

# Turkey's Company Law: Significant Changes for Foreign Investors



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The new Turkish Commercial Code (the "New TCC"), composed of 1,535 articles, was enacted by the Grand National Assembly of Turkey on 12 January 2011. The New TCC, which introduces many changes to the Turkish business and economic life, will take effect on 1 July 2012. Thus, the Turkish Commercial Code (the "Previous TCC"), which had been in effect since 1 January 1957, will be repealed and superseded by the New TCC. In this article and in articles which will be published in subsequent issues of *PRIVATE*, important changes introduced by the New TCC, which especially relate to foreign investors, will be reviewed.

## **Single shareholders**

One of the most important changes in the New TCC is that joint stock companies and limited liability companies can have a single shareholder. The Previous TCC required at least 2 partners for limited liability companies and at least 5 shareholders for joint stock companies. This change also constitutes a step towards harmonization with EU legislation.

If a JSC or an LLC was established with more than one shareholder or partner, but the number of shareholders or partners has dropped to one over time due to various reasons, the company shall retain its status as a legal entity. The single shareholder shall assume all the powers of the general assembly and take all decisions at his sole discretion. If a one-man enterprise wants to change to limited liability status, either a JSC or an LLC, the owner of such an enterprise will be able to establish his company as the single shareholder.

After the New TCC takes effect, foreign investors who want to do business in Turkey will be able to establish limited liability capital companies, in the form of a JSC or an LLC, on their own as sole shareholder or with one or several partners.

## **Independent external auditing**

The New LLC adopts compulsory independent external auditing for capital companies, i.e. JSCs and LLCs, along with commandite companies with capital divided into shares, and groups of companies. Internal auditing was mandatory for JSC companies, which is the preferred company type for foreign investors. However, internal auditing could not provide thorough control and information to the authorities.

The new external auditing obligation will be of particular importance to holders of minority shares in companies. Independent external auditing will be conducted in line with international auditing standards by expert auditors possessing the listed competencies in the New TCC. With this change, Turkey will improve its outlook from foreign investors' point of view, and transparency will be achieved on a national and an international level.

## **Keeping commercial books**

The New TCC introduces fundamental changes to the way commercial books are kept. Capital companies and groups of companies will be obliged to comply

with the Turkish Accounting Standards ("TAS"), which will also mean complying with the international standards. TAS is identical with the International Financial Reporting Standards (IFRS). Provisions in the New TCC pertaining to the obligation to keep books, inventory, opening balance sheet, financial tables, balance sheet principles, capitalization ban, reserves, period separating accounts, valuation, retention and submission are totally new.

## **Structural changes in the companies**

There are 60 new articles in the New TCC governing mergers, spinoffs and changes of form. Most of these are meant to protect partners, company creditors and workers and to guarantee their rights and receivables.

## **Obligation to have a website**

Every capital company will be obliged to launch a website. This will allow transparency and will make it easier for the stakeholders to access financial, commercial and managerial information. All information about a company that is of interest to shareholders, small investors, creditors and stakeholders will be put on the website.

## **Conclusion**

The New TCC aims at harmonizing national legislation with EU legislation, while numerous changes in it will ensure progress in transparency, corporate management and auditing. Also, there are many changes gaining legal ground with the New TCC which will have a positive impact on foreign investors who have already invested in Turkey or plan to do so.

In this article, we have reviewed important changes in the New TCC which are of interest for foreign investors. In the next issues of *PRIVATE* we will look into joint stock companies and limited liability companies, which are the most preferred capital company types for foreign investors.

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