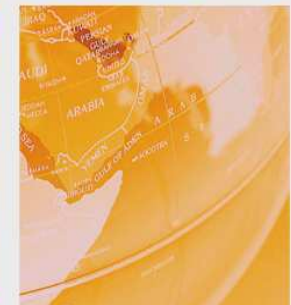
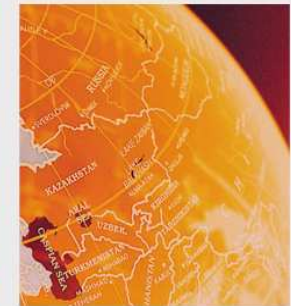




MAZARS DENGE

NEW TURKISH COMMERCIAL CODE CHANGES AND DEVELOPMENTS ON CORPORATE LAW

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UNDERLYING REASONS FOR THE PREPARATION OF A NEW COMMERCIAL CODE

- ❑ Integration with the European Union,
- ❑ Insufficiency of the present commercial code in respect of the transparency, institutionalization, auditing, and accountability of companies,
- ❑ Developments in IT industry and company structures,
- ❑ Harmonization with new laws



COMMERCIAL ENTERPRISE

- ▣ Definition of “Commercial Enterprise” has been made for the first time.
- ▣ Commercial Registration of the enterprises became more transparent.
- ▣ Responsibility of the State for the wrongful registry records is accepted.
- ▣ Goodwill compensation recognized.



UNFAIR COMPETITION

- ▣ Major changes to ensure honest and uncorrupted competition environment.

- ▣ Actions that violating good faith principle;
 - Misleading, insulting, libeling statements,
 - Sales techniques imperative to competition,
 - Actions that may lead a person to cancel or violate a contract,
 - Unauthorized exploitation of another person's work



COMMERCIAL COMPANIES

▣ Abandonment of Ultra Vires

- ▣ Transactions out of the company scope shall no longer be deemed invalid.

▣ Registration of Capital in Kind Contributions shall be required

▣ Attachment and Judicial Sale of Shares redefined



MERGERS AND SPIN-OFFS

- ▣ Merger and Spin-off procedures simplified, become more transparent and flexible,
- ▣ Third party and creditors' rights secured,
- ▣ Court application necessity is removed,
- ▣ Transaction Auditor Control is introduced



MULTI-CORPORATION ENTERPRISES

- ▣ Multi-corporation enterprises are regulated, by taking into account transparency, accountability and balance of interest

- ▣ Multi corporate group is deemed to be formed when a corporation;
 - Directly or indirectly controls the majority of voting rights,
 - Is in a position to vote for the appointment of enough members to establish a majority in the governing body,
 - Exercises the majority of the voting rights due to contractual right,
 - Keeps another corporation under control by virtue of a contract or in any other manner.



MULTI-CORPORATION ENTERPRISES

- ❑ Regardless of being an individual or legal entity, being resident in Turkey or abroad, the head of the Multi-Corporation shall be deemed as merchant.
- ❑ Board of the affiliate company, shall prepare a report concerning all legal transactions with parent company, any precautions taken or not taken, as well as the losses of the affiliate in detail within the first three months of each operational year.



SQUEEZE OUT

- A shareholder or a group of shareholders that collectively owns more than 90% of a company's shares have a right to obtain the minority shares.
- Provided; the minority is acting dishonestly or selfishly or hindering the company activities considerably in some other ways.
- Purchase price shall be determined in accordance to balance sheet value or stock exchange rate, if available.



JOINT STOCK COMPANIES

- ▣ Gradual incorporation abandoned

- ▣ Minimum capital requirement remains same
 - For registered capital system the minimum capital is 100.000TL

- ▣ Capital payment procedure realigned



JOINT STOCK COMPANIES

- ❑ Establishment Documents listed.
- ❑ The benefit to have a Shareholders Agreement will become questionable.
- ❑ Founders should sign a declaration prior to establishment.
- ❑ Transaction Auditor Control for the establishment procedures introduced



CORPORATION SOLE

- ❑ Corporation Sole is defined and minimum shareholder requirement is abandoned.
- ❑ Becoming a corporation sole due to the reduction of shareholder number to “one”, requires a declaration to trade registry.
- ❑ Foreign investors may face challenges due to the T.C. citizen requirement for board membership.



BUY-BACK SHARES

□ Company can buy-back or accept as a pledge its own shares

- Maximum of 10%
- General Assembly authorization is required for the BOD.
- Acquired shares should be disposed off within 3 years.

□ Shareholder Indebtedness is regulated

- Shareholders shall not become indebted to the company and any breach of this rule shall be subject to pecuniary penalty of which not less than three hundred days.



BOARD OF DIRECTORS

▣ Structure of the Board of Directors realigned

- BOD must have at least one Turkish Citizen, resident in Turkey,
- At least 1/4 of the members should be higher educated,
- Legal entity shareholders can be represented at the board with only one individual,
- Board members do not required to be a shareholder.

▣ Online BOD meetings

- Physical attendences of the BOD members to the meetings no longer required
- BOD Resoltuions can be counter-signed



BOARD OF DIRECTORS

- ❑ Non-delegable duties and powers of the board has been listed.
- ❑ Meeting and decision quorums are amended and basic majority is accepted for meeting and decision quorum.
- ❑ Board decisions that is not in compliance with the fundamental structure of joint stock companies shall be deemed null and void.
- ❑ Risk Determination and Management Committee for publicly-traded companies are introduced.



GENERAL ASSEMBLY

- ❑ General Assembly meetings can be performed through internet
- ❑ The attendance of Government Commissar to general assemblies is not required
- ❑ Board of Directors can summon General Assembly even if their term of office is ended
- ❑ Resolution quorums are realigned
- ❑ Shareholders may demand information from Board and request a special audit during general assembly.



AUDIT

- ❑ Statutory Auditors are abolished
- ❑ Auditing at joint stock corporations shall be conducted by independent auditing companies
- ❑ Auditing at small-scale joint stock corporations, shall be performed by a minimum of two independent sworn-in auditors or public accountants.



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