the date of the receipt of the invoice or the equivalent request for payment is uncertain, the creditor is to pay within 30 calendar days after the date of receipt of the goods or services. In all other circumstances clause 1 is valid.
3. If the date of the receipt of the invoice or the equivalent request for payment is before the date of receipt of the goods or services, the creditor is required to pay within 30 calendar days after the date of receipt of the goods or services. In all other circumstances clause 1 mentioned above is valid.
4. In the case of a procedure of acceptance or verification by which the conformity of the goods or services with the contract or law is ascertained, two possibilities are available. The creditor should:
 - Pay within 30 calendar days from the date of acceptance or verification, if the debtor receives the invoice or the equivalent request for payment earlier or on the date on which such acceptance or verification takes place.
 - The maximum duration of a procedure of acceptance or verification, by which the conformity of the goods or services with the contract or the law is to be ascertained, must not exceed 30 calendar days from the date of receipt of the goods or services unless otherwise expressly agreed in the contract and provided it is not grossly unfair to the creditor. In all other circumstances clause 1 mentioned above is valid.
5. The payment period cannot exceed 60 days even if the contract states otherwise. It is obligatory for SMEs, producers of agricultural and animal goods, and large companies. For other companies, exceptions can be made in cases where this period would be grossly unfair to the creditor.
6. Payments cannot be by instalments to SMEs and producers of agricultural or animal goods.
7. The default interest rate is determined by the Central Bank of Republic of Turkey. This rate must be 8 percent higher than the rate, as determined by Law No. 3095.

II. Joint Stock Company





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A. Establishment of an A.Ş.

Innovations

The New Law provides the following related to the establishment of an A.Ş.:

- It has abolished the mechanism of gradual formation that exists in the current legislation, as was done by the Germans and Austrians in 1965 and the Swiss in 1991.
- It introduces a system that is simple, straightforward, easily applicable and original.
- The current normative system, with few exceptions, has been reinforced. The intervention authorisation of autonomous organisations has been abolished in both the establishment of A.Ş. and in increases in capital.
- The declaration of founder and the core audit are introduced. The responsibility arising from establishment has also been regulated by effective provisions.

Audit of Incorporation

Incorporation is audited by the special transaction auditor appointed for this purpose. The New Law has separated the auditor who will audit the financial statements and the annual report of the A.Ş. as well as the consolidated financial statements and the annual report of the Group, from the transaction auditor, the transaction auditor appointed for the audit of the incorporation.

Transaction auditors examine various transactions conducted by the company, such as incorporation, capital increase and reduction, merger, spin-off, conversion of type of the company or the issuance of marketable securities. The transaction auditor is a general concept. For example, whoever audits the incorporation is a transaction auditor (this transaction auditor can also be termed the incorporation auditor). This auditor audits only the incorporation, not the annual financial statements. The transaction auditors can also be from the professions authorised by Law No. 3568. However, an incorporation auditor or a transaction auditor auditing capital contribution may not be necessarily be an authorised YMM/SMMM; this auditor depending on the characteristics of the work and requirements can be chosen from among lawyers or engineers. This is true of cases in which the transaction does not require audit within the scope of Law No. 3568.

Philosophy of the Incorporation Audit

The goals of the incorporation audits are simplicity, plainness, self-control, transaction security and responsibility.

Establishment of a Publicly Traded Company

1. The person or the legal entity that provides a commitment to offer its shares to the public only has to provide the commitment and will not be obligated to invest three-quarters of the value of shares.
2. The person or the legal entity that provides a commitment to offer its shares to the public has to offer these shares within one month of incorporation and to guarantee the payment of three-quarters of the unsold shares.
3. The shares can be offered to the public at the value of the said commitment or at a premium, and the portion of the cash derived from the public corresponding to the nominal value of the shares is paid to the company, with the outstanding difference belonging to the party who has made the commitment.
4. The public offering procedure is applied in conformity with the regulations of the CMB.
5. Unsold shares shall belong to the party who made the commitment. The one who made the commitment must pay the three quarters of the value of shares immediately.

B. Closed A.Ş., Publicly held A.Ş. and Publicly Traded A.Ş.

The New Law has not been designed for a specific class of A.Ş. In other words, while the existing Law includes provisions more suitable for closed A.Ş., the New Law has also introduced provisions for single-shareholder A.Ş., publicly held A.Ş. and publicly traded A.Ş. whose shares are listed on the stock exchange. Thus, previously problematic differences in application have been removed and effort has been made to eliminate differences in arrangements and systems between the Capital Markets Law and the New Law.

The main philosophy of the New Law is as follows: The New Law is the main code that contains all of the material rules for all joint stock companies.

The second approach of the New Law is that a publicly held A.Ş., as emphasised by Cadbury's first corporate governance report, is a category not fully covered by law. Publicly traded A.Ş. are those whose shares are listed on the stock exchange.

The New Law mainly addresses the notification of publicly traded A.Ş. with a central registry agency, restrictions on share transfer and principles of corporate governance.

The following issues have been structured to cover all of the forms – a publicly held A.Ş., publicly traded A.Ş. and closed A.Ş.:

1. shareholders democracy,
2. information society services,
3. corporate governance principles.

C. Capital and Shares in an A.Ş.

Capital Systems

The New Law has accepted two capital systems for all A.Ş. regardless of whether publicly held or not: Basic capital and registered capital. This has eliminated an important difference between closed and publicly held A.Ş..

The adoption of the registered capital system, the acceptance in and dismissal from the system for closed A.Ş. are left to the regulations of the Turkish Ministry of Industry and Trade. The Ministry will issue regulations in response to developments.

Minimum Capital

In closed A.Ş.:

- Minimum share capital is TRY50,000,
- Registered capital is TRY100,000.

In publicly held A.Ş.:

- Minimum capital is TRY50,000.

This capital is determined in accordance with the communiqués of the CMB.

Capital in Cash and Capital In-Kind

Assets which belong to each group are determined in the New Law. The reforms related to contribution of capital in-kind are as follows:

- The New Law allows the contribution to capital of domain rights, including intellectual property rights and demand receivables.
- In order for an asset to contribute to the capital, there should be no measures, pledges or similar encumbrances imposed on it.
- The registration of the capital in kind on behalf of the company is made directly to the title deed registry directorates.
- The concerned asset is not accepted as capital in kind unless it is entrusted to a reliable person.

Shares

- Shares can be in cash or in-kind.
- The prohibition that shares corresponding to capital in-kind cannot be transferred within two years is not included in the New Law.
- A share without a nominal value is not recognised.
- The minimum nominal value is Kr1.

The benefits that registered capital will provide in closed A.Ş. are the same as in publicly held A.Ş., such as:

- The capital can be increased easily.
- The cash-call system for the unpaid portion of capital will be abolished.
- The BoD will be able to work in cooperation with the market and intermediary agencies, and it will not be necessary to hold a GA meeting for each capital increase.

Privileged Shares

The regulation in the New Law regarding privileged shares can be summarised as follows:

- The New Law recognises privileged shares. However, in contrast to the current Law, the privilege concept has been defined.
- Privileged voting right has been restricted.
- The possibility of blocking a capital increase via a share with privileged voting right has been eliminated.
- The convocation, working and decision-making of the GA of privileged shareholders have been made subject to explicit rules and its authorities have been restricted.

Conclusion

Thus, privileged shares can no longer have the effect of blocking the system and have become subject to a justifiable process.

The limits of the privileged voting right are as follows:

- A single share can have a maximum of 15 voting rights.
- The privileged voting right cannot be exercised in some decisions:

1. Amendments to the articles of association,
2. Election of transaction auditors,
3. Filing actions for release and liability.

The maximum limit of 15 voting rights can be expanded by a court decision. However, in order to do this:

1. The expansion of the limit should be necessary for the institutionalisation of the company and hence the Group.
2. There should be a just cause concerning a concrete event for the expansion of the limit. Reasons such as eliminating a concern that some other group can control the company or averting the danger of deposing the current management are not considered just cause.
3. A project that supports and explains the reasons related to these two expansion requests has to be submitted to the court.

D. A.Ş. Acquisition of its Own Shares or Acceptance thereof as a Pledge

System under New Law

The New Law has to a great extent loosened the prohibition on an A.Ş.'s acquisition of its own shares or acceptance thereof as a pledge, in accordance with the Second Council Directive – Capital (77/91/EEC) in EU company law.

The system of the New Law is very different from Article 329 of the current Code. In Article 329 the prohibition is rigid and exceptions are rare. The regime in the New Law is based on broad and functioning opportunities that will assist the business world. The New Law specifically protects listed companies against manipulation. Meanwhile, it has avoided putting pressure on closed companies with unnecessary and ineffective concerns. The system should not be evaluated as a preservation of prohibition and simply an introduction with some exceptions; rather, it should be defined on the basis of softening the prohibition with useful acquisition possibilities while maintaining such prohibitions to avoid potential risks and abuses. The prohibitions and the possibilities are also valid in cases where the subsidiaries acquire shares in the parent company. The possibilities are limited to those listed in the law. They cannot be broadened by interpretation.

Acquisition Possibilities

1. The company can acquire its own shares or accept thereof as pledge up to a maximum of 10 percent of company capital, provided that authorisation from the GA is obtained by the BoD and such authorisation is exercised within a maximum of five years. The unused authority can be renewed.

The GA determines the ratio to be acquired, the price and the purpose of the acquisition, provided that the determination will be limited to 10 percent. The BoD cannot use its authority purely for business purposes; it cannot carry out speculative transactions. The authority is limited to the purposes related to the protection of assets and benefits of the company, the prevention of their abuse and the appropriateness thereof.

As the authority can be renewed, the prohibition applies to 90 percent of the capital. It is a great opportunity for an A.Ş. to be allowed to acquire its own share certificates (shares) for up to 10 percent of its capital. By using this opportunity:

- Publicly traded companies can play the role of a market-maker,
- Publicly traded companies can fight manipulation,
- Closed companies can set up the infrastructure for a sound initial public offering,
- The change of control of companies on the stock exchange can be prevented or fait accompli can be avoided,
- Hostile takeovers can be eliminated.

However, only fully paid shares can be acquired in this fashion.

2. In the case of the existence of an imminent and serious danger for the company, the company can acquire its own shares regardless of the 10 percent limit and the necessity of authorisation. Manipulation is the best example of an imminent and serious danger for a publicly traded company. Under these circumstances, the company undertakes the role of a market-maker.
 - An imminent and serious danger can be defined as manipulation, hostile takeovers or sanctions against the company,
 - Imminent and serious danger also includes economic crisis and collapse of the stock exchange,
 - Imminent and serious danger can also be related to the reality of a concrete event.
3. The share certificates of a company can be purchased by its employees or by the employees of its subsidiaries through advances, loans or guarantees provided by the company. This possibility is meaningful for the purpose of participation of the employees in the company and purchase of company shares by its employees.
4. Acquisition without a consideration is permissible.
5. The company can acquire its own share certificates:
 - a) during a capital decrease,
 - b) in cases where a universal or partial succession occurs (such as merger or division), and if a statutory liability to purchase them exists,
 - c) if the share certificates are acquired through an execution process, provided that the total values of the shares are paid,
 - d) in case its share certificates (shares) are acquired with the purpose of collecting its receivables.
6. The prohibition is not applied if the company is a securities and investment banking company.

Use of Free Funds for the Acquisition of Shares

Share prices can be paid through free funds. Moreover, the remaining net company assets, after the payment of the share values, should be equal to at least the sum of the total capital amount and reserves, which are not allowed to be distributed according to law and the articles of association.

Violations of Prohibition

1. In the case of failure to comply with the prohibition, the transfer agreement related to the Code of Obligations is null and void. The company has to dispose of the shares obtained through the voided transaction within one year; shares not disposed of should be eliminated through a capital decrease.

2. If the company grants loans, advances or guarantees to a third party for the purpose of acquiring its own shares, such transaction shall be null and void.

Suspension of Rights

The company's own shares it acquired and the parent company's shares acquired by the subsidiary are not taken into account in the calculation of the GA's meeting quorum. Except for the acquisition of gratis shares, the company's own shares it has acquired do not grant any shareholding right. The voting rights pertaining to the parent company's shares acquired by the subsidiary and the rights thereto will be suspended.

E. Board of Directors (BoD)

Main Changes

The main changes in the New Law related to the BoD are as follows:

- The possibility of forming a BoD with the presence of just one person is introduced to Turkish legislation. However, at least one member of the BoD who is authorised for representation should have his/her domicile in Turkey and should be a Turkish citizen.
- The necessity that the BoD member has to be a shareholder of the company has been abolished.
- Legal entities are granted the authorisation to become BoD members.
- The professional BoD concept has been introduced.
- The legal infrastructure that enables shareholder groups to be represented in the BoD has been established.
- The system that identifies the difference between the BoD and the management has been legally defined.

Single-member BoD

A single-member BoD is both a reform and a development. Its benefits can be summarised as follows:

1. Compliance with the system has been ensured through forming a single-member BoD in a single-shareholder A.Ş. and L.Ş. For example, if a refrigerator company has founded an A.Ş. in which it is the only shareholder, it can form a BoD where it is the only member as a legal entity. In this way, it can ensure centralised management.
2. In family businesses, a single-member BoD is a proper body for the management of the company.
3. In companies established by foundations, associations, universities, academies and similar legal entities, it is now possible that these legal entities can act as BoD members and avoid the involvement of third parties in the management.

A BoD member need not necessarily be a shareholder

One assumption of the current Code that is causing difficulties is that only shareholders can be BoD member. This results in creation of fake shareholders, with a goal of sidestepping the law. This requirement was based on the idea that the BoD member should be aware of his/her responsibilities as a shareholder. However, this idea has become completely impractical in A.Ş., especially for public companies. In practice, the shareholding of most of the BoD members does not exist in real life.

The benefits of the development in the New Law can be summarised as follows:

1. Management will be specialised.
2. The law will be applied properly.
3. Disputes, threats and abuses arising from fake shareholdings upon dismissal/ withdrawal of a BoD member will cease.

Legal entity as a BoD member

- The current Code does not allow a legal entity to become a BoD member. It requires a representative to be appointed on its behalf. The legal position of this representative is complicated. This representative does not actually represent the legal entity. It is assumed that he acts under his own responsibility on the BoD and takes decisions independently; hence, that his decisions cannot necessarily be tied to the legal entity. None of these assumptions complies with the law.
- Since the representative of the legal entity is himself a BoD member, the legal entity cannot be held responsible for his actions and decisions. However, on the basis of the principle of substance over form, the representative is regarded as acting upon the instructions of the legal entity.
- In a way, the representative is in the position of a subcontractor charged with responsibility. This results in the occurrence of significant injustice; thus, major scandals cannot be dealt with adequately.
- This provision of the New Law will base the responsibility mechanism on rules and practices that are in line with law.

Internal Audit

The New Law introduces corporate governance for the management of A.Ş. It also introduces flow of information to the BoD, the control of the quality of information received, assessment of such information and making all management decisions on the basis of the results of this assessment. This approach requires the establishment of an internal audit mechanism. Indeed, this is the appropriate approach for the management of an A.Ş. The New Law aims to modernise the functioning of the BoD, with finance management principles and techniques that focus on three areas.

- financial supervision
- financial planning
- risk management.

Financial Audit

The New Law also mentions financial audit as one of the non-delegable duties of the BoD. The BoD has to establish the necessary mechanism for financial audit. The size of the A.Ş. is not a factor to consider with respect to implementation of the mechanism. The “Company’s needs” is the applicable criterion for the establishment of an internal structure related to financial audit. Financial audit is not required only for public companies. There is no doubt that the financial audit is beneficial for private medium and large-sized companies. As finance management is a reality for contemporary businesses, it should not be subject to the criterion of size. Internal audit is a broad concept and financial audit lies at its centre.

The term “financial audit” is named clearly as an internal audit mechanism in the Swiss Code of Obligations. In fact, financial audit covers the “audit of roles and authorisation related to finance management” and “internal audit from a finance perspective”. Both meanings are directly related to internal audit.

The audit of financial management of a company covers how, from which resource and at what cost funds are provided; control of liquidity, cash flow and consistency of cash flow-maturity dates; and assessment of the consequences of actions to decrease financial liabilities.

Internal audit systems provide cross-control within the company. Monitoring the implementation of decisions leads to assessment of results and physical control of assets and investments.

The New Law establishes a mandatory clause when assigning this non-delegable duty to the BoD, which will be held responsible if an internal audit mechanism for the financial audit is not established despite the company’s need for one.

Financial Planning

Financial planning by financial audit and cash flow statement is related to the budget and the business plan, which is another dimension of the budget. Financial planning by financial audit is set forth as a non-delegable duty of the BoD in the New Law. The budget and the business plan are vital for all companies. Considering its linkage with financial audit, it is apparent that the financial audit should not only be a consideration for large companies. The New Law states that “establishing the necessary environment for financial planning” should be made in response to requirements.

Risk Detection and Management

Both concepts are included in the articles related to the BoD in the New Law. Risk management is the duty of the BoD. Risk management is not a detective function. It covers the determination and implementation of policies to be adopted to cope with risks the company has encountered or can encounter due to the economy, industry and trends in which it operates. It also covers management of company-specific risks.

Professional BoD

The New Law includes various articles related to the professionalism of the BoD (i.e. BoD members do not need to be shareholders, some members should be university graduates, exceeding the limit regarding the privileges in voting rights only for the sake of institutionalisation). Furthermore, financial audit, financial planning and risk management, as explained above, also refer to professionalism.

The following should be noted:

- The New Law requires one-quarter of BoD members to be university graduates.
- A competent management style capable of running an internal audit mechanism is essential for Turkey. That is why the corporate governance principles have introduced independent BoD members, and the New Law emphasises this feature.
- A professional BoD does not mean a BoD in which various stakeholders are represented. A professional BoD acts independently from the shareholders according to the market and business requirements, takes decisions, runs the internal audit mechanisms and prepares for risk management.

Shares and Shareholder Groups

The New Law has covered shareholder groups in addition to the A, B and C share groups. For example, considering a car manufacturing A.Ş., the shareholders of the OEMs – namely, those manufacturing electronic equipment and some major parts of the car – can constitute a shareholder group and the articles of association can set forth that these groups be represented in the BoD. The shareholder groups play an important role for A.Ş. that expands their activity from a commercial to an industrial scope. The New Law introduces this innovation.

BoD and Management

The existing code does not strictly differentiate the BoD from the management, which is a technical managing organisation. Furthermore, there is no corresponding word for the term “management” in Turkish. The word “yönetim” in Turkish does not reflect the corresponding meanings of the words “management” and “administration” in English and French.

- As there is no such distinction in the Turkish system, all the responsibility and burden lies with the BoD.
- The New Law introduces this distinction and aims to establish the “management” in the system through the concept of “organisational internal regulation”.

F. General Assembly (GA)

In the New Law:

- The exclusive and non-delegable authorisations of the GA are detailed collectively. While indicating these authorities, exceptions that are specifically related to publicly held A.Ş., such as capital increase and issuance of securities, are mentioned.
- The parties authorised to call for a GA are redefined. The auditor has no authority to call the GA to a meeting. Furthermore, the minority's authorisation to call a meeting is determined according to specific conditions. Additionally, jurisdictions have been provided for the minority's authorisation to call a meeting should it not receive a response within a specific time period.
- An obligation is introduced for the BoD to arrange a private statute in order to determine a meeting council in relation to the management of GA meetings. The meeting chairmanship or the chairman has to manage the meeting according to this private statute. In addition, in this statute a number of protocols exist regarding negative votes and applicable jurisdictions for signing this protocol. The existing Code does not govern the management of a GA meeting.
- The right for obtaining shareholder information at a GA meeting is revised, and the limits of this right are both expanded and strictly defined. Furthermore, if this right is violated, legal remedies are provided. The right to obtain information has been arranged in order to operate as an effective mechanism and informative content has been provided for the voting process.
- A special audit is subject to new principles, and a new shareholding and minority right has been created in accordance with shareholder democracy.
- Representation in the GA has been released from the rigid forms of representation context in the Code of Obligations. Mass organisation regarding representation power is defined under the institutional representative concept. The "proxy" system of US law has been partially reflected in Turkish law. In this context, steps have been taken to address the lack of power at a GA arising from non-attendance of shareholders.

What is Institutional Representation? And how will it function?

Institutional representation is not a profession; it is an initiative by the shareholders. This form of representation is not appropriate for a business enterprise or professional understanding.

- An institutional representative shareholder is the person(s) who requests representation authority from the other shareholders.
- The institutional representative makes this request with a memorandum.
- This memorandum is a programme related to the management and audit of the A.Ş. in accordance with management, internal audit, independent audit and corporate

governance principles. This programme can also include the principles of policies such as investment locations, investments to be relinquished, financing, profit distribution, investment and marketing policies.

- No special instruction can be given to the corporate representative. The memorandum of the institutional representative includes the list of instructions that must be complied with. The representative, as a rule, cannot act in contravention of the principles in the memorandum, especially while voting at the GA.
- Although it is applicable for all A.Ş., the institutional representative is an instrument of shareholder democracy, as the representative can take the initiative to organise the opposition and prevent subjectivity and arbitrariness by the management, particularly in publicly held companies and publicly traded companies.
- The institutional representative is, at the same time, a radical transparency tool ensuring that an A.Ş. operates in accordance with the corporate governance principles and information society services.
- The New Law does not contain special responsibility jurisdictions regarding institutional representation. However, on the basis of experience, the necessity for such jurisdictions can arise.
- The positive comments of the New Law are the clear detailing of the shareholder initiative and explanation of the relevant jurisdictions.

- Special audit starts with the request of a shareholder. If the GA accepts this request, the special auditor is appointed by the court. If it is rejected and the minority repeats the request, the court will appoint a special auditor regardless of the decision of the GA.
- Therefore, the practice in the current Code – in which the appointment of the special auditor is determined by the majority that controls the A.Ş. – has been removed.
- The New Law has also set forth jurisdictions in the special auditor report that balances the benefits of the Company and the shareholders and authorise the court to prevent and determine the disclosure of information and documents that can harm the Company.

G. Capital Increase

General Information

The New Law has improved the known methods of capital increase through innovations in A.Ş. and has also enriched certain types of capital increase. In addition, the known capital increase types – share capital increase, increase in registered capital and capital increase through internal funds – are detailed in the New Law. Conditional capital increase, meanwhile, is a new concept.

An additional improvement is the clarification of the prohibition or restriction of pre-emptive rights of shareholders in some capital increases that are subject to fair principles

Types

The New Law has set forth three types of capital increase.

Capital Increase through Subscription of New Capital

Also termed effective increase, new capital in cash or in-kind is contributed and thus equity increases through new contributions by shareholders and/or third parties.

Capital Increase through Internal Funds

Statutory reserves not allocated for a certain purpose, part of the statutory reserves that can be freely utilised, and legally permissible funds are transferred to the capital. No new capital is contributed; items that largely already exist in the equity are added to the capital.

Conditional Capital Increase

Capital is not increased by BoD decision or by GA resolution, nor is the capital increase subscribed to by particular people. The basis of the capital increase is an agreement. This judgement not only forms a basis, but also shows the way, amount and periods in which the capital increase will be made. The agreement gradually expires and is derecognised by the BoD when it expires completely.

Incremental capital increases are made via utilisation of preferential right and conversion option of debt instrument bearers instead of a decision of the Company management. Those involved in the capital increase are bearers of the conversion option and preferential right.

Conversion option bearers have the right to take new interests in the Company with returns of the debt instruments; in addition, preferential right bearers are permitted to pay shares of the Company by utilising preferential rights.

Pre-emptive Right

Each shareholder has the right to acquire newly issued shares based on the ratio of their existing shares to the capital.

This right can be restricted:

- if there is fair cause and
- upon the affirmative votes of shareholders who possess a minimum 60 percent of the capital.

Fair Cause

The law defines fair causes as follows:

- acquisition of a business or part of an associate
- participation of the employees in the Company

By prohibition or restriction of the pre-emptive right,

- no one can be provided with benefit in an unjustifiable way
- no one can be subjected to losses.

Capital Decrease

The New Law has made three important changes regarding decrease in capital:

1. The report of the BoD disclosing the reason for the capital decrease, the method applied and the conditions of assets are registered and issued when it approved by the GA.
2. If the decrease is made before the collection of receivables or guarantee of receivables with collaterals, action for rescission can be made within a two-year period, subsequent to the registration and declaration of the decrease.
3. This matter can be brought to court if the collateral is not sufficient.

H. Liability

The New Law regulates liabilities that arise from several situations. There are two types of liability:

- legal (Article 549)
- criminal (Article 562)

Each liability forms a separate and integrated part which is placed at the end of the provisions related to A.Ş..

Legal Liability

The New Law separates legal liability into six categories. Common provisions (Articles 555 - 561) can be partially applied to those six categories. Among these provisions, Article 557 of the New Law – which regulates “joint liability” – stands apart from the other articles; it is not applied to all of the liabilities and is relevant only when another article imposes “joint liability,” or other relevant conditions are met.

1. Liability Arising from Non-Compliance of Documents and Declarations on New Law

Emergence of Liability

This liability arises when documents are legally required to be issued because of procedures, transactions and structural changes, such as incorporation, capital increase and decrease, merger, division or conversion of the A.Ş. and issuance of securities, and these declarations either do not comply with the Law or are fraudulent or false.

For instance, this liability arises if any of the following are false, fraudulent or include incorrect declarations:

- the public offering prospectus or a founders' declaration,
- the guarantee of an intermediary,
- the report of the transaction auditor.

Should such a situation arise – if more than one person jointly commits an action that causes damage and contravenes the law or generates a liability, and if the action is taken by a board such as the BoD or an executive committee, “joint liability” can emerge.

Provisions

The Liable Person is held to be the person who issues the declaration, submits the report and commits and participates in these actions.

Fault is a mandatory condition for liability, and the consequence of the liability is the indemnification of the loss. Article 560 is applied to the limitation period.

2. False Declarations Regarding Capital and Knowledge as to Insolvency

Emergence of Liability

This liability originates from (1) fraud or conducting similar fraudulent transactions with respect to the protective provisions regarding the capital, or (2) knowledge of the insolvency of the parties making capital commitment and the approval of this.

For instance:

- presenting the capital as committed or paid-up, although it is not.
- providing a note payable instead of payment in cash and endorsing a bad cheque.
- commitment by a party who is insolvent or bankrupt.

Provisions

Liable Persons: The following are mutually liable (1) Parties performing misleading transactions and others involved in such transactions and (2) parties who are aware of the insolvency yet approve the transactions. This type of liability is covered by the New Law. Article 557 is applied to joint and several liabilities. Fault must be demonstrated to impose liability. The limitation period is specified in Article 560.

3. Liability Originating from Valuation

Emergence of Liability

Liability arises when (1) the non-monetary assets to be contributed as capital or to be acquired are valued at a higher price than similar non-monetary assets, (2) their attributes are stated inappropriately (for instance indicating land as having a proper zoning status when it does not) or (3) another type of misconduct (such as the valuation of non-existent bonds).

Fault is not a mandatory condition here, and if the parties are found to have acted illegally or participated in violation of the law, they must provide compensation for the damage. These parties can be the founder, expert, the BoD member, attorney at law, etc. If the necessary conditions exist and the transaction causing the damage arises from the BoD resolution, for instance, Article 557 is applied.

4. Liability Originating from Collection of Money from the Public

Emergence of Liability

This liability arises when money is collected from the public in Turkey or abroad without CMB permission, for the purpose, or with the promise of establishing an A.Ş., to increase the capital of the existing company or with any other similar reason. The reasons for collecting money are not restricted to those listed in the law.

Provisions

The following are successively liable for these actions: (1) the parties collecting money (2) the institutions informed about this action (authorised institutions) and (3) the management and shareholders of the related company. They have to deposit the collected money in a bank determined by the CMB. Article 557 applies to the liability. Fault is not a mandatory condition. The money is held as a precautionary measure, and a trustee is appointed when necessary. The commercial courts of first instance are included in the authorised judiciaries.

5. Liability of Founders, BoD Members, Managers and Liquidators

Emergence of Liability

This liability arises when founders, BoD members, managers and liquidators fail to fulfil their obligations originating from the

- law
- articles of association.

Characteristics of Liability

The liability is (1) a fault liability where the burden of proof is inverted: the above-mentioned parties are held to be liable unless they prove that they are not at fault. (2) The liability arises from the commitment of the management function. If the management function is partially or completely delegated (for example, if an executive director is assigned), the BoD is released from the liability to the extent of delegated function; the principle states that if there is no management function, there is no liability (Code, Article 319/New Law, Article 553.2). However, liability can arise when the assigned person is appointed without due care. (3) The liability arises from the functions included in the control of the responsible party.

Liability to Whom?

The liability is to:

- the company

- the shareholders and the creditors (depending on the circumstances).

6. Liability of Auditor

The legal liability of the auditor, transaction auditor and special auditor is regulated under Article 554 of the New Law, and liability arising from confidentiality is regulated under Article 404 of the New Law.

The legal liability arises from the fulfilment of legal duties of all three types of auditors. This liability is a compensation liability based on fault. The auditor and the auditor of the group of companies are liable to the company, the shareholders, and the creditors of the company, based on this liability. The burden of proof is on the plaintiff, be it the company, the shareholders or the creditors of the company in a legal case. The origin of the liability is the law, because the liability derives not from a breach of the agreement, but rather the failure to fulfill the statutory duties as mentioned above. The liability arising from the breach of the audit contract is not regulated under Article 554 and is subject to the general provisions as the basis of the liability is contractual.

Liability arising from breach of confidentiality is regulated under Article 404. All three types of auditors, their assistants and representatives of the independent audit companies are required to conduct an audit in an honest and objective manner; they are forbidden to use trade and company secrets without permission that they have learned while performing their audit activities. Breach of this obligation intentionally or through negligence creates a liability.

Damage

The damage caused by the parties detailed above in section H, points 1-6, is pecuniary in nature.

Lawsuit

Original Plaintiff: A.Ş.

Shareholder as Plaintiff:

The shareholder can request that compensation be paid to the company. Therefore the concept of damage does not arise.

Creditor as Plaintiff:

The right to legal action by creditors emerges in the case of bankruptcy of the company; this process is secondary if is not initiated by the bankruptcy office.

Solidarity and Recourse

Rule

If more than one party is obliged to indemnify the same damage, they are jointly and severally liable.

If the damage is caused through a joint action, joint liability for the same damage will emerge.

Differentiated Solidarity

Differentiated solidarity means that if more than one party is obliged to indemnify the same damage, each is held liable to the extent that the damage can be charged to each party based on its wilful misconduct and on a case-by-case basis.

Internal Relation

The recourse is determined by the judge in accordance with the circumstances of each case.

Criminal Liability

The crimes and punishments are indicated in Article 562 of the New Law. The crimes mentioned in Article 562 are litigated *sua sponte*.

I. Termination and Liquidation

Three radical changes have been made.

A. Cancellation for Just Cause

The minority may file a lawsuit for dissolution of the A.Ş. in cases where irresponsible behaviour by the majority is deemed a “just cause” (such as no or inadequate dividend distribution, a decrease of capital shares of some shareholders by capital increases of relatively high amounts, the use of A.Ş. and its assets for the majority’s own benefits, transfer of funds to their own accounts). In this case, the court can decide for:

1. cancellation or
2. purchase of the shares of the plaintiff at their fair value at the date of lawsuit or any other acceptable solution appropriate under the circumstances (for instance, dividend distribution from reserves, mandatory distribution of annual profit by articles of association, representation of the minority in the BoD).

B. Additional Liquidation

In cases where the liquidation is conducted in a precipitous manner and closed without considering some of the receivables, leaving some liquidation transactions still to be performed, the liquidation process is re-opened.

C. Suspension of Liquidation

When the defined duration of the company expires or the A.Ş. is abolished by decision of the GA, liquidation can be suspended until liquidation shares are distributed.

III. Limited Liability Companies





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A. Main Features of New Limited Liability Company Structure

The new “Limited Liability Company” (“L.Ş.”) defined in the New Law presents many differences from the existing L.Ş. in the current legislation.

Increased Similarities to Joint Stock Companies (A.Ş.)

In contrast to how it is defined in existing Code, the L.Ş. is no longer an unlimited liability company or partnership and converged with the A.Ş. In many aspects, the L.Ş. can be considered a small A.Ş. The most striking similarities are:

- In response to national and international markets’ demands, the structure, management and decision mechanisms of the new L.Ş. are similar to those of the A.Ş.
- Regardless of the number of shareholders, the GA is structured in a form similar to that of the A.Ş. The same principle applies to the management of the L.Ş.

Differences from Joint Stock Companies (A.Ş.)

The sole obligation of the A.Ş. shareholder is the actual payment of the subscribed capital. In a L.Ş., other obligations can be considered, including:

- The recovery of balance sheet deficits.
- Secondary performance obligations.
- Loyalty commitment and non-competition clauses.
- The approval of the remaining partners is required to transfer shares (in an A.Ş. shares can be easily transferred).

Capital

- The minimum capital requirement is TRY10,000.
- Capital contribution in-kind is permitted.
- The capital contribution in cash is paid at once. The immovable properties are registered administratively at the Land Registry on behalf of the L.Ş. The power and duty of the registration belongs to the Trade Registry officer.

Possibility of a Partner’s Possessing More Than One Share of Company’s Capital

The requirement that a partner can only be entitled to only one capital share (one partner = one share of the capital) has been superseded; under the New Law a partner can have more than one capital share.

- The numerous transactions necessary in the context of a partial transfer of shares or for stock split procedures have been simplified.
- Transfer of capital shares within a family, particularly from more senior members to their children, has been simplified.

- Transfer of capital shares within a Group of Companies has been simplified.
- Hence, the entry of a new partner into L.Ş. capital is now easier.

Increased Flexibility in Transfer of Capital Shares and Evidence for the Controlled Capital Share

The new L.Ş. has multipurpose flexibility in the transfer of the capital shares.

- The partners (founders) can structure the transfer of the capital share in accordance with their needs. The transfer of shares can be made easier with specific clauses in the articles of association. On the other hand, if the partners aim to have a closed company, the transfer of shares can be made difficult or prohibited.
- The evidence for shareholding has been made easier through the issuance of registered nominative share certificates for the L.Ş. capital, and transparency has been guaranteed by disclosing the obligations of the parties on the certificates. Therefore, entries in the stock register will also be partially reflected to these certificates.
- The possibility of avoiding, the closed L.Ş. or which does not allow share transfer, has been introduced, and the possibility of withdrawal of a partner has been stressed.

The bankruptcy of a partner no longer results in the bankruptcy of the L.Ş., as in the previous Code. This mechanism was related to the idea that an L.Ş. was thought to bear the characteristics of a personal company. The new principle regarding bankruptcy is that the L.Ş. is an incorporated business, protected from the risk of dissolution by the creditors of its partners.

The contradiction in the previous Code – which accepted the L.Ş. as an incorporated company but recognized the right of a partner’s personal creditor to dissolve the company – has been removed. The principle adopted in the New Law is simple: The personal creditor of a partner has recourse to seizure of this partner’s capital share and can convert it into money, without explicitly dissolving the L.Ş.

Usufruct Shares

The previous Code did not allow a L.Ş. to issue usufruct shares. The New Law has brought the L.Ş. closer to the A.Ş. by granting the right to issue usufruct shares.

Election of the L.Ş. Management

According to the Code, if the partners and/or third parties who will manage the L.Ş. are not determined by the articles of association or a partners’ resolution, all the partners will be authorised and will be obliged to manage the L.Ş. with the specific title of manager of the L.Ş. This joint management or self- management proves problematic in terms of decision-making.

The New Law requires that managers be elected, thus applying an A.Ş. principle to the L.Ş.

B. Incorporation and Legal Status of L.Ş.

- The New Law allows the establishment of a single-shareholder L.Ş. (See: I. Common concepts regarding Corporate Law)
- Incorporation has been simplified.
- Provided it is set forth in the articles of association, the following are permitted: purchase or repurchase of shares, put and call options over the capital shares; limitation of share transfers; penalties to be incurred if the articles of association are violated; right of exit from the partnership; delegation of management to third parties; usage of L.Ş. profits in accordance with a regime different than the one defined in the regulations.
- Additional and secondary payment obligations have been set forth in the New Law.
- The road has been paved for the recognition of veto and privileged voting rights for partners of the L.Ş.
- Non-competition clauses can be imposed on partners.
- The calculation of voting rights and the distribution of profits can be bound to specific rules diverging from legal provisions.
- Partners have been granted the right to withdraw from the L.Ş.

C. Strengthening of Economic Structure of Company, Strengthening its Financial Position

The financial structure of the new L.Ş. has been strengthened with the following measures:

- The share capital is to be paid at once; payment with installments is no longer available.
- Loans from partners that substitute for the share capital are allowed.
- The partners are permitted to cover deficits with additional payment obligations.

Default and its Consequences

Since the capital shares are to be paid at once, the possibility of payment default no longer exists, and the consequences thereof are no longer applicable.

Responsibility of the Predecessor

In the previous Code, the default of payment for capital commitments triggered the concept of recourse to the predecessors for any unpaid capital. This default mechanism has been abolished.

Simplification of Share Transfer

Share transfers have been simplified in the New Law.

Improvements Regarding the Right to Obtain Information and to Inspect the Company

The previous Code did not grant the partners the right to obtain information and to inspect the compliance of the L.Ş. with a specific article of the Code, except for Article 548, which stipulated that companies with more than 20 partners are subject to the same provisions as an A.Ş. regarding the audit of the Company. For L.Ş. with less than 20 partners, Article 631 of the Code of Obligations was to be applied. This provision was found to be insufficient, ineffective and unsuitable for an L.Ş.

The New Law empowers the partners with the right to comprehensive information and the right for an inspection of the Company based on modern methods.

Accounting and Auditing Based on International Standards

The most important assurance that the new L.Ş. provides its partners is the preparation of financial statements of small-scale L.Ş. in accordance with special standards, and of large-scale L.Ş. in accordance with IFRS.

These financial statements are to be audited according to ISA.

Strong Preferential Right

Although the previous Code includes a provision (Article 516) that recognises preferential rights, it does not contain the mechanisms to protect them. The New Law has strengthened the concept of preferential rights through provisions in parallel with those applicable for A.Ş.

Improved Status of Partner in Case of Withdrawal or Dismissal

One criticism of the previous Code is the absence of protection for the partner in the case of withdrawal or a dismissal. The New Law provides that withdrawal or dismissal of a partner ensures the balance of interests and conforms modern L.Ş. legal principles.

- In litigation for rightful withdrawal, the payment of the actual value of the capital share to the partner has been secured, through various measures.
- In order to protect the L.Ş., a provision for the suspension of some of the rights of the partner, if deemed necessary, has been adopted.
- Some rights of partners who want to withdraw or who have filed a lawsuit for this purpose are to be frozen temporarily.
- The articles of association should spell out the possible reasons for dismissal of partners.
- A partner may be dismissed from the L.Ş. by court decision, if reasonable cause is demonstrated.

IV. Secondary Regulations





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The New Law's secondary source of regulation regarding Corporate Law

Regulatory statutes

1. Auditing statute
2. Trade registry statute
3. Electronic GA statute

Regulations

1. Regulation on Electronic GA and Electronic BoD Meetings
2. Regulation on Independent Audit
3. Regulation on the Supervision of the Independent Auditors
4. Regulation on the Ministry's Representative at the GA
5. Regulation on representation at the GA
6. Internal Regulation on the Moderation of Meetings in an A.Ş.
7. Regulation on the Definition of Small and Medium Enterprise
8. Regulation on the Web Site of the Company
9. Regulation on the Necessary Conditions for the Establishment of Trade Registry Directorates and the Cooperation between Trade Registry Chambers
10. Regulation on Annual Report

Communiqués and Circulars

1. Communiqué on Advances for Dividends
2. Communiqué on A.Ş. Required to Obtain Authorisations
3. Communiqué on Registered Capital
4. Communiqué on Change in Legal Form of the Company
5. Communiqué on Group of Companies
6. Communiqué on Cumulative Voting
7. Communiqué on the Approval of Accounting Books
8. Communiqué on the Publication of Financial Statements
9. Communiqué on the Application of Regulations
10. Communiqué on Trademark Protection

Related Articles



New Turkish Commercial Code - A blueprint for the future

A. Related articles of Turkish Commercial Code No. 6102

F) Merger, spin-off and conversion

I- Field of application and concepts

1. Field of application

Article 134- (1) Articles 134 to 194 are applied to mergers, spin-offs and conversions of companies.

(2) The provisions of other codes that are not incompatible with Articles 135 to 194 of this code are reserved

2. Concepts

Article 135 – (1) In the application of Articles 134 to 195; “company”, “shareholder”, “partnership interest”, “General Board”, “managing body”, “articles of incorporation” refer to trading companies; shareholders of companies and shareholders of limited companies, personal company and cooperatives; GA in joint stock companies, limited companies, limited companies divided into shares and cooperatives and assembly of shareholders and if deemed necessary, all the shareholders in personal companies; BoD in joint stock companies and cooperatives and manager(s) in limited companies, director in personal companies and limited companies divided into shares; core contract in joint stock companies, corporate charter in personal companies and in limited companies and core contract in cooperatives respectively.

(2) When small and medium-size enterprises are determined, the foreseen criteria in Article 1522 for personal companies and in Article 1523 for joint stock companies are applied.

II - Merger

1. General provisions

a) Principle

Article 136 – (1) Companies can be merged in two ways:

a) Acquisition of a company by another company, technically called “merger by acquisition,” or

b) Union of two companies under a new company, technically called “merger by formation of a new company”.

(2) In the application of Articles 136 to 158, the company accepting the merger is called “transferee” and the company that is joined is called “assignee”.

(3) Merger occurs when the shares of the transferee are acquired by the shareholders of assignee on the basis of an exchange ratio in return for the wealth of assignee. The merger contract can include cash payment for withdrawal, as stated in Article 141, paragraph 2.

(4) The transferee takes over the wealth of assignee as a whole via merger. The company merged by acquisition collapses and is deregistered from Trade Registry.

b) Valid Mergers

Article 137 – (1) Joint stock companies can be merged with:

- a) joint stock companies
- b) cooperatives
- c) unlimited liability companies and commandite companies, provided that they will be the transferee.

(2) Personal companies can be merged with:

- a) personal companies
- b) stock companies (provided they will be the assignee)
- c) cooperatives (provided they will be the assignee)

(3) Provided that they will be the transferee, cooperatives can be merged with:

- a) cooperatives,
- b) stock companies
- c) personal companies

c) Merger in case of dissolution of a company

Article 138- (1) A company in dissolution can be joined to merger provided that distribution of its wealth is not started and that it will be the assignee.

(2) The existence of the condition in paragraph 1 is verified by the report of a process auditor which confirms the case in question as the report is submitted to the Trade Registry with which the transferee's headquarters are registered.

d) Capital loss or merger in the case of a Company's being in default

Article 139 – (1) A company which has lost half of the sum of its capital and statutory reserves due to damages, or whose liabilities exceed its assets, may merge with a company, provided that the latter is in possession of freely disposable equity sufficient to cover the capital loss or, if necessary, to remedy the state of excess of liabilities over assets.

(2) the existence of the condition in paragraph 1 must be confirmed by the report of a process auditor, as the report is submitted to the Trade Registry with which the transferee's headquarters are registered.

2. Partnership interests and rights

a) Protection of partnership interests and rights

Article 140 – (1) The shareholders of the assignee have the right to make a claim on the shares and rights in the transferee at a value that matches their existing partnership shares

and rights. The value of the assets of companies participating in the merger, the allocation of the voting rights and other significant matters are taken into account while assessing the said right to make a claim.

(2) An equalisation benefit can be provided while determining the change in partnership shares, providing that the partnership shares assigned to the shareholders of the transferee do not exceed one-tenth of their actual value.

(3) Shareholders with non-voting shares in the assignee are granted non-voting shares or shares with voting rights of the same value.

(4) Equal rights at the assignee or a reasonable consideration is given in exchange for preferential rights in the existing shares of the transferee.

(5) The transferee must grant equal rights to holders of the dividend shares in the assignee or to purchase such dividend shares at their value on the date the merger agreement is signed.

b) Cash payment for withdrawals

Article 141 - (1) In a merger contract, companies participating in the merger can provide shareholders with the option to choose either to have shares and partnership rights in the transferee or to receive a cash payment for withdrawal equal to the actual value of the company shares to be acquired.

(2) Companies participating in the merger can set forth in the merger contract that only the cash payment for withdrawals is granted.

3. Capital increase, formation of a new company and interim balance sheet

a) Capital increase

Article 142 - (1) In a merger by acquisition, the transferee is obliged to increase its capital to the level necessary to protect the rights of the shareholders of the assignee.

(2) The provisions regarding public offerings of new shares in publicly held joint stock companies and regulations concerning contribution of capital in kind do not apply in the merger, except for the provisions regarding the registration with the CMB.

b) Formation of a new company

Article 143 - (1) In the merger by formation of a new company, articles of the New Law and of Cooperatives Law No. 1163, dated 24 April 1969, apply to the formation of the new company, excluding their provisions regarding contribution of capital in kind and the minimum number of shareholders.

c) Interim balance sheet

Article 144 - (1) If more than six months passes between the date the merger contract was signed and the date of the balance sheet, or if significant changes have occurred in the assets of companies participating in the merger since the last balance sheet has been prepared, the companies participating in the merger must prepare an interim balance sheet.

(2) Provided that the following provisions are reserved, the provisions and principles relevant to the annual balance sheet apply to the interim balance sheet. With regards to the interim balance sheet:

- a) Physical inventory does not need to be taken
- b) Changes to the valuations predetermined in the last balance sheet are limited to the entries in the commercial book; depreciation, valuation adjustments, provisions and valuation changes significant for the enterprise that cannot be determined from the commercial books are also taken into account.

4. Merger contract, merger report and audit

a) Merger contract

aa) Drawing up merger contract

Article 145 - (1) The merger contract must be in written form, signed by the management of companies participating in the merger, and approved by their GAs.

bb) Content of the merger contract

Article 146 - (1) The merger contract must contain:

- a) Trade names, legal status, headquarters of companies participating in the merger; in the case of a merger by formation of a new company, type, trade name and headquarters of the new company
- b) Transfer rates of company shares, and, if provided for, equalisation amount; explanations regarding shares and rights of shareholders of the assignee in the transferee
- c) Rights granted to the holders of privileged shares, non-voting shares and profit-sharing certificates by the transferee
- d) Method for transfer of shares
- e) Date on which the shares acquired through the merger gained the right to the profits, which is shown on the balance sheet of the transferee or newly established company, and all aspects related to such entitlement
- f) Cash payment for withdrawals in accordance with Article 141, if necessary
- g) Date on which the transactions and activities of the assignee is considered as performed on the account of the transferee
- h) Special benefits granted to managing bodies and managing partners
- i) Names of the shareholders with unlimited liability, if necessary

b) Merger report

Article 147 - (1) The managing bodies of the companies participating in the merger prepare a merger report, individually or jointly.

(2) The report explains the legal and economic grounds of the:

- a) Purpose and results of the merger
- b) Merger contract
- c) Exchange ratio of company shares, and if stipulated, equalisation payment; partnership rights granted to the shareholders of the assignee companies in the transferee
- d) If necessary, amount of cash payment for withdrawals and reasons for such payment instead of the company shares and partnership rights
- e) Aspects regarding the valuation of shares in terms of determining the exchange ratio
- f) If necessary, the amount of increase that will be made by the transferee
- g) If stipulated, information regarding the additional payments and other personal performance liabilities and personal responsibilities designated to the shareholders of the assignee due to merger
- h) In the mergers of companies of different types, liabilities imposed on the shareholders due to the new type
- i) Impact of the merger on the employees of companies participating in the merger, and, if possible, the content of a social plan
- j) Impact of the merger on the creditors of companies participating in the merger
- k) If required, approvals obtained from relevant authorities

(3) In a merger by formation of a new company, the articles of association of the new company must also be attached to the merger report.

(4) Small-sized companies can decide not to have the merger report prepared, if all shareholders approve.

c) Audit of the merger contract and of the merger report

Article 148 - (1) Companies participating in the merger are required to have the merger contract, merger report and the balance sheet subject to the merger audited by a process auditor expert in this area.

(2) Companies participating in the merger are obliged to provide the process auditor with all relevant information and documents.

(3) The process auditor must inspect and state his/her opinion regarding the following in his/her report:

- a) Whether the capital increase stipulated to be made by the transferee is sufficient to protect the rights of the shareholders of the assignee.
- b) Whether the exchange ratio and cash payment for withdrawals are fair.
- c) The calculation method of the exchange ratio and whether the method applied is fair, determined by comparison with the calculation method of at least three different generally accepted methods.

- d) Which values can emerge through the other generally accepted methods.
 - e) If there is compensation, whether it is appropriate.
 - f) The properties taken into account while evaluating the shares in terms of the calculation of the exchange ratio.
- (4) Small-sized companies can decide not to be audited, if all shareholders approve.

5. Right to inspect and changes in assets

a) Right to inspect

Article 149 - (1) Each of the companies participating in the merger is required to submit the following for the inspection of the shareholders, holders of the profit-sharing certificate and bearers of securities issued by the company, stakeholders and other relevant people at their head offices and branches, or, for publicly held joint stock companies, at locations determined by the CMB, within 30 days prior to the GA resolution:

- a) merger contract
- b) merger report
- c) audit report
- d) year-end annual financial statements, annual reports and if necessary, interim balance sheets for the last three years. These are also posted on the Web sites of the relevant capital stock companies.

(2) Shareholders and the persons mentioned in the first article above can request to be provided with the copies of the documents listed in the same article and with their hard copies, if available. These must be provided at no charge.

(3) Each company participating in the merger must publish the right to inspect these documents in the announcements published in Turkish Trade Registry Gazette and posted on their Web sites.

(4) Each company participating in the merger must announce in the Turkish Trade Registry Gazette and in newspapers the articles of association, and capital stock companies must post on their Web sites where the documents mentioned in Article 1 were presented and where they are available for examination at least three business days prior to the submission.

(5) Small-sized companies can decide not to exercise the right to inspect, if all shareholders approve.

b) Information regarding changes in assets

Article 150 - (1) If a significant change takes place in the assets or liabilities of one of the companies participating in the merger between the date the merger contract is signed and the date this contract is to be presented for approval of the GA, the managing body must report this situation in writing to its own GA and to the management of the other companies participating in the merger.

(2) The managements of all companies participating in the merger must review whether amendment of the merger contract is necessary or whether to abandon the merger. If such a conclusion is reached, the proposal to submit the merger for approval is withdrawn. In the merger is to proceed, the managing body must declare at the GA the reasons why modification of the merger contract is not required.

c) Resolution of merger

Article 151 - (1) The managing body presents the merger contract to the GA. The merger contract must be approved at the GA:

a) joint stock companies and companies limited by shares require approval by three-quarters of the votes present at the GA, provided that those votes represent the majority of the basic or issued capital, without prejudice to sub-clause (b) of paragraph 5 of Article 421 of this code

b) capital stock companies to be acquired by a cooperative require approval by three-quarters of the votes present at the GA, provided they represents the majority of the capital

c) limited liability companies require approval by three-quarters of the votes of all shareholders, provided that they hold at least three-quarters of the shares representing the capital

d) cooperatives require approval by a two-thirds majority of the votes cast; if additional payment and other performance liabilities or unlimited liability have been accepted in the articles of association, or if these exist and have been extended, approval requires three-quarters of all shareholders registered in the cooperative

(2) In general companies and limited companies, the merger contract needs to be approved unanimously, unless the articles of association set forth that the merger contract requires approval by only three-quarters of all shareholders.

(3) In the event a company limited by shares acquires another company, in addition to the quorum in sub-clause (a) of paragraph 1, all unlimited shareholders must approve the merger in writing.

(4) If additional liability and personal performance liabilities are also provided for through the acquisition, or if these exist and are being extended in a joint stock company and a company limited by shares acquired by a company with limited liability, unanimous approval of all shareholders is required.

(5) If the merger contract sets forth a cash payment for withdrawals, approval by 90 percent of shareholders with voting right is required if the assignee is a personal company, or of all voting rights in the company if it is a capital stock company.

(6) If a change regarding the scope of activity of the assignee has been provided for in the merger contract, the merger contract must also be approved with the quorum required to amend the articles of association.

6. Provisions regarding implementation

a) Registration at the Trade Registry

Article 152 - (1) As soon as the merger resolution has been adopted by the companies participating in the merger, managing bodies apply to the Trade Registry to have the merger registered.

(2) If the transferee has increased its capital as a requirement of the merger, the amendments to the articles of association are submitted to the Trade Registry.

(3) The assignee is dissolved upon the registration of the merger at the Trade Registry.

b) Legal results

Article 153 - (1) The merger takes effect upon the registration of the merger at the Trade Registry. At the instance of registration, all assets and liabilities of the assignee are automatically transferred to the transferee.

(2) The shareholders of the acquiree company become the shareholders of the acquirer company. However, the personal responsibilities of the shareholders' of the acquired company are not transferred to the acquiring company. .

(3) The provisions of Law No. 4054 on the Protection of Competition dated 7/12/1994 are reserved.

c) Announcement

Article 154 - (1) The merger resolution is announced in Turkish Trade Registry Gazette.

7. Simplified merger of capital stock companies

a) Scope of application

Article 155 - (1) a) If the transferee capital stock company holds all shares with voting right of the assignee capital stock company, or

b) If a company or a real person or groups of persons connected due to law or contract hold all shares with voting right in capital stock companies participating in the merger, capital stock companies can merge in accordance with the simplified conditions.

(2) If the transferee capital stock company holds at least 90 percent of, but not all, shares with voting rights, the merger can take place under simplified terms provided that the minority shareholders are offered:

a) an option equal to the actual value of company shares in the transferee in accordance with Article 141 in addition to the company shares, and

b) No additional payment, personal performance liability or personal responsibility arises due to merger.

b) Simplifications

Article 156 - (1) Capital stock companies participating in the merger and complying with the terms set forth in paragraph 1 of Article 155, must include the records indicated in

sub-clauses (a) and (f) to (i) of paragraph 1 of Article 146 in the merger contract. Such capital stock companies are not required to draw up the merger report stipulated in Article 147 and to provide the right to audit the merger contract in Article 148 and the right to inspect regulated under Article 149, nor can they submit the merger contract for the approval of the GA in accordance with Article 151.

(2) Capital stock companies participating in the merger and complying with the conditions set forth in paragraph 2 of Article 155 must include the records indicated only in sub-clauses (a), (b) and (f) to (i) of paragraph 2 of Article 147 in the merger contract. These companies are obliged neither to draw up the merger report indicated in Article 147 nor to submit the merger contract to the GA in accordance with Article 151. The right to inspect, which is stipulated in Article 149, must be provided 30 days prior to the application made to the Trade Registry for registration of the merger.

8. Protection of creditors and employees

a) Securing creditor's receivables

Article 157 - (1) If creditors of the companies participating in the merger make a claim within three months following the date on which the merger becomes legally effective, the transferee secures their receivables.

(2) Companies participating in the merger notify the creditors of their rights through an announcement in the Turkish Trade Registry Gazette, in three national newspapers (with a circulation of more than 50,000) three times at intervals of seven days, and capital stock companies also publish the announcement on their Web sites. If the process auditor confirms that there are no known or expected claims which cannot be paid by the available assets of the companies participating in the merger, announcement is not required.

(3) If the transferee proves by a process auditor report that the receivable is not under risk due to the merger, its liability to provide security is abolished.

(4) If it is obvious that the other creditors will not suffer a loss, the liable company can pay the debt instead of providing security.

b) Transfer of shareholders' personal responsibilities and business affairs

Article 158 - (1) The responsibilities of the shareholders who were liable for the debts of the assignee before the merger continue after the merger, under the condition that these debts must have been incurred before the announcement of the merger resolution or the reasons causing these debts must have occurred before this date.

(2) Claims arising from the debts of the assignee regarding the personal responsibility of shareholders are barred by the statute of limitation after three years from the announcement date of the merger resolution. If the claim becomes due after the announcement date, the period of limitation begins as of the maturity date. This restriction does not extend to the responsibilities of shareholders who are personally liable for debts of the transferee.

(3) The responsibility arising from the publicly issued bonds and debentures continues until the date of redemption, unless otherwise specified in the prospectus.

(4) The provision of Article 178 applies to business affairs.

III - Division

1. General provisions

a) Principle

Article 159 - (1) A company can be divided through split-up or spin-off processes.

a) In a split-up all the company's assets are divided into parts and transferred to other companies. The shareholders of the divided company acquire the shares and rights of the transferees. The assignee, which is split up, terminates and its trade name is removed from the Trade Registry.

b) In a spin-off, one or more than one part of the company's assets is transferred to other companies. The shareholders of the divided company acquire the shares and rights of the transferees or obtain the shares and rights in the transferees in exchange for the asset parts acquired and establish its subsidiary.

b) Allowed divisions

Article 160 - (1) Capital stock companies and cooperatives can be divided into capital stock companies and cooperatives.

c) Protection of company shares and rights

Article 161 - (1) In split-up and spin-off processes, the company shares and rights are protected in accordance with Article 140.

(2) The following can be assigned to the shareholders of the transferor company:

a) In all companies participating in division, company shares in ratio with their existing shares, or

b) In some or all companies participating in division, company shares in different ratios according to the ratio of their existing shares. The division in sub-clause (a) is a division in which the "ratios are protected", and the division in sub-paragraph (b) is a division in which the "ratios are not protected".

2. Provisions regarding application of division

a) Capital decrease

Article 162 - (1) In the event the capital of the transferor company is decreased due to division articles 473, 474 and 592; and in cooperatives based on Article 98 of the Cooperatives Law, Articles 473 and 474 of the New Law do not apply.

b) Capital increase

Article 163 - (1) The transferee increases its capital at a level necessary to protect the rights of the shareholders of the transferor company.

(2) In division, provisions relevant to capital contribution in kind do not apply. Capital can be increased due to division without changing the cap, even if it is not in conformity with the authorised capital system.

c) Formation of a new company

Article 164 - (1) The provisions regarding incorporation of a new company of the New Law and Cooperatives Law apply to incorporation of a new company within the framework of division. The provisions relevant to the minimum number of founders and to capital contribution in kind do not apply to the incorporation of capital stock companies.

d) Interim balance sheet

Article 165 - (1) If more than six months pass between the balance sheet date and the date on which the division contract is signed or the preparation date of the division plan, or if significant changes have occurred in the assets of companies participating in the division since the last balance sheet date, an interim balance sheet is prepared.

(2) Provided that the provisions set forth in sub-clauses (a) and (b) of this paragraph are reserved, the provisions and standards relevant to the annual balance sheet apply to the interim balance sheet. For the interim balance sheet:

a) Physical inventory needs not be taken

b) Changes to the valuations predetermined in the last balance sheet are limited to the entries in the commercial book; depreciation, valuation adjustments, provisions and valuation changes significant for the enterprise incomprehensible from commercial books are also taken into account.

3. Right to audit and to inspect division documents

a) Division contract and division plan

aa) In general

Article 166 - (1) If a company transfers parts of its assets to existing companies through division, a division contract is made by the managing bodies of companies participating in the division.

(2) If a company transfers parts of its assets, through division, to the companies to be newly incorporated, the management prepares a division plan.

(3) Both the division contract and the division plan should be in writing and are subject to approval by the GA in accordance with the provisions in Article 173.

bb) Content of the division contract and the division plan

Article 167 - (1) Division contract and division plan specifically include:

- a) Trade names, headquarters and types of companies participating in the division;
- b) Division into parts and allocation of asset and liability items for transfer purposes; the inventories relevant to these sections with clear descriptions; an itemised list of the immovable properties, negotiable instruments and intangible assets
- c) Exchange ratio of shares and if necessary, the equalisation amount to be paid and the declarations of the shareholders of the transferor company with regard to their partnership rights in the transferee
- d) Rights assigned to holders of profit-sharing certificates, of non-voting shares and of special rights by the transferee
- e) The manner of share exchange
- f) Date from which company shares will gain the right to balance sheet profit and the properties of such right to make a claim
- g) Date on which the transactions of the transferor company are considered as performed in the account of the transferee
- h) Special benefits granted to members of managing bodies, managers and other persons entitled to the management right and auditors
- i) List of business affairs transferred to the transferee as a result of the division

b) Assets excluded from division

Article 168 - (1) Asset items which have not been allocated in the division contract or in the division plan:

- a) In the case of a split-up, are owned in co-ownership by all transferees, according to the rate of the net assets transferred to all transferees in accordance with the division contract or plan.
- b) In the case of a spin-off, are left to the transferor company.

(2) The clauses in the first article apply in comparable cases to receivables and intangible asset rights.

(3) Companies participating in the split-up are severally liable for debts that are not assigned to any company in accordance with the division contract or division plan.

c) Division report

aa) Content

Article 169 - (1) Either the managing bodies of companies participating in the division individually prepare a report regarding the division or a report is prepared jointly.

(2) The report explains the following in legal and economic aspects and indicates their reasons:

- a) purpose and results of the division
- b) division contract or division plan

- c) exchange ratio of shares, and if necessary, the equalisation amount to be paid, and particularly the declarations of the shareholders of the transferor company with regard to their rights in the transferee
- d) particularities regarding the valuation of shares in terms of determining the exchange ratio
- e) if necessary, additional payment liabilities, other personal performance liabilities and unlimited liability that arise on the shareholders due to division
- f) if the types of the companies participating in the division are different, the liabilities of shareholders incurred due to new type
- g) impact and content of the division on the employees, and the content of a social plan, if any
- h) impact of the division on the creditors of the companies participating in the division

(3) In the existence of the formation of a new company, the articles of association of the new company must also be attached to the division plan.

(4) If all shareholders approve, small-sized companies can dispense with preparing the division report.

bb) Audit of the division contract or the division plan and the division report

Article 170 - (1) The provision in Article 148 applies to the audit of division contract or division plan in comparable situations.

d) Right to inspect

Article 171 - (1) Each company participating in the division submits the following for inspection by shareholders of the companies participating in the division at their head offices and for publicly held joint stock companies at the locations determined by the CMB two months prior to the GA resolution:

- a) division contract or division plan
- b) division report
- c) audit report
- d) financial statements and annual reports for the last three years, and interim balance sheets, if any

(2) If all shareholders approve, small-sized companies can dispense with the right to inspect set forth in paragraph 1.

(3) Shareholders can request companies participating in the division to provide copies of the documents mentioned in paragraph 1. These must be provided free of charge.

(4) Each of the companies participating in the division publishes an announcement indicating the rights to inspect in Turkish Trade Registry Gazette, and capital stock companies also publish on their Web sites.

e) Information regarding changes in assets

Article 172 - (1) Article 150 applies, in comparable situations, to changes that occur in the assets of the companies participating in division.

4. Division resolution

Article 173 - (1) After the security stipulated in Article 175 is provided, the managing bodies of the companies participating in the division submit the division contract or the division plan to the GA.

(2) The resolution of approval is adopted in compliance with the quorums set forth in paragraphs 1, 3, 4 and 6 of Article 151.

(3) In a division where the ratio is not protected, the resolution of approval must be adopted by at least 90 percent of the shareholders entitled to vote in the transferor company.

5. Protection

a) Protection of creditors

aa) Notice

Article 174 - (1) The creditors of the companies participating in the division are invited to notify their receivables and to make a claim for security with an announcement to be published in Turkish Trade Registry Gazette, in at least three national newspapers with a circulation of more than 50,000 three times at intervals of seven days and, in the case of capital stock companies, also with an announcement to be posted on the Web sites.

bb) Securing creditors' receivables

Article 175 - (1) Companies participating in the division are obliged to secure the receivables of creditors who have made a claim within three months of the date on which the announcements set forth in Article 174 are published.

(2) If the process auditor determines that the claims of the creditors are not at risk due to division, the requirement to provide security is waived.

(3) If it is obvious that the other creditors will not suffer a loss, the company can pay the debt instead of providing security.

b) Responsibility

aa) Secondary responsibility of the companies participating in division

Article 176 - (1) The other companies participating in the division which are secondarily liable are severally liable for those claims that have not been paid by the company (which is the primarily liable company, to which the claims were assigned by the division contract or the division plan).

(2) The secondarily liable companies are subject to executive proceedings only if a claim is not under security and the primarily liable company:

- a) has entered bankruptcy
- b) has arranged a bankruptcy composition to oversee the orderly disposal of debts
- c) has been subject to execution proceedings and the conditions to obtain final insolvency certificate have been met
- d) has had its headquarters moved abroad and can no longer be prosecuted in Turkey
- e) has had its headquarters' location abroad changed and therefore its prosecution has become extremely difficult

bb) Personal responsibility of shareholders

Article 177 - (1) The provision in Article 158 applies to the personal responsibilities of shareholders.

6. Transfer of business affairs

Article 178 - (1) In a split-up or spin-off, provided that the related employee does not object, the service contracts with employees are transferred to the transferee with all rights and debts arisen thereby until the transfer day.

(2) If the employee objects, the service contract is terminated at the end of the legal period of dismissal; the transferee and the employee are liable to fulfil the contract until that date.

(3) The former employer and transferee are severally liable for the employees' receivables due before the division and for the employee's receivables which are due within the period that will pass until the date the service contract is to expire under ordinary circumstances or the date it is terminated due to the employee's objection.

(4) Unless otherwise decided or unless it is evident from the circumstance, the employer cannot transfer the rights arisen from the service contract to a third party.

(5) Employees can request that their due receivables and their receivables which are due as set forth in Article 1 be secured.

(6) The shareholders of the transferor company, who were liable for company debts before the division, continue to be severally liable for the debts arising from the service contract and that are due until the day of transfer and for the debts which would become due if the service contract were terminated under ordinary circumstances, or for the debts that arise until the service contract is terminated due to the employee's objection.

7. Registration at Trade Registry and validity

Article 179 - (1) When the division is approved, the managing body requests the registration of the division.

(2) If the capital of the transferor company is decreased due to spin-off, the amendment to the articles of association in this regard is also registered.

(3) In case of split-up, the transferor company is dissolved upon registration at the Trade Registry.

(4) The division becomes effective upon the registration at the Trade Registry. Upon registration all assets and liabilities in the inventory are transferred to the transferee at the instant of registration.

IV - Structural Changes

1- Common Principles

a) Principle

Article 180- (1) A company can change its legal structure. The old company subject to conversion continues to exist

b) Valid structural changes

Article 181- (1) a) A capital stock company may be converted into:

1) A different legal form of capital stock company

2) A cooperative

b) A general company can be converted into:

1) A capital stock company

2) A cooperative

3) A limited company

c) A limited company can be converted into:

1) A capital stock company

2) A cooperative

3) A general company

d) A cooperative company can be converted into a capital stock company.

c) Special regulation regarding conversion of general companies and limited companies

Article 182 - (1) A general company can be converted into a limited company, if:

a) A limited partner joins a general company

b) A partner becomes a limited partner

(2) A limited company can be converted into a general company if:

a) All limited partners withdraw from the company

b) All limited partners become unlimited partners

(3) The provision of Article 257 in relation to a general or limited partnership that continues its activities as a commercial enterprise will remain valid.

(4) The provisions of Articles 180 to 190 shall not apply to conversions to be implemented in accordance with this article.

2. Protection of company shares and rights

Article 183 - (1) In conversion the shares and rights of partners are protected. Holders of non-voting shares shall be given equal value of shares or shares voting right.

(2) In exchange for privileged shares, shares of equal value shall be given or an appropriate indemnity shall be paid.

(3) In exchange for profit-sharing certificates, rights of equal value are given or the actual value on the date that the conversion plan is drawn up shall be paid.

3. Incorporation and interim balance sheet

Article 184 - (1) In conversion, the provisions relevant to incorporation of new legal form shall apply; however, the provisions relevant to the minimum number of partners and capital contribution in kind shall not apply to capital stock companies.

(2) If more than six months pass between the balance sheet date and the date on which the conversion report was prepared, or if significant changes occurred in the assets of the company as of the date on which the last balance sheet was prepared, an interim balance sheet shall be prepared.

(3) Provided that the following provisions remain in force, the provisions and principles relevant to the annual balance sheet shall apply to interim balance sheet.

For the interim balance sheet:

- a) Physical inventory need not be taken
- b) Valuations determined in the last balance sheet shall be amended taking into account only the entries in the commercial book, e.g. depreciations, valuation adjustments or provisions.

4. Conversion plan

Article 185 - (1) The management body shall prepare a conversion plan.

The plan shall be in written form and be subject to the approval of the GA in accordance with Article 189. The conversion plan shall contain:

- a) Company's trade name and headquarters before and after conversion, and the new legal form
- b) Articles of association of the new legal form
- c) Number, kind and amount of shares the shareholders will hold after the conversion or statements regarding the shares of shareholders after the conversion

5. Conversion report

Article 186 - (1) The management body shall prepare a written report regarding the conversion.

(2) The report shall address the following in legal and economic aspects and indicate their reasons:

- a) Purpose and results of the conversion
- b) Fulfillment of the provisions of incorporation relevant to new legal form
- c) Articles of association of the new company
- d) Exchange ratio of shares that shareholders will hold after the conversion
- e) Additional payments and other personal performance liabilities and personal responsibilities of shareholders arisen from the conversion, if any
- f) Liabilities that have arisen regarding the new legal form for the shareholders

(3) If all shareholders approve, small-sized companies can disregard preparation of the conversion report.

6. Audit of conversion plan and conversion report

Article 187 - (1) The company shall have the conversion plan, the conversion report and the balance sheet underlying the conversion audited by the operational auditor.

(2) The company must provide the operational auditor with all information and documents needed for an effective audit.

(3) The operational auditor is obliged to inspect and evaluate whether the conditions regarding conversion have been met, the balance sheet reflects reality and the legal status of the shareholders has been protected after the conversion.

(4) If all partners approve, small-sized companies can elect not to undergo auditing.

7. Right to inspect

Article 188 - (1) The company shall submit the following for inspection by shareholders at their head offices and for publicly held joint stock companies at locations determined by the CMB 30 days prior to the GA resolution

- a) Conversion plan
- b) Conversion report
- c) Audit report
- d) Financial statements for the last three years, and interim balance sheet, if any

(2) Copies of the abovementioned documents shall be provided free of charge to shareholders who request them.

The company shall notify shareholders of their right of inspection.

8. Conversion resolution and registration

Article 189 - (1) The management body shall submit the conversion plan to the GA.

The conversion resolution are subject to approval according to these standards:

a) In joint stock companies and companies limited by shares, by two-thirds of the votes present at the GA, provided that the majority represents the two-thirds of the basic or issued capital, without prejudice to Article 421 of the New Law; in case of conversion into a limited liability company, by the approval of all partners if additional payment or personal performance liability arises

b) If a capital stock company converts to a cooperative, by the approval of all partners

c) In companies with limited liability, by three-quarters of the votes of all partners, provided that they own at least three-quarters of the capital

d) In cooperatives

1. Under the condition that at least two-thirds of the partners are represented at the GA with a majority of the existing votes.

2. If additional payments, other personal performance liabilities or personal responsibilities are introduced or these liabilities or responsibilities are being extended, by positive votes of two-thirds of the partners registered in the cooperative.

e) In general and limited companies, the conversion plan shall be approved unanimously by all partners. However, the articles of association may establish that this resolution can be adopted by positive vote of three-quarters of all partners.

(2) The management body shall have the conversion and the articles of association of the new company registered. The conversion shall take effect upon registration. The conversion resolution shall be announced in Turkish Trade Registry Gazette.

9. Protection of creditors and employees

Article 190 - (1) Article 158 shall apply to the personal responsibilities of the partners and Article 178 shall apply to obligations arising from service contracts.

V - Common Provisions

1. Inspection of company shares and rights

Article 191 - (1) In a merger, division or conversion, if a partner is not given the right to continue as a partner and company shares or rights are not provided for in accordance with the law or the cash payment for withdrawal is not adequate, each partner can demand from the court a compensation payment within two months of the announcement of the resolution to merge, divide or convert by appealing to the commercial court of first instance at the location of headquarters of one of the participating companies. Paragraph 2 of Article 140 shall not apply to the determination of the compensation payment.

(2) The court order shall govern all partners of the companies participating in the merger, division or conversion, provided they are in the same legal position as the plaintiff.

(3) The legal expenses of the lawsuit shall be borne by the transferee company. In special situations, court expenses can be partially or fully imputed to the plaintiff.

(4) The lawsuit relevant to inspection regarding the protection of the right to be a partner or of the partnership rights shall not affect the validity of the resolution to merge, divide or convert.

2. Cancellation of merger, division and conversion and the results of incompleteness

Article 192 - (1) Should Articles 134 to 190 be violated, the partners of companies participating in the merger, division or conversion who have not cast positive votes for the merger, division and conversion resolution, and who have recorded this in the minutes, can file an action for cancellation within two months from the date of announcement of this resolution in Turkish Trade Registry Gazette. In cases where an announcement is not required the period shall start from the date of registration.

(2) This action can also be filed in the event the resolution is adopted by a management body.

(3) Should transactions relevant to the merger, division and conversion be incomplete, the court shall allow a period for parties to complete them. If the legal defect is not or cannot be made up for within the time granted, the court shall cancel the resolution and take the necessary measures.

3. Responsibility

Article 193 - (1) All persons who have in some way participated in the merger, division or conversion transactions shall be responsible for the damage to the companies, partners and creditors resulting from any negligence on their part. The responsibilities of founders remain in effect.

(2) Persons who have audited the merger, division or conversion shall be responsible for the damage to the companies, individual partners and creditors should their negligence be demonstrated.

(3) The provisions of Articles 202 to 208, 755, 757 and 760 remain in force.

In the event a capital stock company or cooperative goes into bankruptcy, Articles 565 and 756 and Article 98 of the Cooperatives Law shall apply in comparable situations.

VI - Merger and conversion of commercial enterprise

Article 194 - (1) A commercial enterprise can merge with a commercial company through acquisition by the commercial company. In this case, in accordance with the legal form of the transferee commercial company, the provisions of Articles 138 to 140, 142 to 158 and Articles 191 to 193 in relation to common provisions shall apply by analogy.

(2) In the event a commercial enterprise converts to a commercial company, Articles 182 to 193 shall apply comparably.

(3) In order for a commercial company to convert to a commercial enterprise, all shares of the commercial company must be acquired by the person or persons who will be operating the commercial enterprise and the commercial enterprise must be registered in the name

of this person or these persons. In this case, if the commercial company which has been converted into a commercial enterprise is a general or limited company, the former partners of the commercial company shall be responsible for the debts of the commercial company according to their responsibilities during the statutory period of limitations in Article 264, as will be the person or persons who operate the commercial enterprise jointly and severally. Articles 264 to 266 of the New Law shall apply to the said conversion.

(4) Paragraph 3 of the provision of Article 182 will remain valid.

G) Group of companies

I - Controlling Company and dependent company

Article 195 - (1) a) If a commercial company directly or indirectly:

1. Holds the majority of the voting rights of another commercial company, or
 2. has the right to ensure the election of members forming a resolution quorum in the management body of another commercial company in accordance with articles of association, or
 3. has the majority of the voting right of another commercial company alone or with other shareholders or partners based on a contract in addition to its own votes;
- b) if a commercial company is able to hold another commercial company under its control in accordance with a contract or through other means;

the former company is the controlling company and the latter is the dependent company. If the headquarters of at least one of these companies is in Turkey, the provisions relevant to the group of companies in the New Law shall apply.

(2) Apart from the cases stipulated in paragraph 1, if a commercial company holds the majority of the shares in another commercial company or holds adequate shares to make the decisions enabling it to manage the company, the existence of control by the first company is assumed.

(3) The control of a controlling company over another company through one or more than one dependent company is indirect control.

(4) Companies that are directly or indirectly affiliated with the controlling company shall constitute a group of companies together with the controlling company. Controlling companies are the parent companies and the dependent companies are subsidiaries.

(5) If the controlling company of the group of companies is an enterprise, the headquarters or domicile of which is in Turkey or abroad, Articles 195 to 209 and the provisions in the New Law relevant to the group of companies shall apply. The controlling enterprise is considered as merchant. The provisions regarding consolidated financial statements are reserved.

(6) In the application of provisions relevant to the group of companies, the term “board

of directors” refers to managers in limited liability companies, to managing directors in companies limited by shares and in personal companies, to the management body in other legal entities, and to the real person him/herself for real persons.

II - Calculation of shares and voting ratios

Article 196 - (1) The percentage of a commercial company’s participation in a capital stock company shall be determined by the ratio of the total nominal value of the share or shares it holds in that capital stock company to the ratio of the capital of the company participated in. Shares in a capital stock company that are held by itself and the capital stock company’s own shares that are held by third parties acquired on its account shall be deducted from the basic or issued capital of that company in the calculation.

(2) The percentage of voting right of a commercial company in a capital stock company shall be determined by the ratio of the total exercisable voting rights arising from the shares that the commercial company holds in that capital stock company to the ratio of the total of the entire exercisable voting rights in the capital stock company. Voting rights arising from the shares in a capital stock company that are held by itself and from the capital stock company’s own shares that are held by a third party acquired on its account shall be deducted in the calculation.

(3) The shares held by a commercial company in a capital stock company shall be determined by also considering the shares that are held by dependent companies of a commercial company and shares that are held by a third party acquired on its account.

III- Cross-shareholding

Article 197 - (1) Capital stock companies holding at least one-quarter of each other’s shares are in the state of cross-shareholding. Article 196 shall apply to the calculation of the percentages of these shares. If one of the said companies controls the other, the latter shall be considered as dependent company. If each of the companies in the state of cross-shareholding controls the other, both of them shall be considered as a dependent and controlling company.

IV - Notification, registration, and announcement liabilities

Article 198 - (1) In case that an enterprise directly or indirectly owns an amount of shares representing 5, 10, 20, 25, 33, 50, 67 or 100 percent of the capital of a capital stock company or if its shares fall under these percentages, the enterprise shall notify the capital stock company and the competent authorities indicated in the New Law and other laws, of the situation within ten days following the completion of the said transactions. Acquisition or disposition of the shares in the above-mentioned ratios shall be declared under a separate heading in the annual and audit reports and announced on the capital stock company’s Web site. Article 196 shall apply to the calculation of percentages of the shares. The managing directors and board members of the enterprise and capital stock company shall make a notification in relation to the shares in that capital stock company owned by themselves, their spouses, children under their custody and a commercial company in which they hold at least 20 percent of its capital. Notifications shall be made in writing, registered with the Trade Registry and announced.

(2) Unless the notification, registration, and announcement liabilities set forth in paragraph 1 are fulfilled, other rights including the voting right pertaining to the relevant shares shall be suspended. The provisions related to other legal consequences regarding the breach of the notification liability are reserved.

(3) For the control agreement to be valid, the agreement must be registered with the Trade Registry and be announced. The invalidity of this agreement shall not prevent the application of the provisions in the New Law and other laws relevant to the liabilities and responsibilities pertaining to the group of companies.

V - Reports of dependent and controlling companies

Article 199 - (1) The BoD of the dependent company shall prepare a report regarding the company's relations with controlling and dependent companies within the first quarter of the activity year. All legal transactions which the company conducted in the previous activity year with the controlling company, with a company dependent on the controlling company, through the direction of the controlling company that serves to its advantage or the advantage of its dependent company and all other measures taken or refrained from being taken to the advantage of the controlling company or of its dependent company in the previous activity year shall be explained in the report. In legal proceedings, the performances and counterperformances and the measures used to assess them shall be specified, as well as their advantages and disadvantages to the company. Where there is a provision for compensation for disadvantages, the way the compensation was obtained within the activity year or the advantages gained by the company which provided a right to claim shall also be declared.

(2) The report must comply with the true and fair view accounting principle.

(3) At the end of the BoD report it shall be explained whether the company, in the circumstances and conditions known to the board at the time at which the company conducted the legal proceeding or took or refrained from taking the measure, obtained appropriate counterperformance in relation to each legal proceeding and whether the company incurred any loss due to taking or refraining from taking the measure. If the company incurred loss, the BoD shall specify whether the loss has been compensated for. This explanation shall be only made in the annual report.

(4) Each board member of the controlling company can request that the chairman of the BoD have a report prepared in accordance with true and fair view accounting principles regarding the dependent companies' position in terms of the controlling company's finance and assets and its three-month accounting results, the relations of the controlling company with dependent companies, of dependent companies with each other, of controlling and dependent companies with their shareholders and their relatives; the proceedings they have conducted and results and effects thereof. and submit the said report to the BoD, and have the conclusion section of this attached to the annual and audit report. Dependent companies are required to provide the information and documents necessary for preparing this report to the experts of the controlling company assigned for this duty.. If a board member puts forward a claim for the interest of a third party, he/she shall be responsible for the results.

VI - Access to information about dependent companies

Article 200 - (1) Each shareholder of the controlling company can request at the GA that careful, satisfactory information be provided in accordance with true and fair view accounting principles regarding dependent companies' position in terms of its finance and assets and the accounting results, the relations of the controlling company with dependent companies, of dependent companies with each other, of controlling and dependent companies with their shareholders, managing directors and their relatives, the transactions they have conducted and results thereof.

VII - Suspension of rights

Article 201 - (1) A capital stock company which acquires the shares of another capital stock company and which therefore knowingly enters into a cross-shareholding position can only exercise one-quarter of the total votes arising from the shares which are the subject of participation and one-quarter of other shareholding rights; excluding the right to acquire gratis shares, all other shareholding rights shall be suspended. The said shares shall not be taken into account while calculating the quorum for meeting and resolution. The provisions in Article 389 and 612 are reserved.

(2) The restriction set forth in paragraph 1 shall not apply should the dependent company acquire the shares of the controlling company, or both companies control each other.

VIII - Responsibility

1. Unlawful exercise of control

Article 202 - (1) a) A controlling company shall not exercise its control in a way that would make the dependent company incur a loss. In particular it cannot direct the dependent company to carry out legal transactions such as the transfer of business, asset, fund, staff, receivables and debt; to decrease or transfer its profit; to restrict its assets with real or personal rights; to undertake liabilities such as providing surety, guarantee and bill guarantee; to make payments; to adopt decisions or take measures which negatively affect its efficiency and activity such as not renovating its facilities, limiting, suspending its investments without reasonable grounds; to refrain from taking measures that will ensure its development. Such steps might be taken only if any loss incurred is made good within that activity year, or a right to claim of equivalent value is granted to the dependent company no later than the end of that financial year, with a specific explanation of how and when this loss will be recovered.

b) If compensation has not been made within the activity year or if a right of equivalent claim has not been granted within the due period, each shareholder of the dependent company can claim that the loss incurred by the company be made good by the controlling company and its board members, who caused the loss. If it is justifiable, rather than compensation the judge can decide that shares of the plaintiff shareholders are acquired by the controlling company, or decide on another solution which is acceptable and appropriate to the situation, in accordance with the provisions in paragraph 2 of this article.

c) Creditors can also request that the company's loss be compensated in accordance with sub-clause (b) even if the company has not gone into bankruptcy.

d) If it can be proven that under the same or similar conditions, the board members of an independent company would have carried a transaction causing a loss or refrained from undertaking an act that might have prevented one, compensation cannot be awarded.

e) Articles 553, 555 to 557, 560 and 561 shall apply to the action to be taken by shareholders and creditors, by analogy. If the headquarters of the controlling enterprise is located abroad, the action for compensation shall be taken in the commercial court of first instance at the location of the headquarters of the dependent company.

(2) Shareholders who have cast negative votes against the GA resolution and had them recorded in the minutes of this resolution in connection with transactions such as merger, division, conversion, termination, issuing securities and important amendments to articles of association initiated through application of control and without any clear reasonable grounds concerning the dependent company, or who have objected in writing to the board resolution on the same and similar subjects, can request from the court that their damages be compensated by the controlling enterprise, or their shares be purchased at stock exchange value if possible. If no such value exists or if the stock exchange value is not sufficient at actual values, or at a value to be determined in accordance with a method that is generally accepted, the data available at the date nearest to the date of the court order shall be the basis of this determination. The action for claim of compensation or purchase of shares is barred two years after the date of the resolution of the GA or of the date on which the board resolution is announced.

(3) When the action set forth in paragraph 2 is taken, the amount of funds covering the possible loss of plaintiffs or the purchase value of the shares is to be deposited in the name of the court as security with a bank determined by the court. Until the security has been deposited, no proceeding can be conducted in relation to the resolution of the GA or of the BoD. Should the actions stipulated in paragraphs 1 and 2 of this article be taken in bad faith, the defendant can file a claim against plaintiffs, seeking that the loss incurred be compensated severally and that a security is deposited with the court.

(4) In case of merger, division and conversion, the other rights granted to shareholders and partners remain in force.

(5) Managers of dependent company can request from the controlling enterprise to undertake through a contract all legal consequences of responsibilities that can arise against the shareholders and the creditors as a result of the provisions of this article.

2. In case of full control

a) Instruction

Article 203 - (1) If a commercial company directly or indirectly holds 100 percent of the shares and voting rights in a capital stock company, the BoD of the controlling company can give instructions concerning the direction and management of the dependent company even if it is of a nature which can cause results that could lead to a loss, provided that it is

a requirement of the specified and concrete policies of the group of companies. The bodies of the dependent company are obliged to comply with the instruction.

b) Exception

Article 204 - (1) No instruction can be given which has a characteristic that clearly exceeds the dependent company's solvency and that can endanger its existence or can cause significant assets loss.

c) Non-liability of dependent company's bodies to the company and its shareholders

Article 205 - (1) Members of the BoD of the dependent company, its managers and related persons who can be held responsible cannot be held liable to the company and to its shareholders due to compliance with the instructions within the scope of Articles 203 and 204.

d) Right of action of the company's creditors

Article 206 - (1) In the event the loss incurred by the dependent company due to instructions given by the controlling company and its managers within the context of Article 203 is not compensated within that financial year or the company is not granted an equal right to make a claim, specifying its time and form, the creditors who have incurred loss can take an action for compensation against the controlling company and its board members responsible for the loss. The defendants can base their claims on sub-clause (d) of paragraph 1 of Article 202. Sub-clause (e) of paragraph 1 of Article 202 shall apply to this action.

(2) The defendants can avoid responsibility for receivables resulting from credit and similar reasons by proving that the plaintiff entered into the relationship leading to the said receivable in the knowledge that the compensation was not made or the right to make a claim was not granted, or that they should have known of this situation as a requirement of the nature of business.

IX - Miscellaneous

1. Special audit

Article 207 - (1) If the auditor, operational auditor, special auditor, early risk identifier and management committee have delivered an opinion stating the existence of fraud and conspiracy in the dependent company's relationship with the controlling company or with another dependent company, any shareholder of the dependent company can request the assignment of a special auditor from the commercial court of first instance at the location of the company's headquarters for the purpose of clarifying this matter.

2. Right to purchase

Article 208 - (1) If the controlling company, directly or indirectly, holds at least 90 percent of shares and voting rights in a capital stock company and if the minority prevents the company from running its business, does not act in good faith, creates obvious trouble or behaves in a reckless manner, the controlling company can purchase the shares of the minority at stock exchange value, if any, or at the value determined in accordance with the method set forth in paragraph 2 of Article 202.

3. Responsibility arisen from trust

Article 209 - (1) In cases where the controlling company attains a level where its group reputation inspires confidence among the community or consumers, it shall be liable for any consequences of such.

Part Four

Joint Stock Company

Section One

General provisions, incorporation and fundamental principles

A) General Provisions

I – Definition

Article 329 - (1) A joint stock company is a company whose capital is certain and divided into shares and which is solely responsible for its debts as an amount of its assets.

(2) Shareholders are solely responsible to the company and their responsibility is limited to their subscribed shares.

II – Joint stock companies that are subject to special laws

Article 330 - (1) The provisions in this Section shall apply to joint stock companies that are subject to special laws, with the exception of certain provisions.

III - Purpose and scope

Article 331 - (1) Joint stock companies can be incorporated for any economic purposes and scopes not legally prohibited.

IV –Minimum capital amount

Article 332 - (1) The capital stock representing the entire capital subscribed in the articles of association cannot be less than TRY50,000. The initial capital cannot be less than TRY100,000 in non-public joint stock companies which have adopted the registered capital system disclosing the authorisation ceiling given to the BoD. This minimum capital amount can be increased by the Council of Ministers.

(2) Within the meaning of the New Law, the initial capital in joint stock companies which adopt the registered capital system is the mandatory capital which must be possessed at stage of incorporation and when initially adopting the system, whereas the issued capital is the capital which represents the total of nominal values of the entire shares issued.

(3) Non-public joint stock companies can leave the registered capital system with permission of Ministry of Industry and Trade when they cease to qualify for the system; they shall also be removed from the system by this Ministry even in the absence of their claim if they lose the qualifications required for entry to the system.

(4) The provision in Article 12 of Capital Markets Law No. 2499, dated 28 July 1981, will remain valid.

V - Government supervision

1. Permission

Article 333 - (1) Joint stock companies whose operational areas are determined and declared with the communiqué published by Ministry of Industry and Trade are established with permission of Ministry of Industry and Trade. The amendments to the articles of association of these companies shall also be subject to the permission of this Ministry. The inspection of the Ministry can be carried out only in terms of whether there is any contradiction to the mandatory provisions in the law. Apart from this, regardless of nature, scope of activity and the legal position of the joint stock company, its incorporation and amendments to its articles of association are not subject to the permission of any authority.

2. Representation of public legal entities on the board of directors

Article 334 - (1) The state, special provincial administration, municipalities and other public legal entities, even if they are not shareholders, can have the right to appoint a representative to the BoD of public service joint stock companies under the provision stated in the articles of association.

(2) The board of representatives of public legal entities holding shares in the companies described in paragraph 1 can be removed from appointment only by these public legal entities.

(3) The representatives of public legal entities on the BoD shall have the rights and duties of the members elected by the GA. Public legal entities are responsible to the company, its creditors and shareholders for the actions and transactions carried out by their representatives on the company's BoD. The legal entity's right to recourse will remain valid.

B) Incorporation

I - Incorporating act

Article 335 - (1) The company shall be incorporated upon the founders' declaration stating their decision to incorporate a joint stock company in the articles of association approved by a notary and prepared in accordance with law and in which the founders absolutely committed to pay the entire capital.

(2) The provision in paragraph 1 of Article 355 will remain valid.

II – Incorporation documents

Article 336 - (1) The articles of association, the declaration of founders, fair value reports, agreements with founders and other entities related to incorporation and the transaction auditor report are incorporation documents. All incorporation documents shall be placed in the registration file and a copy of each shall be kept by the company for a period of five years.

III – Founders

1. Definition

Article 337 - (1) Real persons and legal entities who have subscribed to a share and signed the articles of association are founders.

(2) If the founders perform the transactions stated in paragraph 1 on behalf of a third party, this person shall also be considered as a founder in terms of liability resulting from incorporation. The third party cannot claim that he/she was unaware of the matter which is known or is required to be known by the person acting on his/her behalf.

2. Minimum number

Article 338 - (1) One or more shareholder founders are required for incorporation of a joint stock company. The provision in Article 330 will remain valid.

(2) If the number of shareholders decreases to one, the BoD shall be notified of this situation in writing within seven days as of the date of the transaction causing this result. The BoD shall register and announce that the company is a single-shareholder joint stock company within seven days of the date of receipt of this notification. Furthermore, in the event the company is incorporated by a single shareholder or the shares come to be held by a single person, the name, domicile and nationality of the single shareholder shall be registered and announced. A shareholder who fails to announce this and the BoD that fails to register and announce this shall be responsible for any damage incurred.

(3) The company cannot acquire or have acquired its own shares if it becomes a single shareholder.

IV – Articles of association

1. Contents

Article 339 - (1) The articles of association must be in writing and the signatures of all founders must be authorised by a notary.

(2) The following shall be written in the articles of association:

- a) company's trade name and location of the headquarters
- b) company's scope of activity with its fundamental points specified and defined
- c) company's capital and the nominal value of each share, condition and circumstance of their payment

- d) whether share certificates are registered or bearer; privileges provided for certain shares; transfer restrictions
- e) rights and non-monetary assets contributed as capital and their values; amount of shares to be given in consideration of these, in case of an acquisition of a business and non-monetary assets; consideration of goods and rights purchased by the founders on behalf of the company for the incorporation of the company and amount of the fee; the allowance or the bonus that needs to be paid to those who provided services during the incorporation of the company
- f) benefits to be provided from the company profit to the founders, members of the BoD and other persons
- g) number of members of the BoD; members who are authorised signatories on behalf of the company.
- h) invitation for GA; voting rights
- i) if duration of the company is limited to a period, such period
- j) the form of announcements related to the company
- k) types and amounts of capital shares subscribed by shareholders
- l) accounting period of the company

(3) The members of the first BoD shall be assigned the articles of association.

2. Mandatory provisions

Article 340 - (1) The articles of association can depart from the provisions in the New Law relevant to joint stock companies only if allowed in the New Law. The supplementary provisions of articles of association allowed to be stipulated by other laws shall be effective specifically for that law.

V – Approval of subscription

Article 341 - (1) The subscription of the entire shares constituting the basic capital which was made by the founders in the articles of association shall be approved by a notary annotation to be affixed to the articles of association.

VI – Capital in kind

1. Assets that can be contributed as capital in kind

Article 342 - (1) Assets without such restriction as measure, pledge and encumbrances on them, which can be convertible to cash and which are transferable, including intellectual property rights and virtual environments, can be contributed as capital in kind. Service, personal effort, commercial reputation and non-due receivables cannot be contributed as capital.

(2) The provision in Article 128 will remain valid.

2. Evaluation

Article 343 - (1) Enterprises and non-monetary assets to be acquired during incorporation with capital in kind shall be evaluated by experts assigned by the commercial court of first instance at the location of the company's headquarters. The valuation report must explain in detail and with justifications the existence of receivables, the possibility of collection and compliance with Article 342, and that the selected evaluation method is appropriate. Shares amount and Turkish lira equivalence related to each asset contributed as capital in kind shall be explained satisfactorily and in accordance with the accountability principle. The founders, the transaction auditor and stakeholders can object to this report. The expert report approved by a court is definitive.

VII – Payment of shares

1. Capital in cash

Article 344 - (1) At least 25 percent of the nominal value of the shares subscribed in cash must be paid before registration and the remaining shall be paid within 24 months following the registration. The entire issuance premium of shares shall be paid before registration.

(2) The provisions in the Capital Markets Law relevant to the payment of shares are reserved.

2. Location of payment

Article 345 - (1) Cash payments shall be made into a special account opened on behalf of the company which will be incorporated, at a bank which is subject to Banking Law No. 5411, dated 19 October 2005, and this account can be used only by this company. The fact that the amount stated in law or articles of association for subscribed shares has been paid and a higher amount than foreseen in the law has been paid for subscribed shares shall be proven with a bank letter to be addressed to the Trade Registry. Upon the submission of a letter prepared by the registration office confirming that the company has acquired a legal personality, the bank shall pay the amount concerned only to the company.

(2) If the company is unable to acquire legal personality within three months as of the date of notarisation stated in paragraph 1 of Article 335, the amounts shall be paid by the bank to their owners, upon the submission of a letter prepared by the registration office confirming this matter.

3. Shares to be offered to public

Article 346 - (1) The equivalent of shares subscribed in the articles of association, determined and also guaranteed in the articles of association to be offered to the public at latest within two months as of the registration of the company shall be paid from the income from the sale. The public offering of share certificates shall be initiated in accordance with the capital markets legislation. At the end of the sale period, the nominal value and issuance premium less expenses if any shall be paid to the company and the amount that will remain after the expenses are deducted shall be paid to shareholders offering their share certificates to the public.

(2) The total amount of shares offered to public but not sold within the prescribed period and 25 percent of the equivalent of shares not offered to public within the prescribed period shall be paid within three days after the two-month period.

VIII – Shares Premium

Article 347 - (1) A share cannot be issued at a price less than its nominal value and shares cannot be issued at less than fair value. Shares can be issued at more than fair value if there are provisions in the articles of association determined by GA resolution.

IX – Benefits of Founders

Article 348 - (1) Granting a benefit resulting in a decrease of the company’s capital, such as paying money and giving shares to founders for their efforts during the incorporation of the company, is prohibited. Rules in the articles of association that conflict with this article are invalid. However, after legal reserves stipulated in paragraph 1 of Article 519 and a dividend of 5 percent for the shareholders are allocated from the distributable profit, one-tenth of the remaining amount shall be paid to founders as redeemed shares.

(2) Joint stock companies incorporated after the effective date of this law shall cancel redeemed shares before public offering without any payment. Otherwise, redeemed shares are invalid by themselves.

(3) If there is distributable profit, founders get profit as stated in the articles of association even the company decides to not distribute any profit.

X –Founders declaration

Article 349 - (1) A declaration regarding incorporation shall be signed by the founders. The declaration shall be prepared accurately and completely in accordance with the principle of providing information in a true and fair manner. If capital in kind is contributed or if an enterprise or a non-monetary asset is acquired, the declaration must contain explanations, justifications and definite expressions regarding the appropriateness of the amount given, the necessity of such capital and the acquisition and the benefit of these for the company. In addition, securities acquired by the company, their acquisition cost, information regarding the valuation and analysis of financial or if necessary consolidated financial statements for the last three years of those who have issued this securities, significant commitments undertaken by the company, connections, prices, commissions regarding the purchase of machinery and similar goods and of any asset and all kinds of debts shall be explained by comparison with equivalents.

(2) Furthermore, the benefits with justification provided for the founders shall be stated in the declaration. Those who have subscribed shares for the purpose of public offering and the number of shares subscribed, the relationship of those who have subscribed shares with another; if these are included in a group of companies, their relationship with the group, the fees paid to the transaction auditor inspecting the corporation and to others providing services shall be explained in the declaration with comparing equals.

XI - Commitment for public offering

Article 350 - (1) In accordance with Article 346, in the event a share is subscribed for

public offering, the public offering shall be considered as approved by the founders, BoD or any authorised body.

XII - Transaction auditor report

Article 351 - (1) The report regarding the audit of the incorporation shall be prepared by one or more transaction auditor. The transaction auditor shall declare that all shares have been subscribed; that the minimum amount of the share equivalent, stated in the law or in the articles of association, has been deposited in the bank in accordance with the law and that the bank letter in this regard has been made available; that there is no indication that this liability has been evaded; that a valuation has been made for contribution and acquisition in kind by experts appointed by the court and that the report which has been certified by the court has been presented in the file; that the benefits of the founders comply with law; that there is no express non-conformity regarding the declaration of founders and that there is no over-valuation and no obvious corruption in the transactions, that all other incorporation documents have been made available and that the required notary approvals and permissions have been obtained in line with the accountability principle with statement of justifications.

XIII – Transfer of share subscription before incorporation

Article 352 - (1) Transfer of share subscription before the company’s registration shall be invalid as regards the company.

XIV – Termination court case

Article 353 - (1) A joint stock company cannot be declared null and void. However, if the interests of creditors, shareholders or public are being risked or violated during the incorporation of the company, on the request of the BoD the Ministry of Industry and Trade, the related creditor or shareholder the commercial court of first instance at the location of the company’s headquarters shall rule on the termination of the company. The court shall take necessary measures on the date the court case is opened.

(2) The court can give time to complete pending matters and to correct matters conflicting with the articles of association or with the law.

(3) The evidence and all required information shall be included in the court application. Once the trial stage commences no additional evidence or proof can be presented unless court determines that a concrete reason exists for the plaintiff to present additional evidence and information. In the event of such findings, the court can set a deadline for the presentation of such material. REWORDED, PLEASE NOTE.

(4) The court case must be opened within the three-month prescription period as of the registration and announcement of the company.

(5) When a court case has been opened, the definitive court decision shall be, immediately and ex officio, registered with the Trade Registry and announced in Turkish Trade Registry Gazette. In addition, the BoD shall declare the registered and announced matter in at least one national newspaper with a circulation of at least 50,000 and publish it on its Web site.

XV –Registration and announcement of the company

Article 354 - (1) The full version of the articles of association of the company shall be registered with the Trade Registry at the location of the company's headquarters and announced in Turkish Trade Registry Gazette within 30 days as of obtaining permission for the incorporation of a joint stock companies from the Ministry of Industry and Trade and other companies incorporated in accordance with sub-clause 1 of Article 335. Apart from those listed below, the provision in paragraph 1 of Article 36 shall not be applied for the registered and announced articles of association. These points are as follows:

- a) date of articles of association
 - b) company's trade name and headquarters
 - c) duration of the company, if any
 - d) company's capital, the method and terms of its payment and the nominal values of shares, privileges, if any
 - e) types of shares, and whether they are bearer or registered shares
 - f) representation of the company
 - g) Names and surnames, titles, domiciles and nationalities of members of the BoD **and** those who are authorised to represent the company.
 - h) form of announcements to be made by the company; the way the decision of the BoD shall be notified to shareholders in case there is a provision relevant to this in the articles of association
- (2)** Branches shall be registered with the Trade Registry at their location by reference to the Trade Registry of the headquarters.
- (3)** Expert report in accordance with Article 343 is registered and announced.

XVI –Acquiring legal personality

Article 355 - (1) The company shall acquire legal personality upon registration at the Trade Registry.

- (2)** Those who conduct transactions and enter into commitments on behalf of the company before registration shall be personally and successively responsible for these transactions and commitments. However, if it is declared that transactions and commitments have been carried out on behalf of the company that will be incorporated in the future and if such commitments have been accepted by the company within the three-month period following the registration of the company with the Trade Registry, the company shall be exclusively responsible for these transactions.
- (3)** Unless accepted by the company, the incorporation costs shall be paid by the founders. They shall not have any right to recourse to shareholders.

C) Fraud

Article 356 - (1) Contracts regarding acquisition or lease of an enterprise or of non-monetary assets in return for an amount exceeding one-tenth of the capital made within two years as of the registration of the company shall not be valid unless they are approved by the GA and registered with the Trade Registry. All transaction made prior to the approval and registration of such contracts, including payments for execution thereof, shall be invalid.

(2) An expert assigned by the commercial court of first instance at the location of the company, upon the request of the BoD, shall evaluate the enterprise and non-monetary assets to be acquired or leased by the company prior to the GA's resolution. The report must be of an official nature.

(3) Paragraphs 3 and 4 of Article 421 shall be applied for the meeting and resolution.

(4) The contract shall be registered and announced upon an approval resolution by the GA.

(5) The provisions in this article cannot be applied for enterprises and non-monetary assets acquired compulsorily or which constitute the company's scope of activity.

D) Basic principles

I – Equal treatment principle

Article 357 - (1) Shareholders shall be subject to equal treatment under equal terms.

II – Prohibition of shareholders becoming indebted to company

Article 358 - (1) Shareholders cannot become indebted to the company, excluding the debt arising from subscription, unless the debt arises from a transaction conducted with the company as a requirement of the company's scope of activity or the business of a shareholder's enterprise and unless such debt is subject to identical and similar terms applicable in similar cases.

Section Two

Board of Directors

A) In general

I – Appointment and election

1. Number and qualifications of the members

Article 359 - (1) The joint stock company shall have a BoD which consists of one or more persons assigned by the articles of association or elected by the GA. At least one member who is authorised for representation must be a Turkish citizen domiciled in Turkey.

(2) In the event a legal entity is elected as a member of the BoD only one real person, determined by the legal entity on its behalf, shall also be registered and announced with the legal entity; in addition the registration and an announcement shall be immediately declared on the company's Web site. Only this registered person can participate in and vote on behalf of the legal entity at the meetings.

(3) The members of the BoD and the real person registered on behalf of the legal entity must be able to act in full capacity. At least one-quarter of the members of the BoD must be university graduates. This requirement is not applicable in the case of boards consisting of a single member.

(4) If a member of the BoD is terminated, then this person cannot seek re-election to the BoD.

2. Representation of certain groups on the board of directors

Article 360 - (1) Provided that it is stated in the articles of association, certain share groups, shareholders consisting of a certain group in terms of their qualities and nature, and minorities can be granted the right to be represented on the BoD. For this purpose the articles of association can stipulate that board members shall be elected from among shareholders comprising a certain group, certain share groups and minorities, or that the right to nominate a candidate for the BoD can also be granted to them in the articles of association. It is mandatory that the candidate nominated by the GA as a board member or who is a member of the group and the minority to whom the right to nominate is granted shall be elected absent fair cause to oppose that candidate. The number of board members performing representation in this way cannot exceed half of the members of the BoD in public joint stock companies. The regulations regarding independent board members remain in force.

(2) The shares entitled to be represented on the BoD according to this article shall be considered as privileged shares.

3. Insurance

Article 361 - (1) If the damage incurred by the company through the fault of board members while performing their duties is insured at a price exceeding 25 percent of the company capital and the company is secured, in the case of public companies this

matter shall be announced in the bulletin of the CMB and if the shares are listed on a stock exchange this shall also be announced in the stock exchange bulletin, and such matter shall be taken into account in the assessment of compliance with the principles of corporate governance.

4. Term of appointment

Article 362 - (1) BoD members are elected for a term of no more than three years. Unless otherwise specified in the articles of association, board members may be candidates for re-election.

(2) The provision in Article 334 will remain valid.

II – Vacancy on the board

Article 363 - (1) Without prejudice to the provision in Article 334, in the case of a vacancy on the board for any reason, the BoD shall elect a person who meets the legal requirements as a board member on temporary basis and submit him/her to the approval of the first GA. A member elected in this way shall perform his/her duties until the GA meeting at which he/she is submitted for approval, and in the event his/her membership is approved he/she shall complete the appointment term of his/her predecessor.

(2) If a board member goes bankrupt or under interdiction, or if he/she loses the legal conditions or the qualifications required to be a member stated in the articles of association, this person's membership shall automatically terminate without any proceeding.

III – Dismissal from appointment

Article 364 - (1) Even if board members have been assigned through the articles of association, in case of fair cause and despite the existence or absence of a relevant item on the agenda, they can be dismissed from the board by resolution of the GA. The legal entity who is a board member can, at any time, replace the person registered in his/her name.

(2) The provision in Article 334 and the right to indemnity of the member removed from appointment remain in force.

B) Management and representation

I – In general

1. Principle

Article 365 - (1) The joint stock company shall be managed and represented by the BoD. The exceptional provisions in the law remain in force.

2. Division of duties

Article 366 - (1) Every year the BoD shall elect a chairman, and at least one vice chairman from among its members to replace the chairman in case of absence. The articles of association may stipulate that the chairman and the vice chairman, or one of them, be elected by the GA.

(2) The BoD can establish committees and commissions which can also have board members for the purpose of monitoring the course of business, having reports prepared regarding matters to be presented to the board, enforcing BoD decisions or for internal audit purposes.

3. Delegation of management

Article 367 - (1) In accordance with an internal regulation to be drawn up by the board based on a provision to be inserted into the articles of association, the BoD can be authorised partially or fully to delegate management to one or more board members or to a third party. This regulation shall organise the management of the company; it shall define the duties required for management, indicate their positions, and particularly specify who is subordinated to whom and who is obliged to provide information. The BoD shall, upon request, inform in writing the shareholders and the creditors who can make a persuasive case that their interests are worthy of protection.

(2) In the event management is not delegated the company shall be managed by all board members.

4. Commercial representatives and commercial agents

Article 368 - (1) The BoD can appoint commercial representatives and commercial agents.

5. Duty of care and duty of loyalty

Article 369 - (1) BoD members and third parties in charge of management shall be held liable for prudent performance and protection of the company's interests.

(2) The provisions in Articles 203 to 205 remain in force.

II. Authority to represent

1. In general

Article 370 - (1) Unless otherwise stipulated in the articles of association or unless the BoD comprises one member, representational authority shall be exercised by the BoD by affixing two signatures.

(2) The BoD can delegate this authority to one or more executive directors or to third parties, but at least one board member must have representational authority.

2. Scope and limits

Article 371 - (1) Those who are authorised to represent can carry out on behalf of the company all manner of business and legal transactions within the purpose and scope of activity of the company and can use the trade name of the company for this purpose. The company reserves the right to recourse arising from transactions contrary to law and the articles of association.

(2) Transactions conducted with third parties outside the scope of activity by those who are authorised to represent the company shall bind the company, provided it is proven that the third party was aware that the transaction is outside the scope of activity or they

were capable of being aware as a requirement of the situation. The announcement of the company's articles of association shall not be solely sufficient evidence to prove this matter.

(3) The restriction on representational authority shall not be effectual against third parties in good faith; however, the restrictions which are registered and announced in relation to limiting representational authority solely to the business of the headquarters or a branch or to the exercising thereof jointly are valid.

(4) The fact that the transaction performed by authorised persons is against the articles of association or the GA resolution does not prevent third parties, acting in good faith, from making claims due to that transaction.

(5) The company shall be responsible for tort by those authorised to represent or manage while performing their duties. The company reserves its right to recourse.

(6) Regardless of whether the company is represented by a single shareholder during the conclusion of a contract, in single-shareholder joint stock companies the validity of such contract between this shareholder and the company requires that the contract be in written form. This requirement shall not apply to contracts regarding daily, insignificant and ordinary transactions according to market conditions.

3. Form of signature

Article 372 - (1) Persons entitled to sign on behalf of the company shall affix their signatures under the trade name of the company. The provision in paragraph 2 of Article 40 will remain valid.

(2) The headquarters of the company, the location where it is registered and the registration number shall be indicated in the documents prepared by the company.

4. Registration and announcement

Article 373 - (1) The BoD shall submit the notarised copy of the resolution indicating the persons authorised to represent and the forms of representation to the Trade Registry for registration and announcement.

(2) Following the registration of representational authority at the Trade Registry, any legal defect regarding the election or appointment of the concerned persons can be put forward by the company against third parties, provided it is proven that the legal defect is known by these persons.

III - Duties and powers

1. In general

Article 374 - (1) The BoD and the management, to the extent delegated to them, shall be authorised to make decision with regard to all business and transactions required to perform the company's scope of activity, excluding those subject to the authority of the GA by law and the articles of association.

2. Non-delegable duties and powers

Article 375 - (1) The non-delegable and indispensable duties and powers of the BoD are as follows:

- a) Top-level management of the company and giving instructions in this regard.
- b) Determination of the company's management organisation.
- c) Establishment of the necessary system for financial planning to the extent required, and for accounting and finance audit.
- d) Appointment and dismissal of managers and persons performing the same function and authorised signatories.
- e) High-level supervision of whether the persons in charge of management act in accordance with the law, articles of association, internal regulations and written instructions of the BoD.
- f) Keeping the share book, resolution book of the board and the GA meeting and discussion register, preparation of the annual report and corporate governance disclosure and submission thereof to the GA, organisation of GA meetings, and enforcement of GA resolutions.
- g) Notifying the court regarding the company's state of excess of liabilities over assets.

3. Capital loss, excess of liabilities over assets.

a) Liability to convoke and notify

Article 376 - (1) If it is clear in the last annual balance sheet that half of the sum of the capital and statutory reserves is unsecured due to loss, the BoD shall immediately convoke the GA and submit the remedial measures it considers appropriate.

(2) According to the last annual balance sheet, if it is clear that two-thirds of the sum of the capital and statutory reserves are unsecured due to loss, unless the GA immediately convoked decides to fully supplement the capital or to be satisfied with one-third of the capital, the company shall automatically terminate.

(3) If suspicions are raised that the company's liabilities exceed its assets, the BoD shall have an interim balance sheet prepared based on the going concern value and based on liquidation value of the assets and shall give it to the auditor. The auditor shall inspect this interim balance sheet within seven business days and shall present his/her evaluation and proposals to the BoD in the form of a report. The proposals of the early detection committee regulated in Article 378 must also be taken into account in the proposals of the auditor. If it is clear in the report that the assets are not sufficient to cover the receivables of creditors of the company, the BoD shall notify the commercial court of first instance at the location of the company's headquarters of this situation and shall file a claim for bankruptcy., This shall be done provided that before the adjudication of bankruptcy, the company's creditors representing an amount sufficient to cover the company's deficit and to eliminate the indebtedness of the Company accept in writing that they will be ranked after all other creditors and that the legitimacy, authenticity and validity of this

declaration or contract is verified by experts assigned by the court which shall be notified of the request for bankruptcy by the BoD. Otherwise the application made to the court for an expert inspection shall be considered as notification of bankruptcy.

b) Postponement of bankruptcy

Article 377 - (1) The BoD or any creditor can request the postponement of bankruptcy by presenting to the court an improvement project indicating the objective and actual sources and measures, including the new capital contribution in cash. In such case, Articles 179 to 179/b of the Execution and Bankruptcy Law shall be applied.

4. Early risk detection and management

Article 378 - (1) For companies whose shares are listed in the stock exchange the BoD is required to set up an expert committee to run and to develop the system for the purpose of early detection of the causes that jeopardize the existence of the company, its development and continuity of the business unit in danger, of applying the necessary measures and remedies in this regard, and of managing the risk. In other companies a similar committee, if deemed necessary and if the BoD is notified in writing by the auditor, shall be constituted and shall submit its first report at the end of the month following its constitution.

(2) In a bimonthly report to the BoD, the committee shall evaluate the situation, indicate the dangers, if any, and suggest remedies. The report shall also be sent to the auditor.

5. Company's acquisition of its own shares or acceptance thereof as pledge

a) In general

Article 379 - (1) A company cannot acquire and accept as pledge its own shares in return for consideration, at an amount which exceeds or will exceed as a result of a transaction, one-tenth of its basic or issued capital. This provision shall also be applicable to the shares which a third party acquires or accepts as pledge in his/her name, but in the account of the company.

(2) In order for the shares to be acquired or accepted as pledge in accordance with the provision in paragraph 1, the GA must have authorised the BoD to act in this matter. This authorisation, which can be granted for a maximum of five years, must show the lower limit and upper limit of the price which can be paid for shares to be acquired and the total nominal values of the shares to be acquired or accepted as pledge. The BoD must state in each of its proposals for permission that the legal requirements have been met.

(3) In addition to the requirements set out in paragraphs 1 and 2, after the prices of the shares to be acquired are deducted, the company's remaining net assets must be at least equal to the sum of the reserves that may not be distributed according to law and articles of association, and of basic or issued capital.

(4) In accordance with the above-mentioned provisions only shares that have been paid in full can be acquired.

(5) The provisions in the paragraphs above shall also be applied in case that the parent company's shares are acquired by its subsidiary. The CMB shall determine the regulation needed in accordance with the principles of transparency and in regard to the price of the companies whose shares are listed in the stock exchange.

b) Evasion of law

Article 380 - (1) Legal transactions which the company performs with a person for the acquisition of its shares with regard to granting an advance, a loan or security, shall be null and void. This nullity provision shall not be applied to transactions within the scope of activity of credit and finance organisations and to legal transactions in regard to granting an advance, a loan or security to the employees of the company or of its dependent companies for the purpose of acquiring the company's shares. However, these exceptional transactions shall be invalid if they reduce the reserves which the company is obliged to allocate according to law and the articles of association, if they violate the rules in Article 519 regarding the expenditure of legal reserves and if they make it impossible for the company to allocate the legal reserves stipulated in Article 520.

(2) Furthermore, a regulation between the company and a third party which grants this person the right to acquire the company's own shares in the account of the company, of its dependent company or of a company the majority shares of which are possessed by the company, or which stipulates such a liability for this person in this regard, shall be null and void if the transaction is in conflict with Article 379 in the event these shares were acquired by the company.

c) Prevention of an imminent and serious loss

Article 381 - (1) In the event it is necessary to avoid an imminent and serious loss, a company can acquire its own shares in accordance with Article 379 in the absence of a GA resolution regarding authorisation.

(2) In the event the shares are acquired as above, the BoD shall provide the first GA with written information regarding:

- a) Reason and purpose of the acquisition
- b) Number of acquired shares, sum of their nominal values and percentage of the capital they represent
- c) Price and terms of payment

d) Exceptions

Article 382 - (1) A company can acquire its own shares without being subject to the provisions in Article 379 in the following cases:

- a) If it is applying the provisions of Articles 473 to 475 relevant to decreasing its basic or issued capital.
- b) If it is a requirement of the universal succession rule.
- c) If such acquisition is arising from a statutory purchase liability.

d) Provided that the full price is paid and if it is intended for the collection of a company receivable through execution proceedings.

e) If the company is a securities and investment banking company.

e) Gratuitous acquisition

Article 383 - (1) A company can acquire its own shares gratuitously provided that their prices are fully paid.

(2) The provision in paragraph 1 shall apply comparably in the event a subsidiary acquires shares in the parent company gratuitously.

f) Disposal

Article 384 - (1) According to sub-clauses (b) to (d) of Article 382 and to the provisions in Article 383, the acquired shares shall be disposed of as soon as their transfer is possible without causing any loss to the company and in any case within three years as of their acquisition, unless the sum of these shares owned by the company and by the subsidiary exceeds 10 percent of the company's basic or issued capital.

g) Disposal in case of an acquisition contrary to law

Article 385 - (1) Shares acquired or accepted as pledge in a way contrary to Articles 379 to 381 shall be disposed or the pledge on them shall be released within six months from the date of their acquisition or acceptance as pledge.

h) Capital decrease

Article 386 - (1) Shares that cannot be disposed in accordance with Articles 384 and 385 shall be redeemed immediately through a decrease of capital.

i) Provisions reserved

Article 387 - (1) Provisions in other laws regarding the company's acquisition of its own shares will remain valid.

j) Prohibition of subscription of its own shares

Article 388 - (1) A company cannot subscribe to its own shares.

(2) Subscription to the company's shares by a third party or a subsidiary in its own name but on behalf of the company shall be considered as the company subscribing to its own shares.

(3) In case of an act contrary to paragraphs 1 and 2, the shares in question shall be considered as subscribed to by the founders while incorporating the company and by the board members while increasing the capital, and they shall be responsible for the share prices. During the founding of the company and while increasing capital, board members who have proved that they are faultless in the subscription contrary to law shall be exonerated from responsibility.

(4) The provisions in paragraphs 1 and 3 shall be applied to subsidiaries subscribing to the shares of the parent company by analogy. The shares in question shall be considered

as subscribed to by the board members of the subsidiary. Members are responsible for the share prices.

k) Exercise of rights

Article 389 - (1) The company's own shares acquired by the company and the shares of the parent company acquired by the subsidiary shall not be taken into account while calculating the parent company's GA meeting quorum. Excluding the acquisition of gratis shares, the company's own shares taken over by the company shall not grant any shareholding rights. The voting right pertaining to the parent company shares acquired by the subsidiary and affiliated rights shall be suspended.

IV – Board meetings

1. Resolution

Article 390 - (1) Save as provided otherwise by an aggravating clause in the articles of association, the BoD shall convene with the majority of all members and make its decisions with the majority of the members present at the meeting. This rule shall apply also in the event the BoD convenes in an electronic environment.

(2) The board members cannot vote to represent each other nor are they allowed to participate in the meeting by proxy.

(3) In the event the votes are tied the matter shall be left to the next meeting. If the votes are tied at the second meeting as well, the matter in question shall be deemed to be rejected.

(4) In the event none of the board members request a discussion, BoD resolutions on a proposal regarding a certain matter made by one of the members can be taken by obtaining the written approval of a majority of all members. All members of the BoD must receive the same proposal. Approvals are not required to be on the same paper; however, all papers containing approvals must be attached to the board resolution register or converted into a resolution containing the signatures of approvers and attached to the board resolution book to ensure the validity of the resolution.

(5) The resolutions shall be valid only if they are in written form and signed.

2. Null and void resolutions

Article 391 - (1) The court can be asked to determine that the board resolution is null and void. In particular this applies to resolutions that:

- a) contradict the principle of equal treatment
- b) do not comply with the basic structure of the joint stock company or do not maintain the principle of protecting the capital
- c) violate the rights of shareholders or restrict or make these rights difficult to exercise
- d) are within the non-delegable authorities of other bodies and relevant to the transfer of these authorities

3. Right to information and to inspect

Article 392 - (1) Each board member can request information, ask questions, and conduct an inspection regarding all business and transactions of the company. The request of a board member for any book, record, contract, correspondence, or document to be brought to the board meeting, inspection or discussion thereof by the board or members, or a request for information from a manager or employee concerned with any matter cannot be rejected. If rejected, the provision in paragraph 4 shall apply.

(2) Persons and committees in charge of company management, as well as all board members, are required to provide information at board meetings. A member's claim regarding this matter cannot be rejected and the member's questions must be answered.

(3) Every board member can obtain information outside of board meetings, from people in charge of managing the company regarding the course of business and about certain individual tasks, with the permission of the chairman of the board, and if required to perform his/her duty, he/she can request from the chairman of the board the company books and files for inspection.

(4) If the chairman rejects a member's claim to obtain information, to ask questions and to conduct an inspection as set forth in paragraph 3, the matter shall be brought to the board within two days. If the board does not convene or rejects this claim, the member can apply to the commercial court of first instance at the company's headquarters. The court can review the claim without a hearing and deliver an order; the court's order shall be final.

(5) The chairman of the board cannot obtain information and inspect company books and files outside of the board meetings without permission of the board. Should a request by the chairman be rejected, the chairman can apply to the court in accordance with paragraph 4.

(6) The board member's rights arising from this article cannot be restricted or abolished. The articles of association and the BoD can extend the members' rights to information and inspection.

(7) Each member of the board can ask the chairman in writing to convene the BoD.

4. Prohibition of participation in discussion

Article 393 - (1) A board member cannot participate in discussions regarding matters which lead to a conflict between interests of the company and personal interests of the member or a person of his/her lineal consanguinity or his/her spouse or one of his/her blood and in-law relatives up to and including the third degree. This prohibition shall also be applied in cases where acting in good faith requires the non-participation of a board member in the discussion. If in doubt about the existence of such conflict, a decision shall be made by the BoD, and the member involved may not participate in this voting. Even if the conflict of interest is unknown to the BoD, the concerned member is obliged to declare it and abide by the prohibition.

(2) A board member who acts in contravention of these provisions, members who do not object to the participation of the concerned member in the meeting while the conflict of

interest objectively exists and is known, and board members who decide in favour of the participation of the said member in the meeting shall be liable for damages incurred by the company in regard to this matter.

(3) The reason for non-participation in the discussion because of this prohibition, and related transactions, shall be written in the resolution of the BoD.

V – Pecuniary rights of board members

Article 394 - (1) Provided that the amount is determined by the articles of association or the GA resolution, board members can be paid an honorarium, salary, bonus, a premium and a portion of the annual profit.

VI –Prohibition of conducting transaction with company, to become indebted to company

Article 395 - (1) A board member cannot conduct any transaction with the company in his/her or any other person's name without permission from the GA. If this provision is violated, the company can claim the transaction is null and void. The counterparty cannot make such a claim.

(2) The board member, his/her relatives specified in Article 393, the personal companies of which the said member and his/her relatives in question are partners, and joint stock companies in which they have at least 20 percent shareholding cannot become indebted in cash or in kind to the company. The company cannot provide surety, guarantee or security for these persons, undertake liability or take over their debts. Otherwise, the creditors of the company can start execution proceedings directly against these people for the debt of the company in the amount for which the company is liable.

(3) Provided the provision in Article 202 remains valid, companies in the group of companies can provide surety and guarantee for each other.

(4) Special provisions of the Banking Law remain valid.

VII –Non-compete obligation

Article 396 - (1) No board member can conduct any transaction of a commercial nature falling under the scope of activity of the company in his/her account or any other person's account without obtaining permission from the GA, and he/she cannot participate in a company involved in the same kind of commercial business as a partner with unlimited liability. The company shall be free to file a claim for compensation from the board members acting in contravention of this provision, or instead of compensation, to consider the transaction conducted as made in the name of the company and to file a lawsuit and claim any benefits arising from contracts made in the account of third parties belong to the company.

(2) Board members other than the one who has acted contrary to the provision in paragraph 1 shall have the right to exercise one of the rights stated above.

(3) These rights shall become statute barred three months from the date on which the other board members learned that the said commercial transactions have been conducted

or that the board member has participated in another company, and in any case one year after they were conducted.

(4) The provisions relevant to the responsibilities of board members remain valid.

Section Three

Audit

A) In general

Article 397 - (1) The financial statements of a joint stock company and group of companies shall be audited in accordance with Turkish Auditing Standards which are in compliance with international auditing standards. Whether the financial information included in the annual report prepared by the BoD is consistent with the audited financial statements and whether they have a true and fair view is to be included in the scope of audit.

(2) The financial statements and the annual report prepared by the BoD are not regarded as sufficient unless audited by the auditor.

(3) If the company's and group of companies' financial statements and the annual report prepared by the BoD have been revised after the audit report, and if the revision has a significant impact on the auditor's opinion, the financial statements and within the context of paragraph 1, the annual report prepared by the BoD, shall be re-audited. Re-audit and its result shall specifically be explained in the report. Appropriate appendices reflecting the re-audit shall be included in the auditor's opinion.

B) Subject and scope

Article 398 - (1) The audit of the company's and group of companies' financial statements and annual reports prepared by the BoDs refers to the audit inventories, internal audit in the provided scope of accounting and TAS, the reports submitted in accordance with Article 378 within the framework of this Section and the annual reports prepared by the BoD in accordance with paragraph 1 of Article 397. This also included auditing compliance with TAS, the law and the provisions of the articles of association related to financial statements. In the context of the provisions defined by the board and institution set down by temporary Articles 2 and 3, audit shall be conducted with due care and in accordance with the requirements of the audit profession and the professional ethics. Audit shall be carried out in a way that expressly puts forward whether the financial statements give a true and fair view, as described in Article 515, of the financial position of the company and group of companies, and, if not, the reasons for qualifications.

(2) The audit shall be conducted in a way that will provide an opinion as to whether the following comply with the information obtained during the audit:

a) The company's financial statements and the annual report prepared by the BoD within the framework of paragraph 1 of Article 397 and paragraph 2 of Article 402.

b) The group of companies' consolidated financial statements and the annual report prepared by the BoD within the framework of paragraph 1 of Article 397 and paragraph 2 of Article 402.

(3) The auditor of the group of companies is also responsible for auditing the financial statements of companies which have been taken into the scope of consolidation and related consolidation adjustments in conjunction with paragraph 1, unless these financial statements have been audited in accordance with the provisions of this section as required by law or as voluntary. This exception shall also be applicable in the event that a foreign company has been audited in accordance with auditing standards identical to those set down by the New Law.

(4) The auditor shall prepare a separate report explaining whether the BoD has established a system and an authorised committee in accordance with Article 378 to determine the risks that threaten the company and provide risk management; and if such a system and committee exist, the report shall include the structure of the risk management system and the activities of risk management committee. This report shall be submitted to the BoD with the audit report.

C) The auditor

I. Appointment, dismissal and termination of contract

Article 399 - (1) The auditor shall be appointed by the company's GA; the auditor of the group of companies shall be appointed by the parent company's GA. An auditor must be appointed for each fiscal year and before the end of the fiscal year in which he/she will perform his/her duty. After the appointment, the BoD shall register the appointment of the auditor with the Trade Registry and announce it in the Turkish Trade Registry Gazette and on its Web site.

(2) The auditor can be dismissed from the audit engagement only in the manner set forth in paragraph 4 and provided that another auditor has been appointed.

(3) If no other auditor is appointed, the auditor of the parent company is considered to be the auditor of the group.

(4) If questions arise about whether the elected auditor is acting subjectively and fair cause can be established, the commercial court of first instance at the location of the company's headquarters can appoint another auditor after hearing the concerned parties and the elected auditor upon the request of any of the following:

a) The BoD.

b) The shareholders representing 10 percent of the capital, or, in public companies 5 percent of the basic or issued capital.

(5) The action regarding dismissal and appointment of a new auditor shall be filed within three weeks from the date on which the auditor election has been announced in the Turkish Trade Registry Gazette. In order for minority shareholders to file this action, they must have voted against the election of the auditor at the GA, had their opposing votes

recorded in the minutes and been a shareholder for at least three months prior to the date of the GA at which the election was made.

(6) If an auditor has not been appointed within the first four months of the fiscal year, an auditor shall be appointed by the court as specified in paragraph, upon the request of the BoD, of each member of the board or of any shareholder. The same provision shall also apply in cases where the appointed auditor rejects the appointment or terminates the contract, that the resolution for his/her appointment is cancelled, declared null and void, or that the auditor fails to perform his/her duty due to legal or any other reason, or that he/she is prevented from performing his/her duty. The order of the court shall be final.

(7) In the event the auditor is appointed by the court, the advance payment required to be paid to the court treasurer for his/her fee and possible expenses shall be determined by the court by taking similar cases into consideration. An objection to the fee and the expenses can be made within three business days. The order of the court shall be final.

(8) The auditor can terminate the audit contract only in the case of the existence of a just cause or only if an action for his/her dismissal has been filed. The conflict regarding the content of audit opinion, a qualified opinion and an opinion with a disclaimer letter cannot be deemed as just cause. The termination of the contract by the auditor must be justified and communicated in writing. The auditor shall be liable to submit the results he/she obtained until the date of termination to the GA, and these results shall be presented to the GA in the form of a report complying with Article 402.

(9) In the event the auditor gives a notice of termination in accordance with the provision in paragraph 6, the BoD shall immediately elect a temporary auditor, and shall inform the GA of the termination notice and present the auditor elected by the board for the approval of the GA.

II. Persons who can be auditors

Article 400 - (1) The auditor must be an independent auditing firm whose shareholders hold the title of sworn financial advisor (YMM) or a certified public accountant (SMMM). Small and medium-sized joint stock companies can elect one or more sworn financial advisors or certified public accountants as auditor. The incorporation and performance rudiments of independent auditing firms and the qualifications of auditing personnel shall be arranged by a regulation that shall be drawn up by the Ministry of Industry and Trade and put into effect by the Council of Ministers. In case one of the following situations exists, a sworn financial advisor (YMM), a certified public accountant (SMMM), the independent auditing firm and one of its shareholders, and persons working with its shareholders or person(s) with whom the persons mentioned in this sentence are working together cannot be an auditor in the concerned company. If one of the above-mentioned falls into one of the following categories, he/she cannot be an auditor. However, if these stipulations create an intolerable situation, the Union of Chambers of Independent Financial Advisors and Certified Public Accountants of Turkey (TÜRMOB) can repeal the prohibition in paragraph (h) for a specific and limited time:

- a) shareholder in the company to be audited
 - b) managing director or an employee of the company to be audited, or someone who has held this title within the last three years before being appointed auditor
 - c) the statutory representative or representative, board member, managing director, owner or shareholder owns more than 20 percent of the shares of a legal entity, of a commercial company or of a commercial enterprise having a connection with the company to be audited; or if he/she is a lineal consanguinity or is spouse or one of blood and in-law relatives up to and including third degree of a board member or a managing director of the company to be audited
 - d) works in an enterprise which is connected with the company to be audited or which has more than 20 percent of the shares in such a company, or is working for a person holding more than 20 percent of the shares in the company of which he/she is to be the auditor
 - e) is active in or has contributed to bookkeeping or organising the financial statements of the company to be audited, without carrying out an audit
 - f) the statutory representative, representative, employee, board member, partner, owner of the legal entity or real person, or of one of its shareholders, who cannot be the auditor in accordance with paragraph (e) or is personally him/herself as the real person due to being active in or contributed to bookkeeping or organising the financial statements of the company to be audited, without carrying out an audit
 - g) works for an auditor who cannot be an auditor because of meeting the conditions in paragraphs (a) to (f)
 - h) has earned more than 30 percent of his/her total income from his/her occupational activities related to auditing within the last five years from his/her auditing and consulting activities provided for the company to be audited, or to companies who have participated in such company through a shareholding corresponding more than 20 percent of the capital and if they expect to earn the same in the current year
- (2) If an auditor appointed by an independent auditing firm to audit a company has given auditing reports for that company for seven years, that auditor shall be replaced for at least two years.
- (3) The auditor cannot provide consultancy or other services other than tax consultancy and tax auditing for the company he/she audits and he/she cannot provide such services through one of its subsidiaries.
- (4) The provisions in this article shall also apply to operational auditors set forth in Article 554. Unless otherwise set forth in law or in the articles of association, the operational auditor shall be appointed and removed from office by the GA.

D) Liability of presentation and right to information

Article 401 - (1) The company's BoD shall have the financial statements and the annual report prepared and shall approve and submit it to the auditor without delay. The BoD shall provide the auditor with necessary conditions for auditing via inspection of books,

correspondences, documents, assets, liabilities, cash, negotiable instruments and inventory of the company.

(2) The auditor and within the framework of the auditing scope the transactional auditor shall request that the BoD provide all information necessary for a lawful and meticulous audit and present supporting documentation. The auditor shall have the authorisations set forth in sub-clause 2, paragraph 1 and sub-clause 1 of this paragraph before the financial statements are prepared if necessary for the planning of year-end audit. When necessary for a meticulous audit, the auditor can also use the authorities in sub-clauses 1 and 2 of this paragraph for subsidiaries or parent companies.

(3) The BoD of the company responsible for having the consolidated financial statements prepared shall be obliged to provide the auditor that will audit the consolidated financial statements with group of companies' financial statements, group of companies' annual report, individual company's financial statements, BoD annual reports of the companies; if an audit has been conducted they must also provide the auditing reports of parent company and subsidiaries. The auditor can use the authorities set forth in sub-clauses 1 and 2 of paragraph 1 for parent companies and subsidiaries.

E) Audit report

Article 402 – (1) The auditor will prepare a report, written in understandable and simple language, regarding the financial statements and the type, scope, characteristic and results of the audit of financial statements prepared with comparative information.

(2) In a separate report, the examinations included in the annual report of the BoD regarding the company's or group of companies' condition shall be evaluated by the auditor in terms of consistency with the financial statements and their accuracy and truthfulness.

(3) The auditor shall base his/her evaluation on the company's financial statements while his/her audit is based on the parent company and group of companies' financial statements. The auditor shall evaluate the BoD examinations regarding the conditions for continuity of the company's and the group of companies' existence, and development thereof within the framework indicated by the relevant working and reporting standards set forth in TAS and to the extent that the audited documents render it possible.

(4) In the main section of the audit report, the following shall clearly be stated:

a) Whether the bookkeeping method, the financial statements and group of companies' financial statements are consistent with the provisions of law and of the articles of association with regard to financial reporting.

b) Whether the BoD provided the explanations and the documents requested by the auditor within the context of audit.

(5) Additionally, whether the financial statements and the books on which such statements are based:

a) were kept in accordance with stipulated chart of accounts

b) reflect the company's assets, financial and profitability position in accordance with true and fair view principle

(6) If an evaluation has been made in accordance with paragraph 4 of Article 398 within the framework of the audit, its result shall be declared in a separate report.

(7) The auditor shall sign his/her report and submit it to the BoD.

F) Opinion letter

Article 403 - (1) The auditor shall indicate the result of the audit with an opinion. This letter shall include the auditor's evaluation of the result as well as the subject, type, characteristic and scope of the audit. If the auditor gives a clean/unqualified opinion, in his/her letter he/she shall state that no conflicts were determined; that according to the information obtained during audit and to the evaluation he/she has conducted in accordance with TAS, the financial statements of the company or group of companies are correct and give a correct and fair view of the company's and group of companies' financial position in the audit in accordance with Article 398.

(2) In the opinion, it shall be additionally stated that the BoD is not responsible for the issues relating to financial statements and problems, if any, shall also be indicated. The wording of the opinion must be understandable to everyone.

(3) If the auditor has reservations he/she can list these on a clean opinion letter (a qualified opinion) or express them in an adverse opinion letter. Qualified opinion shall be expressed where financial statements can be corrected by authorised committees and where conflicts exist that have limited effect on the result explained in the financial statements. The subject and scope of restriction and the method of correction must be clearly stated in the letter.

(4) The auditor can refrain from expressing an opinion, without having to provide any proof, by explaining the reasons if the legal books of the Company contain uncertainties to the extent that the audit cannot be conducted in accordance with the provisions in this Section or to achieve results, or if there are major restrictions applied by the company during the audit. An opinion with a disclaimer shall result in the consequences of an adverse opinion.

(5) In cases where an adverse opinion or an opinion with a disclaimer has been expressed, the GA, based on the said financial statements, cannot adopt any resolution directly or indirectly with regard to the reported profit and loss. In such cases, the BoD shall convene the GA within four business days of the date of the opinion and shall resign, effective on the date of the meeting. GA shall elect a new BoD. This board shall have the financial statements prepared in accordance with law, the articles of association and standards within six months and shall submit it to the GA together with the auditing report. Where a qualified opinion has been expressed, the GA shall decide on necessary actions for corrections.

G) Auditor's responsibility regarding confidentiality

Article 404 - (1) Auditors, operational auditors and special auditors, their assistants and their representatives who assist the independent audit firm in conducting the audit are under obligation to conduct the audit in a honest and unbiased way and not to disclose the company's secrets. The persons in question cannot, without permission, use business and operational secrets related to the audit which they learn while performing their duties. Those who breach their obligations deliberately or by negligence shall be responsible to the company and if they cause damage to the dependent companies. If more than one person has caused such damage, they shall be severally responsible.

(2) Compensation for the damages up to TRY100,000 for each audit, and up to TRY300,000 for joint stock companies listed on the stock exchange, can be awarded against persons who are negligent in the performance of their obligations set forth in paragraph 1. This limitation, which is related to the persons who caused damage by negligence, shall be applied in case more than one person is involved in audit or that more than one action giving rise to the responsibility have been performed. Such limitation shall be applicable if some of the involved persons have acted intentionally.

(3) If the auditor is an independent auditing firm, the confidentiality obligation shall be applicable to the BoD, board members and employees of such firm.

(4) The obligation to compensate arising from this provision can neither be cancelled nor limited by a contract.

(5) Claims related to the auditor's responsibilities arising from this article shall be barred by the statute of limitations five years from the reporting date. However, if the act is a crime, and if according to the Turkish Penal Code it is subject to a longer statute of limitations, this statute of limitations shall apply to the action for compensation.

(6) The provisions in penal legislation with regard to crime reporting will be maintained.

H) Divergence of opinions between the company and the auditor

Article 405 - (1) The commercial court of first instance at the location of the headquarters of the company, upon the request of the BoD or the auditor, shall award a judgment without hearing regarding the divergence of opinions between the company and the auditor concerning the year-end accounts, financial statements of the company and the group of companies and annual report of the BoD and concerning interpretation or implementation of administrative acts or provisions in the articles of association. The judgment shall be final.

(2) Legal costs shall be borne by the company.

I) Audit by special auditor for relations of group of companies

Article 406 - (1) Upon the request of any shareholder the commercial court of first instance at the location of the headquarters of the company can appoint a special auditor

to inspect the company's relations with the controlling company or with a company dependent on the controlling company if:

- a) The auditor has expressed a qualified opinion or qualified opinion letter about the relations of the company with the controlling company or with the group companies.
- b) The BoD has disclosed that the company has suffered losses by the group of companies due to certain legal transactions or applied measures and that compensation has not been made as a consequence.

Part Six

Limited Liability Company

Section One

Definition and incorporation

A) Concept

Article 573 – (1) A limited liability company shall be incorporated by one or more real persons or legal entities under a trade name; its basic capital shall be definite and consist of the sum of basic capital shares.

(2) Partners shall not be responsible for the debt of the company; they shall be responsible only for paying for the basic capital shares for which they subscribed and for fulfilling their obligations to make additional payments and for secondary performances set forth in the articles of association.

(3) Limited liability company can be incorporated for all kinds of economic purposes and scopes that are not prohibited by law.

B) Number of partners

Article 574 – (1) The number of partners cannot exceed 50.

(2) If the number of partners is down to one, the situation shall be reported to managers within seven days as of the date of the transaction that caused this result. The managers shall, within seven days of being notified, register and announce that the company is a single-member company with limited liability, and name, surname, nationality and domicile of the single partner; otherwise the managers shall be responsible for damages to be incurred. The managers shall fulfill the same obligation where the company is incorporated with a single partner.

(3) The company cannot acquire its own basic capital shares if it will become a single-member company.

C) Articles of association

I – Form

Article 575 – (1) The articles of association must be drawn up in written form and the signatures of the founders must be approved by notary public.

II – Content

1. Mandatory entries

Article 576 – (1) The following entries must be clearly stated in the articles of association:

- a) company's trade name and location of the headquarters
- b) scope of activity of the company, with main points expressed and defined
- c) nominal value of basic capital, number of basic capital shares, their nominal values, privileges if any, groups of basic capital shares
- d) names, surnames, titles and nationalities of the managers
- e) form of announcements to be made by the company

2. Provisions binding on condition they are stipulated in articles of association

Article 577 – (1) The following entries are binding provisions if they are set forth in the articles of association:

- a) Regulations diverging from statutory provisions regarding the restriction of transfer of basic capital shares.
- b) Granting the right of being the first to be offered subscription, of first refusal, redemption and acquisition regarding basic capital shares, to the partners or the company.
- c) Imposing additional payment obligations, the form and scope thereof.
- d) Imposing secondary performance liabilities, the form and scope of thereof.
- e) Provisions granting veto right to designated partners or partners that could be designated or superior voting right to certain shareholders in case of a tie vote as consequence of voting on a GA resolution.
- f) Penalty provisions that can be applied when liabilities set forth in law or in the articles of association are not fulfilled at all or in time.
- g) Provisions with regard to non-compete obligation, diverging from statutory regulation.
- h) Provisions granting privileged rights with regard to convoking GA.
- i) Provisions, diverging from statutory regulation, with regard to making decisions at GA, voting right and calculation of voting right.
- j) Authorisation provisions with regard to assignment of company management to a third party.
- k) Provisions diverging from law, with regard to using balance sheet profit.
- l) Granting the right to withdraw and its exercise conditions, the type and the amount of cash payment for withdrawal to be made in such cases.
- m) Provisions indicating special reasons with regard to dismissal of a partner from the company.

n) Provisions regarding termination reasons other than those defined in law.

3. Capital in kind, acquisitions in kind and special benefits

Article 578 – (1) Provisions concerning joint stock companies shall apply to capital in kind, acquisition of enterprises and of non-monetary assets, and special benefits.

4. Mandatory provisions

Article 579 – (1) The articles of association can diverge from the provisions of the New Law related to limited liability companies only if it is clearly permitted by law. The articles of association's provisions, which are complementary in nature and are allowed by other laws to be stipulated, shall be in effect for that law.

D) Capital

I – Minimum amount

Article 580 – (1) Registered capital of limited liability company shall be at least TRY10,000.

(2) The minimum amount stated in this article can be increased as much as ten-fold by the Council of Ministers.

II – Capital in kind

Article 581 – (1) Assets, including intellectual property rights and virtual environments and also names, which can be appraised and transferred and on which there is no restricted real right, attachment or measures, can be contributed as capital in kind. Service performances, personal labour, commercial reputation and undue receivables cannot be contributed as capital.

(2) Provision in Article 127 will remain valid.

III – Value of assets and founder benefits

Article 582 – (1) Cost of assets purchased by the founders for the company with regard to incorporation of the company and the benefits granted to those who served for incorporation of the company shall be indicated in the articles of association.

(2) The provision in Article 128 will remain valid.

E) Basic capital shares

Article 583 – (1) Nominal values of the basic capital shares can be determined in the articles of association as at least TRY25 but can be set below this value in order to improve the company's status.

(2) Nominal values of the basic capital shares can differ. However, the value of basic capital shares must be TRY25 or a multiple thereof. Calculation of a vote, granted by a basic capital share, as per nominal value pursuant to Article 618 does not mean division of basic capital shares. The same provision shall be valid for situations where a right or liability is defined according to nominal value.

(3) A partner can own more than one basic capital share.

(4) Basic capital shares can be issued at nominal value or at a value exceeding it.

(5) The value of basic capital shares shall be paid as set forth in the articles of association, in cash or in kind, or by exchanging a receivable or, as in capital increase, by conversion of freely utilised equity into basic capital.

F) Redeemed shares

Article 584 – (1) Issuance of redeemed shares can be stipulated in the articles of association; provisions with regard to joint stock companies shall apply comparably.

G) Incorporation

I – Establishment of company

Article 585 – (1) The company shall be established when the founders disclose their will to incorporate a limited liability company in the articles of association drawn up in accordance with law, subscribe the entire capital unconditionally and pay the amount to be contributed in cash fully and immediately. Paragraph 1 of Article 588 will remain valid.

II – Registration

1. Request

Article 586 – (1) After preparation of articles of association as set forth in Article 575, application for registration shall be filed with the Trade Registry where the headquarters are located.

(2) The application shall be signed by all managers. The following documents shall be appended to the application:

- a) A certified copy of the articles of association.
- b) Founder's declaration drawn up in accordance with Article 349 with its appendices, and operational auditor's report prepared in accordance with Article 351.
- c) The document indicating the persons authorised to represent the company, together with their domiciles and the elected auditor.

(3) The following entries shall be inserted into the application:

- a) names, surnames, or titles, domiciles, nationalities of all partners
- b) basic capital share committed by each partner and total amount they paid
- c) names, surnames and titles of the managers and whether he/she is a shareholder or a third party
- d) representation method of the company

2. Registration and announcement

Article 587 – (1) The entire articles of association shall be registered with the Trade Registry where the headquarters of the company is located and be announced in the Turkish Trade Register Gazette within 30 days from the certification of the founder's

signatures by notary public. Paragraph 1 of Article 36 shall not be applied to the registered and announced articles of association except as follows:

- a) date of the articles of association
- b) trade name and headquarters of the company
- c) scope of activity of the company, with its fundamental points specified and defined; duration of the company if such a provision is contained in the articles of association
- d) nominal value of basic capital
- e) name, surname and domicile of real person partner and trade name, headquarters of the legal entity partner and basic capital shares that each partner committed
- f) capital in kind items and basic capital shares to be given in return for such capital; in case of acquisition in kind, the subject and counter party of the relevant contract, counter-performance undertaken by the company; content and value of special benefits.
- g) if stipulated, number of redeemed shares and content of rights granted to them
- h) names, surnames or titles and domiciles of managers and other persons authorised to represent the company
- i) the way of exercising representational authority
- j) auditor's domicile, headquarters, branch registered with the Trade Registry, if any; if the auditor is a sworn financial advisor (YMM) or certified public accountant (SMMM), his/her name, surname, domicile, trade association number
- k) privileges, additional liabilities or secondary performance liabilities, being the first to be offered for subscription regarding basic capital shares, right of first refusal, redemption and purchase set forth in the articles of association
- l) form and type of announcements to be made by the company, and the form of notification to be made to the partners by the managers, if there is such a provision in the articles of association

III – Legal personality

Article 588 – (1) The company shall acquire a legal personality upon registration with the Trade Registry.

(2) If not accepted by the company, incorporation expenses shall be covered by the founders, without recourse to the partners.

(3) Persons who have conducted transactions on behalf of the company before the registration shall be responsible for these transactions personally and severally.

(4) If it is clearly stated that such commitments have been made on behalf of the company to be incorporated and if those are accepted by the company within three months of the registration of the company at the Trade Registry, only the company shall be responsible for them.

Section Two

Amendment to the Articles of Association

A) In general

Article 589 – (1) Unless otherwise provided in the articles of association, the articles of association can be amended by the resolution of the partners representing two-thirds of basic capital. The provision in Article 621 will remain valid.

(2) Any amendment made to articles of association shall be registered and announced.

B) Special amendments

I – Increase of basic capital

1. Principle

Article 590 – (1) Basic capital can be increased provided that the increase is made in accordance with the provisions regarding incorporation of the company and especially with the rules regarding contribution of capital in kind and acquisition of an enterprise and non-monetary assets.

2. Pre-emptive right

Article 591 – (1) Unless provided otherwise in the articles of association or resolution of capital increase, every partner shall have the right to participate in the increase of basic capital at the ratio of their basic capital shares.

(2) The pre-emptive right of the partners in relation to the acquirement of new shares can be restricted or cancelled by the GA resolution regarding capital increase only in the event of just cause and by the quorum set forth in sub-clause (e), paragraph 1, Article 621. Acquisition of a business, parts thereof, subsidiaries and participation of employees in the company can be accepted as a just cause. No person can unfairly be conferred benefit on incur a loss due to the restriction or the cancellation of pre-emptive rights.

(3) Pre-emptive rights shall be exercised within at least 15 days.

II – Decrease of basic capital

Article 592 – (1) The provisions with regard to the decrease of basic capital of joint stock companies shall apply to limited liability companies by analogy. Basic capital can be decreased only in order to resolve balance-sheet insolvency and in the event the additional payment obligations set forth in articles of association are fully met.

Section Three

Rights and duties of partners

A) Basic capital share as a subject of transactions

I – In general

Article 593 – (1) Excluding the situations set forth in paragraph 2 of Article 612 regarding acquisition of the basic capital share by the company, including the transfers between the

partners, the basic capital share can be transferred or inherited only in accordance with the provisions below.

(2) Basic capital share shall be issued as a proof instrument or as registered share certificates. Additional payment or secondary performance liabilities, non-compete obligation which is aggravated or formulated as to cover all partners, rights of being the first to be offered for subscription, first refusal, redemption and purchasing set forth in the articles of association must be clearly indicated on these bonds.

II – Share register

Article 594 – (1) The company shall keep a share register which includes basic capital shares. Names, addresses and number of basic capital shares of each partner, transfers and transitions, nominal value, groups of basic capital shares, and usufruct and pledge rights on basic capital shares, names and addresses of the holder of such rights shall be recorded in this book.

(2) **Partners can inspect the share register.**

III – Transition circumstances of basic capital shares

1. Transfer

Article 595 – (1) Transfer of basic capital share and the transactions giving rise to transfer obligations shall be made in written form and parties' signatures shall be certified by public notary. Additionally, additional payment or secondary performance liabilities, if non-compete obligation is aggravated or extended as to cover all partners, this issue and rights of being the first to be offered for subscription, first refusal, redemption and purchasing and conditions of contractual penalties shall be stated in the transfer contract.

(2) Unless provided otherwise in the articles of association, the approval of GA shall be required for transfer of basic capital share. Transfer shall be valid upon this approval.

(3) Unless a provision to the contrary is provided in the articles of association, the GA can refuse to approve the transfer without disclosing any reason.

(4) Transfer of capital shares can be prohibited through the articles of association.

(5) If the articles of association prohibited the transfer of shares or the GA has refused to approve such a transfer, the partner retracts the right to withdraw from the company by providing a just cause.

(6) Provided that additional payment or secondary performance liabilities are set forth in the articles of association and if the security requested from the transferor because his/her ability to pay seems questionable or has not been provided, the GA can refuse to approve the transfer even if a provision in this regard has not been stipulated in the articles of association.

(7) The approval shall be considered as given if the GA has not made a rejection within three months from the application.

2. Inheritance, marital property and execution

Article 596 – (1) In the event of basic capital share being transferred through inheritance, provisions regarding marital property, or execution proceedings, all rights and debts shall, without any need for GA approval, be transferred to the person who acquires the basic capital share.

(2) The company can refuse to approve the person to whom the basic capital shares have been transferred within three months of being notified of the acquisition. In such a case, To do this, the company must offer to acquire the shares at actual value through the account of him/herself or his/her partner or a third party indicated by him/her.

(3) Resolution regarding rejection shall be retroactively effective from the date on which the transfer was made. Rejection shall not affect the validity of GA resolutions adopted within the period elapsed until the relevant resolution was made.

(4) The transition of basic capital share shall be considered as approved, if the company has not clearly rejected the transition in writing within three months.

3. Determination of the actual value

Article 597 – (1) In cases where actual value is set forth for basic capital share price in law or the articles of association, and if the parties have not been able to agree, such value, upon request of one of the parties, shall be determined by the commercial court of first instance where the headquarters are located.

(2) The court shall divide the expenses regarding the trial and the value assessment, at its own discretion. The court order shall be final.

4. Registration

Article 598 – (1) The company managers shall apply to the Trade Registry for registration of transition of basic capital shares.

(2) In the event that the application has not been made within 30 days, the outgoing partner can apply to the Trade Registry to erase his/her name with regard to these shares. Thereupon, the registry manager shall grant a period to the company for notification of the acquiring person's name.

(3) The trust of the person in good faith who filed the Trade Registry records shall be protected.

IV – Basic capital share owned by more than one partner, various rights on this share

1. Co-ownership

Article 599 – (1) In case that a basic capital share is owned by more than one partner, co-owners shall be severally liable to the company for additional payment or secondary performance liabilities set forth in the articles of association.

(2) Co-owners can exercise their rights arising from basic capital share only through a common representative they appoint.

2. Usufruct and pledge rights

Article 600 – (1) The provisions regarding the transition of basic capital share shall be applied to the establishment of usufruct right on a basic capital share.

(2) Establishment of pledge right on basic capital share can be subjected to the approval of the GA via the articles of association. In such a case, transition provisions shall apply. The GA can, for just cause, refrain from approving the establishment of the pledge right.

(3) In case of existence of a usufruct right on a basic capital share, the share shall be represented by usufruct right owner; in such case if the owner of usufruct right does not protect the benefits of basic capital share owner in a just manner he/she shall be liable for compensation.

B) Prohibition to refund

Article 601 – (1) Except for the decrease of basic capital, basic capital share price cannot be refunded, nor can the partners be released from this debt.

C) Responsibility of partners

Article 602 – (1) The company shall be responsible for its debts and liabilities only with its assets.

D) Additional payment and secondary performance liabilities

I – Additional payment liability

1. Principle

Article 603 – (1) Partners can be held liable for additional payment other than the basic capital share price, via articles of association. Partners can be asked to fulfill this liability only in the event that:

- a) The sum of basic capital and statutory reserves does not cover the company's losses.
- b) It is not possible for the company to conduct its business properly without such additional instruments.
- c) A situation defined in the articles of association results in a need for equity.

(2) In case of adjudication of bankruptcy, additional payment liability shall become due.

(3) Additional payment liability can be set forth in the articles of association only as a certain amount, based on the basic capital share. This amount cannot exceed two times the basic capital share's nominal value.

(4) Each partner shall be liable to pay only his/her part of the additional payment applicable to his/her basic capital share.

(5) If conditions have been met, additional payments may be requested by the managers.

(6) Additional payment liability can be mitigated or cancelled only if the sum of the basic capital and statutory reserves fully cover the losses. The provisions regarding the decrease

of basic capital shall apply to mitigation or cancellation of additional payment liability, in comparable situations.

2. Continuity of liability

Article 604 – (1) If the company has gone into bankruptcy within two years of the registration of the outgoing partner, the company can request fulfillment of the additional payment liability from that outgoing partner.

(2) If the additional payment liability has not been fulfilled by the successor, the liability of the partner shall continue to the extent that he/she could have been held liable at the date on which such liability occurred.

3. Refund

Article 605 – (1) In order that additional payment liability which has been fulfilled is to be refunded fully or partially, freely utilised reserves and funds must be sufficient for the amount of additional payment and such circumstance must be confirmed by the operational auditor.

II – Secondary performance liability

Article 606 – (1) Secondary performance liabilities that can help realize the company's scope of activity can be set forth by the articles of association.

(2) The subject, scope, conditions and other important points of secondary performance liabilities attached to a basic capital share shall be indicated in the articles of association. Items that require detailed explanations can be left to be formulated by the GA.

(3) Cash and non-monetary performance liability that serves to satisfy the need for equity and does not have any or appropriate provision clearly stated in the articles of association shall be subject to the provisions regarding additional payment liability.

III –Liability: by means of amendment to articles of association

Article 607 – (1) The GA resolutions which amend the articles of association and set forth additional or secondary performance liabilities or raise the current liabilities can be adopted only by approval of all relevant partners.

E) Dividend and other relevant provisions

I – Dividend and reserves

Article 608 – (1) A dividend can be distributed only from the net profit for the period and reserves allocated in this regard. Distribution of a dividend can be decided only if statutory reserves that must be allocated in accordance with the law and the articles of association and reserves set forth in the articles of association are allocated.

(2) Unless provided otherwise by the articles of association, a dividend shall be calculated in accordance with the ratio of basic capital share to nominal value; additionally, the amount of the additional payment liabilities that have been fulfilled shall be added to the nominal value while calculating a dividend.

(3) The GA of the company can decide to allocate reserves which are not set forth by law or the articles of association, or exceed the one stipulated only under the following conditions:

a) If necessary to make up losses.

b) If any investment need for the development of the company was seriously expressed, if the benefit of all partners justifies allocating such reserves, and if these issues have been clearly stated in the articles of association.

II – Interest prohibition and preparatory period interest

Article 609 – (1) Interest shall not be accrued to basic capital and additional payments. Payment of preparatory period interest can be set forth by the articles of association. In this case, provisions regarding joint stock companies shall apply.

III – Financial statements and reserves

Article 610 – (1) The provisions in articles 514 to 527 regarding joint stock companies shall also be applied to limited liability companies.

IV – Refund of unfairly received dividend

Article 611 – (1) Partner and manager shall be liable for any refund dividend that was unfairly received.

(2) If they are bona fide, the partner or the manager' liability to refund the unfairly received dividend cannot exceed the amount necessary to settle the claims of the creditors of the company.

(3) The company's right to refund the unfairly received dividend shall be limited by statute of limitations to five years, and in case of good faith, to two years as of the date on which the money was collected.

F) The company's acquisition of its own basic capital shares

Article 612 – (1) The company can acquire its own basic capital shares only if it has the necessary equity that can be freely used to purchase them and the nominal value of shares to be purchased does not exceed 10 percent of the total basic capital.

(2) In case of acquisition of basic capital shares due to withdrawal or dismissal from the company set forth in the articles of association or awarded by the court decision the maximum limit in paragraph 1 (20 percent) shall apply. The basic capital shares acquired above 10 percent of the basic capital of the company shall be disposed of or redeemed through capital reduction in two years.

(3) The company shall allocate reserves in an amount that it paid for its own basic capital shares.

(4) The voting rights arising from its own basic capital shares that the company acquired and other rights attached to them shall be suspended as long as the shares are in the possession of the company.

(5) The additional and secondary payment liabilities regarding its own basic capital shares acquired by the company cannot be claimed as long as they are in the possession of the company.

(6) The provisions regarding limitations on the company's acquisition of its own shares shall also be applicable where the basic capital shares are acquired by a subsidiary in which the majority of the shares are owned by the company.

G) Loyalty duty and non-compete obligation

Article 613 – (1) Partners may not disclose the company's secrets. This obligation cannot be rescinded by the articles of association or GA resolution.

(2) Partners cannot act in a way that impairs the interests of the company. In particular, they cannot carry out transactions that will provide special benefits to themselves and damage the company's purpose. It can be stipulated by the articles of association that partners refrain from transactions and acts of competitive nature against the company.

(3) Provisions in Article 626 that set forth non-compete obligations for managers remain in effect.

(4) Provided that all remaining partners give written consent, partners may engage in activities contrary to loyalty duty and non-compete obligation. The articles of association can require a GA resolution instead of the consent mentioned in the first sentence.

H) Right to information and to inspect

Article 614 – (1) Each partner can request information about all company business and accounts from managers and can conduct inspections regarding certain matters.

(2) If there is a risk that a partner who obtained information may use it in such a way that will damage the company, the managers can prevent access to information and inspection to the extent necessary; a partner who wishes to dispute this finding and who wishes to prove that he/she did not misuse information may request a finding by the GA, which can decide whether this individual shall have access to the information..

(3) If the GA prevents access to information and inspection without just cause, the partner may seek a court order on this issue, and the court's decision shall be final.

I) Loans that substitute for equity

Article 615 – (1) Loans that substitute for equity and which are given to the company by the partners or persons close to them shall rank after all other receivables, including those are at the bottom of the list due to a contract or a declaration.

(2) The following shall be considered loans substituting for equity:

a) loans given when basic capital and statutory reserves are not covered by assets

b) loans given by partners or persons close to them in substitute for equity, at a time when it is necessary to provide equity due to the company's financial position

(3) Payments made for the purpose of refunding the loans substituting for equity within one year before adjudication of bankruptcy shall be repaid by the receiver of such payments.

Section Four

Company bodies

A) General assembly

I - Authorities

Article 616 – (1) The GA's non-delegable authorities are as follows:

- a) To amend the articles of association.
- b) To appoint and to dismiss managers.
- c) To appoint and to dismiss auditors, including group of companies' auditors and operational auditors.
- d) To approve year-end financial statements and the annual report of group of companies.
- e) To approve year-end financial statements and the annual report; to decide on distribution of dividend; to determine profit sharing for board members.
- f) To determine the salaries and approve of managers. .
- g) To approve the transfer of basic capital shares.
- h) To ask the court to dismiss a partner from the company.
- i) To authorise a manager regarding the acquisition of the company's own shares, or to approve such an acquisition.
- j) To terminate the company.
- k) To adopt resolutions regarding issues on which the GA is authorised by law or the articles of association or on matters presented to the GA by the managers.

(2) The following are the GA's non-delegable authorities, provided that they are set forth in the articles of association;

- a) To approve activities of the managers and conditions in which approval of the GA is required by the articles of association.
- b) To adopt resolutions on exercising the rights of being the first to be offered for subscription, first refusal, redemption and purchase.
- c) To approve the establishment of pledge right on basic capital shares.
- d) To issue internal directives regarding secondary performance liabilities.

e) To give the permission necessary for managers and partners to take part in activities incompatible with obligations to the company or non-compete obligation, in the event the partners' approval is not adequate according to the articles of association, in line with paragraph 4 of Article 613.

f) To dismiss a partner from the company for reasons set forth in the articles of association.

(3) In single-member companies with limited liability, this member shall have all authorities of the GA. Resolutions adopted by the single member in his/her capacity as GA must be in written form.

II – Convening general assembly

1. Convocation

Article 617 – (1) The GA shall be convened by the managers. The ordinary GA shall convene annually within three months as of the closing of the accounting period.

In accordance with the articles of association and when necessary, the GA may be called as an extraordinary meeting.

(2) The GA shall be called to session at least 15 days prior to the date of the meeting. The articles of association can extend this period or shorten it to as few as to 10 days.

(3) Provisions regarding joint stock companies on convocation, minorities' right to convene and propose, agenda, proposals, GA meeting without convocation, preparatory measures, minutes and unauthorised attendance, excluding those regarding the Ministry delegate, shall be applied by analogy. Each partner can have himself/herself represented at the GA by a person who is or is not a partner.

(4) Unless a partner makes a request for an oral deliberation, GA resolutions can be adopted by the written consent of other partners to the proposal of one of the partners regarding an agenda item. It is mandatory for the validity of the resolution that the same proposal be presented for approval by all partners.

2. Voting right and its calculation

Article 618 – (1) The voting right of partners shall be calculated according to the nominal value of their basic capital shares. Unless a higher amount has been set forth in the articles of association, every TRY25 shall confer one voting right. However, the voting rights of partners who have more than one share can be restricted by the articles of association. A partner shall have at least one voting right. If it is clearly stated in the articles of association, voting can be made in writing.

(2) The articles of association can also specify the voting right as each basic capital share corresponding to one voting right, independent of its nominal value. In this case, the nominal value of the minimum basic capital share cannot be less than one-tenth of the total of nominal values of other basic capital shares.

(3) The provision in the articles of association regarding determination of the voting

right according to the number of basic capital shares shall not be applied in the following circumstances:

- a) election of auditors
- b) election of special auditor for the audit of company management or some of its departments
- c) decision regarding filing a lawsuit for responsibility

3. Exclusion of voting right

Article 619 – (1) Those who have in any way participated in the company’s management cannot vote on resolutions regarding release of managers.

(2) A partner who has transferred his/her basic capital shares cannot vote on resolutions regarding the company’s acquisition of its own basic capital shares.

(3) A partner cannot vote on the resolutions regarding approval of his/her activities conducted contrary to loyalty duty or non-compete obligation.

III – Adoption of resolution

1. Adoption of ordinary resolution

Article 620 – (1) Unless provided otherwise by law or articles of association, all GA resolutions, including resolutions on election, shall be adopted with the simple majority of votes represented in the meeting.

2. Important resolutions

Article 621 – (1) The following GA resolutions can be adopted with at least two-thirds of represented votes together with the absolute majority of the total of basic capital shares with voting right:

- a) To change company’s scope of activity.
- b) To introduce basic capital shares with privileged voting rights.
- c) To restrict, prohibit or facilitate the transfer of basic capital shares.
- d) To increase basic capital.
- e) To restrict or cancel pre-emptive rights.
- f) To change location of the headquarters.
- g) To approve the performance of activities of managers and partners contrary to loyalty duty and non-compete obligation.
- h) To start legal proceedings for dismissal of a partner for just cause and to dismiss a partner for a reason set forth in the articles of association.
- i) To terminate the company.

(2) If an increased quorum (qualified majority) is required for certain resolutions by law, the provisions in the articles of association that further increase such quorum can be

accepted only by the majority to be set forth in the articles of association.

IV – Nullity and cancellation of GA resolutions

Article 622 – (1) The provisions regarding the nullity and cancellation of joint stock companies' GA resolutions in the New Law shall apply comparably to companies with limited liability.

B) Management and representation

I – Managers

1. In general

Article 623 – (1) Company's management and representation shall be laid down by the articles of association. Management and representation of the company can be delegated to one or more partners with the title of "manager" or to all partners or to third parties. At least one partner must have the authority to manage and represent the company.

(2) If one manager of the company is a legal entity, it shall appoint a real person to perform this duty on behalf of such legal entity.

(3) The managers shall be authorised to adopt and to execute resolutions on all management issues which are not reserved to the authority of the GA by law or the articles of association.

2. More than one manager on duty

Article 624 – (1) If there is more than one manager at the company, one of them, regardless of whether he/she is a partner or not, shall be appointed by the GA as chairman of the board of managers.

(2) The chairman manager, or should there be only one manager, shall be authorised to convene and conduct the GA and to make all declarations and announcements as well, unless the GA decides otherwise or the articles of association stipulates differently.

(3) If there is more than one manager, decisions will require a majority. In the case of tie votes, the chairman shall have the deciding vote. The articles of association can set forth a different arrangement regarding adoption of resolution by managers.

II – Duties, authorities and liabilities

1. Non-delegable and indispensable duties

Article 625 – (1) The managers shall be appointed and authorised for all issues which are not reserved for the duty and authority of GA by law and the articles of association. The managers cannot delegate and dispense with the following duties and authorities:

- a) To execute ultimate direction and management; to give necessary instructions.
- b) To determine the company management organisation in accordance with law and the articles of association.
- c) To develop accounting, financial auditing and financial planning when necessary for the

management of the company.

- d) To supervise whether the persons to whom one or more divisions of company management have been entrusted are acting in accordance with law, articles of association, internal regulations and instructions.
- e) To establish a committee for early risk detection and management, except for small-sized limited liability companies.
- f) To prepare the company's financial statements, annual report, and where necessary the group of companies' financial statements and annual report.
- g) To organise GA meetings and to execute GA resolutions.
- h) To notify the court should the company's liabilities exceed its assets.

(2) Manager or managers can be required by the articles of association to present:

- a) Certain decisions taken.
- b) Specific problems to the GA for approval. The approval of the GA shall not eliminate or limit the managers' responsibility. Provisions in Articles 51 and 52 of the Turkish Code of Obligations remain in force.

2. Care and loyalty duty, non-compete obligation

Article 626 – (1) Managers and persons in charge of management shall be liable to perform their duties with due care, and to safeguard the interest of the company in good faith. The provisions in Article 202 and 205 remain in force.

(2) Managers cannot perform any activity which is competitive against the company unless expressly permitted by the articles of association and all other partners have given written consent. The articles of association can require the approval of the GA rather than the partners.

(3) Managers shall be subject to the loyalty duty required for the partners.

3. Equal treatment

Article 627 – (1) Managers shall provide partners with equal treatment under similar conditions.

III – Domicile of managers

Article 628 – (1) At least one manager of the company must be domiciled in Turkey and must be solely authorised to represent the company.

(2) When a contradiction to paragraph 1 is determined, the Trade Registry manager shall fix a time limit for the company to establish compliance with law. If requirements are not met within such time limit, the Trade Registry manager shall ask the court to dissolve the company.

IV – Scope of and restrictions on authority to represent

Article 629 – (1) The related provisions in the New Law regarding joint stock companies

shall apply to the scope of manager's authority to represent, the restriction on authority, determination of the signatories, the form of signature, registration and announcement of all mentioned in this paragraph by analogy.

(2) Regardless of whether the company is represented by a single partner during the signing of a contract, in single-member limited liability company, the validity of such a contract between this partner and company shall depend on the condition that the contract is in written form. This requirement shall not apply to contracts regarding transactions which are daily, insignificant and ordinary according to market conditions.

V – Removal from office, revocation of and restriction on management and authority to represent

Article 630 – (1) The GA can remove the manager or managers from office or restrict their management rights and representative authority.

(2) Each partner can, for just cause, request that the court revoke or restrict the managers' management rights and representative authority.

(3) Material breach of care and duties and of obligations arising from other laws and the articles of association or loss of qualifications necessary to manage the company in a proper manner can be accepted as a just cause.

(4) The indemnity rights of the manager removed from office are reserved.

VI – Commercial representatives and commercial agents

Article 631 – (1) Unless provided otherwise by the articles of association, commercial representatives and commercial agents can only be appointed by a GA resolution; their authorities can be restricted by the GA.

(2) Commercial representatives and commercial agents who do not fall within the scope of Article 623 can, at any time, be suspended in their functions by a manager or majority of managers. If this individual has been appointed by the resolution of the GA, the GA shall be immediately convened for removal of this person from office or restriction of his/her authorities.

VII – Tort liability

Article 632 – (1) The company shall be liable for torts committed by the person authorised to manage and represent the company while performing his/her duty regarding company business.

C) Capital loss and excess of liabilities over assets

I – Duty to notify

Article 633 – (1) Provisions regarding joint stock companies shall apply comparably in case of capital loss and excess of liabilities over assets. Provisions regarding additional payment liability are reserved.

II – Notification and postponement of bankruptcy

Article 634 – (1) Provisions regarding joint stock companies shall apply to notification and postponement of bankruptcy.

D) Auditor

Article 635 – (1) Provisions regarding joint stock companies on auditors, operational auditors, audit and special audit shall also be applied to limited liability companies.

Section Five

Dissolution and withdrawal

A) Grounds for and consequences of dissolution

Article 636 – (1) A limited liability company shall be dissolved under the following circumstances:

- a) In accordance with one of the grounds for dissolution set forth in the articles of association.
- b) Upon GA resolution.
- c) Upon adjudication of bankruptcy.
- d) In accordance with other grounds for dissolution stipulated by law.

(2) If the company fails to have one of the bodies required by law for a long time or if the GA is unable to convene, upon a partner's or a creditor's request for dissolution of the company the commercial court of first instance where the company head office is located shall hear the managers and shall grant a period for the company to return to compliance with law, and if that is not achieved, the shall dissolve the company.

(3) In case of just cause, each partner can request the dissolution of the company from the court, which retains the right to decide that the plaintiff partner be paid the actual value of his/her shares or be dismissed from the company. The court may also find another solution that is suitable and acceptable.

(4) The court can take necessary measures upon the request of one of the parties when the action for dissolution is filed. .

(5) The provisions regarding joint stock companies shall apply to the consequences of dissolution.

B) Registration and announcement

Article 637 – (1) If the company has been dissolved due to a reason other than bankruptcy or court judgment, the manager, or at least two managers if there is more than one, shall register the dissolution with the Trade Registry and announce it.

C) Withdrawal and dismissal

I – In general

Article 638 – (1) The right to withdraw from the company can be granted to the partners; exercise of such rights can be subjected to certain conditions by the articles of association.

(2) Each partner, in the presence of just cause, can file suit to obtain a judgment for his/her withdrawal from the company. The court, upon request, can order suspension of some or all of the rights and debts of the plaintiff arising from his/her partnership, or other measures to secure the plaintiff partner's position.

II – Participation in the withdrawal

Article 639 – (1) In the event that a partner requests to withdraw based on the provision in the articles of association or files a lawsuit to withdraw from partnership due to a just cause, the manager or managers shall inform other partners without delay.

(2) Each of the other partners shall, within one month of being aware of such information, have the right:

- a) To inform the managers that he/she shall also participate in the withdrawal, if the just cause set forth in the articles of association is also valid for himself/herself.
- b) To participate in the lawsuit for withdrawal based on just cause through filing a lawsuit.

(3) All outgoing partners shall be treated equally regarding their basic capital shares.

(4) This provision shall not be applied should a partner be dismissed due to a provision in the articles of association or a just cause.

III – Dismissal

Article 640 – (1) Grounds for dismissal of a partner from the company through a GA resolution can be set forth in the articles of association.

(2) The partner can file an action to cancel the resolution regarding dismissal, within three months of being notified by public notary.

(3) Dismissal from company by a court judgment based on just cause upon the request of the company will remain valid.

IV – Cash payment for withdrawal

1. Request and amount

Article 641 – (1) In the event that a partner withdraws from the company, he/she shall be entitled to request cash payment for withdrawal corresponding to the actual value of his/her basic capital share.

(2) Due to the right to withdraw set forth in the articles of association, cash payment for withdrawal can be regulated in a different way in the articles of association.

2. Payment

Article 642 – (1) Cash payment for withdrawal shall become due after withdrawal:

- a) If the company is disposing of utilised equity.
- b) If the outgoing partner's basic capital shares are transferrable.
- c) If basic capital has been decreased by relevant provisions.

(2) The transactional auditor shall determine the utilised equity amount. If this amount is not sufficient to make the cash payment for withdrawal, the operational auditor shall indicate the necessary amount to be drawn from the basic capital.

(3) The unpaid amount of the cash payment for withdrawal of the outgoing partner shall constitute a debt against the company which ranks after all creditors. This issue shall become due upon the determination of utilised equity in the annual report.

D) Liquidation

Article 643 – (1) Provisions regarding joint stock companies shall apply for liquidation method and authorities of company bodies during liquidation.

E) Provisions to be applied

Article 644 – (1) The following provisions regarding joint stock companies shall also be applied to limited liability companies:

- a) Article 549 regarding documents and declarations being in contradiction with law; Article 550 regarding false declarations concerning capital and awareness of payment deficiency; Article 551 regarding corruption in valuation; Article 553 defining the responsibility of founders, board members, managers and liquidation officer; Articles 554 to 561 regarding the responsibility of auditors and operational auditors.
- b) Articles, 353 regarding dissolution; Article 358 regarding prohibition on borrowing against the company.
- c) Articles, 391 regarding nullity of board resolutions; Article 392 regarding the managers' rights to receive information to be applied in comparable situations.
- d) Those who act contrary to Articles 549 to 551, which are also applicable to limited liability companies, shall be penalised according to paragraphs 8 to 10 of Article 562.

B. Code on effectiveness and enforcement of Turkish Commercial Code Law No. 6103

Article I

General provisions

A) Objective

Article 1- (1) The objective of this section is to set the rules and basis of effectiveness and enforcement of the New Law.

B) Conditions where former Code and New Law are to be applied

Article 2- (1) Unless the opposite is ruled or have been regulated differently:

a) The conclusion of law for events occurring before the New Law is in effect are based on the provisions of the effective Code at the time of occurrence.

b) With respect to the substance of their binding effects and conclusion of laws, juridical acts that occurred before the New Law is in effect are subject to the provisions of the effective Code at the occurrence.

c) The New Law is applied only to circumstances arising after the effective date of the New Law.

(2) If the court applied former Code No. 6762, dated 29 June 1956 on the lawsuits opened after the effective date of the New Law, this fact and the legal basis is explicitly stated.

(3) “Former Code”, as stated in the New Law, refers to Code No. 6762 together with other related legislation.

C) Application to events prior to effective date of New Law

I- Regulated legal relations under the New Law

Article 3- (1) The New Law is applied to legal relations regulated with the New Law, even if they took place before the New Law comes into effect, independent of the behest of the parties.

II- Inchoate rights

Article 4- (1) The New Law is applied to the factual background for events at the time the former Code was in effect and for which no rights have been vested as of the effective date of the New Law.

D) Vested rights

Article 5- (1) Vested rights are protected with the New Law

E) Statutory limitation and prescription period

Article 6- (1) Statutory limitations and prescription periods commencing before the New Law comes into effect are subject to the former Code.

(2) Other matters related the statutory limitation and prescription period are subject to the New Law when it comes into effect.

F) Referrals

Article 7- (1) With the coming into effect of this Code and the New Law, referrals made by other legislation to the superseded or amended clauses of Code No. 6762 are interpreted to be made to the corresponding clauses within the New Law. Otherwise, applicable Article 1 of Civil Code No. 4721, dated 22 November 2001, is applied. The provision in the first sentence is also applicable to the referrals made to the former Code within all agreements, including articles of association, affirmative covenants, representations and similar texts.

Article II

Special Provisions

Section One

Introduction

A) Lawsuits related to maritime trade and maritime insurance

Article 8- (1) Existing lawsuits judged by a maritime specialised court, which is established based on paragraph 3 of Article 4 of Code No. 6762, are transferred to the commercial court of first instance; those are assigned for lawsuits related to maritime trade and maritime insurance under the New Law and other codes, by the Supreme Council of Judges and Prosecutors (HSYK) within one month after the New Law comes into effect as regulated under paragraph 2, Article 5 of the New Law.

(2) Courts cannot transfer the pending lawsuits and duties within their jurisdiction and purviews on maritime trade and maritime insurance claimed before the New Law comes into effect.

B) Compound interest

Article 9- (1) Current account agreements based on paragraph 2 of Article 8 of Code No. 6762, in which interest is calculated by accumulating the interest on capital amount and for which both parties are not traders, are amended within three months after the New Law comes into effect, and the articles on incurring interest on interest and the arrangements enforcing these circumstances are excluded from the agreement; otherwise written articles are treated as absent at the end of the mentioned period.

(2) Compound interest accrued within the three-month period stated in paragraph 1 can be requested from the debtor until the arrangement about the compound interest is excluded from the agreement;.

(3) Having only the changes stated in this article applied does not incur stamp duty.

Section Two

Commercial enterprise

A) Commercial enterprise

Article 10- (1) Existing arrangements are applied until the Cabinet decision stated under paragraph 2 of Article 1 of the New Law is obtained.

B) Business name

Article 11- (1) As from when the New Law comes into effect, the articles on business name in the New Law are applied.

C) Official registration of Turkish branch of a commercial enterprise whose headquarters are located in Turkey and abroad and moving headquarters in Turkey abroad

Article 12- (1) In order for a commercial enterprise or a cooperative whose headquarters is located outside of Turkey to officially register its branches in Turkey, the conditions related to the official registration of branches should be met in the source country law where the headquarter locates. In addition, all the necessary documents required for registration in the source country's articles of association and a certified copy of the articles of association for the joint stock company are to be submitted to Trade Registry Association in Turkey. Other than this, the branch's name, address, capital allocated to branch, names of people who are to represent the branch in private and public organisations, including courts, the form of main enterprise, core business, the form of capital and the amount, registration number, Internet site, applicable law and European Union membership information, if applicable, are to be submitted to commercial registration association by a declaration with relevant documents. Items to be registered and detailed regulations on branch registration are stated in the commercial registration regulations.

(2) A Turkish company can be moved to another foreign country without liquidation and re-establishment in target country. For this the following should be proved:

a) Conditions in Turkish law are met

b) The operations are allowed to continue under the foreign country's laws where the company is to move

c) Creditors of the company are informed by public announcement of such a change; creditors are invited to declare their receivables, and creditors' receivables are paid or guaranteed

(3) The business name of the company moving the headquarters to a foreign country is not deleted from the Trade Registry unless all of the creditors are fully satisfied. Detailed regulations on moving the headquarters to a foreign country are stated at commercial registration regulations.

(4) Adjustments to the Commercial Registration Regulations should be made within six months of the commencement of the New Law.

D) Evidence with Account books

Article 13-(1) Articles 82 to 86 in Code No. 6762 are applied to lawsuits opened before the New Law comes into effect and currently in progress. This also applies to lawsuits opened within the additional period stated in Article 158 of Turkish Code of Obligations No. 6098, dated 11 January 2011, detailing those lawsuits opened after the New Law comes into effect.

E) Restraint of trade agreement for the agency

Article 14- (1) Article 123 under New Law is applicable for agency agreements made before the commencement of the New Law and still under way.

Section Three

General Provisions for Commercial Enterprises

A) Commercial enterprises' capacity to acquire rights

Article 15- (1) In case the commercial enterprises' capacity to acquire rights is limited with the core business stated in the articles of incorporation, which complies with Article 137 of Law No. 6762, such articles are treated as not applicable as of the date the New Law comes into effect.

B) Putting capital into business

Article 16- (1) In case some fixed assets are put as a capital into business before the New Law comes into effect and the official registration of those fixed assets are not made in the name of the enterprise at the Land Registry, creditors and shareholders of the enterprise can request the registration. In addition, the Ministry of Industry and Trade can order the Trade Registry managers to carry out such registration. Filing fee and other fees and charges are collected from the enterprise based on the Collection of Public Receivables Code No. 6183, dated 21 July 1953.

C) Mergers, spin-offs, conversions in type of company and conglomerates

I- Judicial notices and amendments

Article 17- (1) The rules and basis for the necessary procedures on filing and recording documents, people allowed to apply and documents required for title deed and merchant vessel registers related to the form changes as the mergers, spin-offs and conversions in type of company and the intellectual property registers and other similar registers are regulated with judicial notices prepared by Ministry of Industry and Trade, together with collecting the views of Ministry of Culture and Tourism, Undersecretariat of Maritime Business, General Directorate of Deed and Cadastre and Turkish Patent Institute, within six months after publishing New Law.

(2) Execution of articles ensuring the transparency and use of rights related to mergers, spin-offs, conversions in type of company are regulated by Commercial Registry Regulations.

II- Abuse of Control

Article 18- (1) If a subsidiary has a loss or losses in scope of paragraph 1 of Article 202 of the New Law, at the time the New Law comes into effect, those losses are compensated within two years or the right of claim is given to compensate for the loss or losses of the company. Otherwise, lawsuit rights stated in Article 202, paragraph 1 of the New Law can be executed immediately after the end of the above-mentioned period.

(2) Share and voting rights calculations stated at Article 196 of the New Law and the rules and basis about the obligations for notification, registration and declaration within Article 198 of the New Law are regulated by Commercial Registry Regulations.

III- Subsidiary's owning of shares of controlling company

Article 19-(1) The clause related to the limitation of the use of the voting rights under paragraph 1 of Article 201 of the New Law will be effective two years from the publication of the New Law. The limitations on other rights will be effective as of the date the New Law comes into effect.

Section Four

Joint stock company and limited liability company

A) General provisions, establishment and basic principles

I- Minimum capital

Article 20- (1) Joint stock and limited liability companies are to increase their share capital in accordance with the provided amounts stated under Articles 332 and 580 of the New Law, within three years of the publication date of the New Law; otherwise at the end of such period these companies will be treated as being in dissolution.

(2) During the GA on increasing the capital amount in compliance with New Law, no quorum is necessary; the decisions are taken with the majority of the existing votes in meeting and the conditions stated under Article 389 of Code No. 6762 and conditions stated under Article 454 of the New Law are not applied. This also applies for the general shareholders' meeting on amendments to the articles of association in accordance with Articles 26 and 28 of the New Law.

(3) The rules and basis of non-listed joint stock companies' acceptance of and later transition to the registered capital system, on increasing their shareholder capital, on increasing the authorised capital amount, on deregistering from the system, on the board of management's issuance of preferred and premium stocks, on limitation of the pre-emptive rights in the scope of the New Law and on other matters are regulated by judicial notices prepared by the Ministry of Industry and Trade. Matters related to the registration and announcement are regulated by Commercial Registry Regulations.

(4) The Ministry of Industry and Trade can extend the period stated in paragraph 1 for one year, twice at most. .

II- Establishment

Article 21- (1) Clauses about the establishment of joint stock and limited liability companies are effective as of the date the New Law comes into effect. However, during the establishment period if the articles of association for a joint stock company and founding charter for a limited liability company have already been prepared, and the shareholders' signatures are witnessed at public notary, establishment clauses stated in Code No. 6762 are applied in the event of an application for the registration of the company at Trade Registry within one month of the public notary registration.

III- Articles of association

Article 22- (1) Effective from the publication of the New Law, joint stock and limited liability companies must align their articles of association with the New Law within 18 months. If such an alignment is not made, New Law clauses are applied instead of the existing articles of association.

(2) Paragraph 2 of Article 20 of the New Law is applied for a GA to be conducted on making the necessary amendments to the articles of association within the scope of paragraph 1 stated above.

(3) The Ministry of Industry and Trade can extend the period stated in this clause for at most one year.

IV- Single-shareholder joint stock company and single-owner limited liability company

Article 23- (1) As of the date the New Law comes into effect, the real or legal entity single shareholder of a joint stock company and single owner of a limited liability company is supposed to declare their title, name, address and nationality to the joint stock company's BoD and to the limited liability company's company management via public notary. Recipients of this declaration make the registration and publication of the relevant points under New Law Articles 338 and 574 within seven days, effective from receipt; otherwise the proposed conclusions of law under above referred clauses comes into effect.

V- Prohibition of shareholders and owners' going into debt with company

Article 24- (1) Shareholders of joint stock companies and owners of limited liability companies who get into debt with the Company in contravention of Article 358 of the New Law are obliged to settle this debt by cash payments within three years as of the effective date of the New Law. Partial or full transfer of the debt to the other party, issuing commercial documents, making payment arrangements and such methods do not settle the debt in this provision.

(2) If the settlement has not been made within the period stated in paragraphs 1 and 5 Article 562 of the New Law is applied.

(3) After the settlement, creditors of the company can prosecute the shareholder or the owner for their receivables.

VI- Board of Directors

Article 25- (1) At the time the New Law comes into effect, the joint stock company's BoD and limited liability company's Board of Partners continue to function until the term is completed, unless they are dismissed or their board membership terminates for any reason. However, the board member who is an assigned real person on behalf of a legal entity is supposed to resign within three months from the date the New Law comes into effect, and the legal entity or someone else should be assigned as a replacement. For limited liability companies in which whole owners manage the business and represent the company as company management, the paragraphs under Article 623 of the New Law are applied within a three-month period. In circumstances where election is made in joint stock companies in accordance with paragraph 1 of Article 363 of the New Law, board members meeting the conditions listed under Article 359 of the New Law should be elected. Should the terms of the members expire at different dates, the education prerequisite is applied when the most convenient members' terms expire.

(2) The due care and loyalty clause of board members is not applied in ongoing legal cases at the time the New Law comes into effect. Code No. 6762 articles on due care and loyalty are applied in those circumstances.

VII- Meeting and *resolution quorums* in amendments to articles of association

Article 26- (1) If in the articles of association of a capital stock or a limited liability company with regard to the BoD meeting and conclusion quorums it is specified that Code No. 6762 clauses are to be applied, either with or without the article references, then the necessary amendments shall be made to the articles of association to align it with the New Law within a six-month period after the new Law comes into effect. Otherwise the New Law's clauses on the BoD meeting and conclusion quorums are applied after such period. The BoD meeting and conclusion quorum clauses of Code No. 6762 are applicable only within this six-month period.

(2) The references made to Article 388 of Code No. 6762 or its content within any agreement, any vesting deed, any letter of conveyance or any other document are assumed to be made to Article 421 of the New Law.

(3) If the clauses on amendments to the articles of association are proposed to be more strict than Article 388 of Code No. 6762, those are also stronger than those in Article 421 of the New Law; such clauses can remain within the articles of association. If any clauses on weighted quorums within the articles of association or other legal declaration are less strict than Article 421 of the New Law, this article should be applied.

(4) Paragraphs 2 and 3 of this Article are also applicable for limited liability companies.

VIII- Special auditor

Article 27- (1) Special auditors assigned before the New Law comes into effect should perform their duties in accordance with New Law clauses if the audit report has not been submitted. If this is the case, a special auditor can resign without paying indemnity or facing any obligation.

IX- Limitation of voting rights, voting preference shares and registered shares transfers

Article 28- (1) Articles 434 and 435 of the New Law come into effect 18 months from the publication of the New Law.

(2) Given the nomination right of board members to share groups through the articles of association while former Code No. 6762 was effective and at least one year before the New Law is approved, that right is accepted as a vested right, although it exceeds the limit stated under Article 360 of the New Law.

(3) Articles of association contradicting paragraph 1 of Article 479 of the New Law are amended in accordance with the stated paragraph of the Code within a three-year period from the publication of the New Law.

(4) Articles of association which propose voting privileges above the limits stated in paragraph 2 of Article 479 of the New Law are amended in accordance with the stated paragraph of the New Law within three years of its publication and a court decision on the voting privileges is taken in accordance with the stated paragraph.

(5) Paragraph 3 of Article 479 of the New Law is applied within a one-year period as of the publication of the Code.

(6) In circumstances where the necessary amendments and adaptations in the articles of association are not performed within the periods stated under paragraphs 1 and 3 of this article, articles of association clauses on the voting privileges become ineffective at the end of the periods stated therein and all the clauses proposed for privileges on voting expire by law.

(7) Joint stock companies limiting the transfer of registered shares and not stating the reasons should amend and adapt their articles of association in accordance with Articles 492 to 498 of the New Law within one year as of the date the Code comes into effect. Such limitations will be ineffective after this period.

Section Five

Transportation

A) Transportation agreements

Article 29- (1) Transportation agreements signed while Code No. 6762 was in effect are subject to the New Law, together with all the clauses on bills of lading. However, the retrospective responsibility clauses related to the loss, damage and late delivery and transporters' limits of obligations stated under the New Law are applied as of the date the New Law comes into effect.

Section Six

Maritime trade

A) Registration of Turkish flag usage right and amendments

Article 30- (1) Turkish flag usage right on merchant vessels is subject to the New Law as of

the date the New Law comes into effect. Merchant vessels acquiring the Turkish flag usage right should be registered with the Turkish Marine Registry within two months of the New Law coming into effect.

(2) All the changes on items previously registered with the Marine Registry should be immediately declared to Turkish Marine Registry as of when the New Law comes into effect.

B) Registration of vehicles qualified as merchant vessels

Article 31- (1) The owners of water craft vehicles qualified as merchant vessels by the New Law should make a compulsory registration at the Marine Registry Authority in accordance with Article 955 of the New Law within two months of the date the New Law comes into effect.

C) Acquisition of merchant vessel property

Article 32- (1) The persons who acquired the ownership of a merchant vessel or a merchant vessel share of a merchant vessel property in accordance with Code No. 6762 by an agreement should register this with the Marine Registry as an owner of a merchant vessel or a merchant vessel share within one month of the New Law coming into effect.

D) Requesting the cancellation of a lien

Article 33- (1) The creditor with a lien on a merchant vessel when the New Law comes into effect is eligible to request the status of a more privileged or equal degree lien which is expired.

E) Transformation of personal security and underlying security into right of retention

Article 34- (1) All the guarantees given to the transporter under Code No. 6762 within the transportation agreements are transformed to the right of retention in the favour of creditor for the receivables that have started to be collected at the time the New Law comes into effect.

F) General average

Article 35- (1) The New Law's clauses on general average is applied only for the travels of a merchant vessel that started after the New Law comes into effect. Prior travel continues to be subject to Code No. 6762.

G) Continuity of merchant vessel creditor right

Article 36- (1) Receivables in accordance with Code No. 6762 prior to the New Law coming into effect and those not eligible for merchant vessel creditor right in accordance with the New Law continue to be subject to Code No. 6762.

H) Agreements dated 1976 and 1992

Article 37- (1) Articles 1328 to 1349 of the New Law are effective as of the effective date of the New Law. The exceptions are the International Agreement on the Limitation of Responsibilities for Maritime Receivables, signed on 19 November 1976 and published in Official Gazette No. 17007, dated 04 June 1980 and applicable in Turkey as of 01 July

1998; the International Agreement on the Legal Responsibility for Damages as a Result of Fuel Oil Pollution in the year 1992, published in Official Gazette No. 24472, dated 24 July 2001, and applicable in Turkey as of 17 August 2002; the International Agreement on the Establishment of an International Fund to Compensate for Damages as a Result of Fuel Oil Pollution in the year 1992, published in Official Gazette No. 24466, dated 18 July 2001, and applicable in Turkey as of 17 August 2002.

I) Compulsory performance

Article 38- (1) If an execution proceeding becomes judgment in law via liquidation of a merchant vessel before the New Law comes into effect or a seizure is made on a merchant vessel under construction, former clauses before the New Law came into effect are executed.

Section Seven

Insurance Law

A) Insurance agreement

Article 39- (1) Articles of Code No. 6762 are applied to insurance agreements signed during the period Code No. 6762 remain in effect for a one-year period from the date the New Law comes into effect. However, during this one-year period the New Law articles protecting the policy holder, insurance holder and beneficiary party are effective, except those stated under Article 1517.

(2) If the insurance agreements stated in paragraph 1 above and subject to expiration within one year are extended or renewed, then Law clauses will be executed.

B) Protecting clauses

Article 40-(1) Insurance agreements made when the Code No. 6762 was in effect which contradict Articles 1452, 1486, 1488 and 1450 of the New Law are subject to Article 39 of the New Law.

Amended and superseded articles of other codes and final articles

Amended and superseded articles

Superseded articles and final articles

Amended and superseded articles

Article 41- (1) The law about the relationship between foreign joint stock companies and joint stock companies and foreign insurance companies, dated 30 November 1930, is superseded.

(2) The following changes are made to Execution and Bankruptcy Law No. 2004, dated 09 June 1932:

a) Article 23 is changed to:

Article 23- During the application of the New Law;

1. The term ‘Hypothec’ refers to hypothecs [more commonly known as liens], debenture certificates, annuity charge bonds, real securities as allocated based on the former law, real obligations, particular privileges on some real properties and process of distraints on real property additions,

2. The term ‘Conveyable privilege’ refers to privileges bound up in delivery, privileges stated under Article 940 of the Turkish Civil Code, enterprise privileges, retention rights, privileges on the receivable and other rights,

3. The sole term ‘privilege’ refers to all particular and conveyable privileges within the scope of ‘hypothec’ and ‘conveyable privilege.’

Other than explicitly stated exceptions, the New Law’s clauses on the conveyable items are applied to merchant vessels regardless of their flag and registration. Annotations given on merchant vessel registrations under the New Law are subject to Article 977 of the New Law.

b) Article 26 is changed to:

Article 26- When a final court decision on evacuation and confiscation of a real property is given to the execution office, executive authority charges the debtor to deliver the decided item within seven days via written executionary order as stated under Article 24.

If the debtor does not follow this charge while utilising the real property, final court decision is executed by force.

If the debtor re-utilises a real property returned to the creditor without any rights, then the debtor is evicted by force without an additional court decision.

Goods not included in the final court decision but stated under real property are removed and given to the debtor and if not ready delivered to the assignee or an adult from the family or employee. If none of those parties are found, those goods are taken from the creditor and kept in a safe place or with the ancillary receiver on condition that the fees are to be charged to debtor in future; and based on the immediate written notice made by execution office, the debtor either declares receipt of the goods or payment of the fees within five days where the debtor is based at the same location as the enforcement agency or within 30 days where its location is elsewhere. Optionally, when necessary, the enforcement agency can sell the goods and collect the charges and fees after obtaining the ruling of the execution court. The excess is deposited in the name of the debtor to a bank described in the regulations of the Ministry of Justice.

c) Article 28 is changed together with its heading as follows:

Notification of the real property lawsuit clauses to the Title Registry Office:

Article 28- If a decision is given in favour of the litigant party in a real property lawsuit,

the court notifies the pronouncement explanation and abstract to the Title Registry Office without a request from the litigant party. The Title Registry Office puts an annotation on the real property. Such an annotation is subject to paragraph 2 of Article 1010 of the Turkish Civil Code.

If the court decision is finalised to the disadvantage of the litigant party in future, the court also communicates the summary to the Title Registry Office immediately.

d) Article 29 is changed to:

Article 29- Alterations made after the submission of the decision to the Title Registry Office do not have an effect on execution procedures. Items stated in the decision are delivered to the creditor by obtaining them from any holder.

If a third party shows a Title Deed Registry declaration of real property without taking over it from the debtor, seven days period is provided to the third party to open a lawsuit in the court. If a lawsuit opens, execution is divested.

e) Article 31 is changed together with its heading as follows:

Final Court decisions about the easement rights:

Article 31- When a final court decision about cancellation of an easement right or imposition of an easement right is given to the execution office, the enforcement agency sends an execution notification within a seven-day period as stated under Article 24. If the debtor contests this, the final court decision is executed by force.

f) The following article is included on the condition it follows Article 31:

Execution of final court decision about the merchant vessels and related real rights:

Article 31/a- Court decisions about the merchant vessels and related real rights, no matter what its flag and whether it is deed registered, cannot be executed before it is finalised.

If a decision is given in favour of the litigant party in lawsuits for registered Turkish merchant vessels and related real rights, the court notifies adjudication to the Merchant Vessel Registry Authority without requesting the litigant party's will. An annotation is put on the Merchant Vessel Register. If the decision is finalised to the disadvantage of the litigant party, the court also sends the summary of this final decision to the Merchant Vessel Registry Authority. The court makes the notifications to the nearest embassies where the foreign-flagged merchant vessels belong without considering the registration. Without having a new final court decision on the disadvantage of the party and who holds possession of the merchant vessel, the execution is made in accordance with paragraph 3 of this article after the annotation is put on the merchant vessel register.

Without considering its flag and whether it is registered or not, when a final court decision on the evacuation and confession of a merchant vessel is submitted to execution office, enforcement agency charges the debtor on evacuation of the merchant vessel within seven days period via executionary order. In the executionary order the following are stated: the names and addresses of the creditor and debtor and their agents, if any, the name of the

court rendering the decision, identification of the merchant vessel subject to evacuation and transfer, the date and number of the final court decision and the notification for processing this execution unless a cancellation of execution decision from execution court or appeal or is submitted.

If the debtor does not execute this order although possessing the merchant vessel, the final court decision is executed by force. If the debtor does not possess the merchant vessel, the creditor can execute one of the following written options:

1. The creditor can ask for the collection of the final court decision value for the merchant vessel. If the debtor does not pay this amount, the amount is confiscated from the debtor without additional notification for an executionary order. If the value of the merchant vessel is not written in the final court decision and the parties do not agree on such value, court experts assigned by the enforcement agency decide on the value. Court experts use the value of the vessel during the valuation process.

2. The creditor can use the rights of the debtor against a third party who owns the merchant vessel. If the third party possesses the merchant vessel based on an agreement registered with merchant vessel deed which is made after the lawsuit and before the final court decision, the paragraph 1 clauses are applied.

If the debtor or the third party re-utilises the merchant vessel, it is returned to the creditor and the debtor is evicted by force without an additional court decision.

Goods not included in the final court decision but stated as being part of the merchant vessel are removed and given to the debtor if not already delivered to the assignee. If none of those parties are found, those goods are taken from the creditor and kept in a safe place or with the ancillary receiver on condition that the fees are charged to the debtor in the future; and based on the immediate written notice made by execution office, the debtor either declares receipt of the goods or pays the fees within five days, if the debtor is in same location as the execution office or within 30 days if the debtor is a different location from the execution office. Optionally, when necessary, the enforcement agency can sell the goods and collects the charges and fees after obtaining the execution court decision. Any excess amount is deposited in name of the debtor in a bank determined in the regulations of Ministry of Justice.

When a final court decision about establishing hypothec or usufruct right on registered Turkish merchant vessels submitted to execution office, the enforcement agency sends a collection order within a seven-day period, as stated under paragraph 3. If the debtor does not execute the order, the order is executed by force.

Article 30 is applied on the execution of the final court decision about execution or non-execution of an item for a merchant vessel and not captured under former paragraphs.

g) The term “to the deed and to the registered office if it is a seized merchant vessel” which is stated under sub-clause 2, paragraph 1, Article 91 is changed to “the deed registry office”; and the term “above-mentioned offices” in paragraph 2 is changed to “to the deed registry office”.

h) The term “within rented property or within registered merchant vessels” which is stated in the seventh paragraph of Article 97 is changed to “within rented real properties or merchant vessels”.

i) Article 136 is changed together with its heading as follows:

Application of the terms about the selling of real properties on merchant vessels:

Article 136- Terms about the selling of real properties are applied to all registered merchant vessels without considering the flags. The term ‘deed registry’ refers to merchant vessel registry, ‘hypothec’ refers to merchant vessel hypothecs and ‘easement right’ refers to easement right on all the registered merchant vessels in these clauses.

j) The following article is included on condition it follows Article 144:

Application of terms about the allocation of cash for merchant vessels:

Article 144/a- The terms regarding allocation of the cash are also applied during the sale of the merchant vessel. The list prepared in accordance with Article 140, which shows the sequence of payments to the creditors, is subject to Articles 1389 to 1397 of the New Law for all merchant vessels without considering the flag and whether it is deed registered.

The execution office that liquidates the merchant vessel which is registered with the Turkish Merchant Vessel Deed performs the cancellation and transfer of the deed registered hypothec and usufruct right records and makes notification for execution to the embassies to which the foreign flagged merchant vessels belong.

k) The following article is included on condition it follows Article 153:

Application of the terms about the converting the pledge into cash for merchant vessels:

Article 153/a- The terms about converting the convertible pledges into cash is also applied on the conversion of the retention right on a merchant vessel into cash and on the conversion of the pledge right provided by a receivable on a merchant vessel into cash without considering the flag and whether or not it is deed registered.

The terms on converting the hypothec into cash is also applied on converting the merchant vessel hypothecs into cash. The term ‘real property’ refers to the merchant vessels registered either in Turkey or in abroad; ‘deed registry’ refers to deed of merchant vessels and ‘hypothec’ refers to merchant vessel hypothecs stated under these articles. During conversion of the merchant vessel hypothecs into cash, the execution office at which the merchant vessel is seized as a precaution or where the merchant vessel is registered is in charge.

Mutual terms on conversion of conveyable pledge or hypothec into cash are also applied on the conversion of the pledge rights on merchant vessels into cash; indeed:

1. The period stated under paragraph 1 of Article 150/e of the New Law is three months for all the merchant vessels without considering the flag and whether it is deed registered.

2. Article 1337 of the New Law is applied as a replacement for Article 150/h.

3. The list prepared in accordance with paragraph 2 of Article 151, which shows the sequence of payments to the creditors, is subject to Articles 1389 to 1397 of the New Law for all merchant vessels, without considering the flag and whether or not it is deed registered.

4. Article 1052 and 1053 of the New Law are applied as a replacement to Article 153.

l) Article 179/a is changed as follows:

Article 179/a- In the event that postponement of bankruptcy is requested, the court immediately assigns a trustee for inventory arrangement and for replacement of the board or for approving the BoD decisions; in addition the necessary precautions are taken to protect the property of the company and cooperative.

The decision on the assignment of trustee, the duties of the trustee as specified by the court and representation right and its boundaries and the request on postponement of bankruptcy are published and registered with the Trade Registry by the court together with the procedures stated under paragraph 2 of Article 166. In the meantime, the court rules on the postponement of the request for bankruptcy.

If the bankruptcy is postponed, the trustee reports to the court every three months regarding whether the company is experiencing recovery in accordance with the project; the court evaluates the postponement decision based on this report or based on a court expert report, when needed, and if it decides that the recovery is not possible, the court cancels the postponement.

m) Sub-clause 2, paragraph 3, Article 206 is excluded and the following paragraph is included in the article:

The list showing the sequence of payments to the creditors is subject to Articles 1389 to 1397 of the New Law for all the merchant vessels without considering the flag and whether or not it is deed registered.

n) Sub-clause 4, paragraph 1, Article 288 is excluded from the article.

o) Paragraph 7 of Article 24, paragraph 2 of Article 27, paragraph 4 of Article 92, paragraph 5 of Article 144, paragraph 3 of Article 153, and paragraphs 4 and 5 of Article 257 are superseded.

(3) Turkish Commercial Code about the Validity and Exercise form with code number 6763 and dated 29/6/1956 is superseded.

Rules and regulations

Article 42- (1) The New Law and the rules and regulations in accordance with this code should be published within one year of the publication of the New Law.

(2) Until the rules and regulations stated under the first paragraph are published, justifiable clauses of the rules and regulations settled in accordance with Code Nos. 6762 and 6763 or those settled in accordance with the other codes which are superseded by the New Law can be applied. Unjustifiable clauses can be applied once amended appropriately.

(3) Required arrangements in a period less than the one stated under paragraph 1 can be done by amendments to the rules and regulations stated in paragraph 2.

Effective date

Article 43- (1) This code comes into effect on 01 July 2012.

Execution

Article 44- (1) The Council of Ministers executes the New Law.

We hereby thank Ms. Bige Tekinalp for her efforts in the preparation of this book.

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