

The Turkish Update

This is the Fourth Quarter 2009 Edition of our email news service – The Turkish Update. This edition provides concise summaries of sector-specific legal developments in Turkey through October, November and December 2009 and includes brief articles on current “Hot Topics” in Turkish law.

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Part 1 - Legal developments

Banking & Finance

New cheque law in force: The new Cheque Law No: 5941 (the Law) came into effect on 19 December 2009. The Law aims to promote common use of cheques in Turkish commercial life and introduces various novelties, such as:

- distinction between personal cheques and commercial cheques;
- stricter control over bearer cheque accounts and bearer cheques;
- increased notice and audit conditions for banks; and
- changes to the criminal sanctions applicable to bounced cheque issuers

International bank account numbers (IBANs):

According to the Communiqué of the Central Bank published in the Official Gazette on 10 October 2009, all Turkish-related banking transactions must use IBANs from 1 January 2010. In electronic fund transactions the use of IBAN is not compulsory as long as the client provides a statement to the bank that it is willing not to use IBAN.

Capital Markets

Changes in debt instruments: On 25 November 2009 various amendments were made to the Communiqué Serial: II No: 22 on Principles of Registration and Sale of Debt Instruments (Communiqué). Some of the key amendments are as follows.



- Deposit and participation banks can issue bank bonds. Previously, only investment and development banks could issue such bonds.
- Private companies are in certain circumstances free from having to audit debt instruments independently. This exemption will only apply to the sale of debt instruments through private placements and on condition the total value of debt instruments does not exceed the paid-in capital of the relevant issuer private company.
- Cancellation of minimum term for financing bonds. Previously, it was at least 60 days. The maximum term limit of 360 days remains in the Communiqué.

Changes to public offer rules for Real Estate

Investment Trusts: On 31 December 2009, the CMB introduced various important changes to the legal regime applicable to Real Estate Investment Trusts (REITs) by amending the Communiqué Serial: IV No: 11. Some of the key changes are as follows:

- Decrease in minimum REIT public capital. The minimum percentage of capital which a REIT must offer to public has decreased from 49 per cent to 25 per cent.
- Time limit for REITs to offer their shares to the public. All REITs have to apply to the CMB for public offering of at least 25 per cent of their shares within three months following their establishment or change into a REIT. Before this change, the time period for public offering of REIT shares was determined according to the size of the relevant REIT share capital. Existing REITs which have not offered their shares to the public will have to do so by the end of the public offering period previously granted to them by the CMB.
- Cancellation of limits on change of public companies into REITs.

Competition

Cooperation Protocol between the Turkish Competition Authority (TCA) and the Public Procurement Authority (PPA):

In October 2009, the TCA and the PPA signed a protocol which aims to ensure cooperation and data transfer between these two authorities. The objective of such cooperation is to ensure full competition in markets which are subject to public tenders.

Turkish Competition Board (TCB) imposes

TL 36.1 million fine on Turkcell: The TCB decided on 23 December 2009 that Turkcell breached Article 6 of the Competition Act by abusing its dominant position in the GSM services and mobile marketing market. The TCB therefore imposed a TL 36.1 million fine on Turkcell for such breach.

TCB decision following the investigation in poultry

market on 9 December 2010: Since its investigation against 27 companies in the poultry market, the TCB has fined nine companies for their anti-competitive behaviour resulting in breach of Article 4 of the Competition Act No: 4054. The fines for each company amount to 0.8 per cent of their turnover for 2008. In addition, the TCB imposed a fine of TL 35.2 million on the president of the Association of Poultry Industrials Union.

Minimum amount of administrative fine fixed at TL

11,446,40: The TCB announced on 25 December 2009 the minimum amount of administrative fines under Article 16 of the Competition Act is TL 11,446.40 from 1 January to 31 December 2010.

Telecommunications

Regulation on Number Portability: Issued on 9 October 2009. Expands and clarifies the rules and principles applicable to number portability.

Cancellation of the Satellite Uplink Equipment

Regulation: Cancelled on 7 October 2009. Therefore the Information Technologies and Communication Authority (the ITCA) has ended its practice of needing an "approval certificate" for satellite uplink equipment. This cancellation is based on the Standardisation in Foreign Trade Regulation (No: 2006/8) under which wireless and telecommunications terminal equipment (not restricted with frequencies/licences) imported from the EU shall be subject to free circulation.

Draft Regulation on Service Quality in Electronic Communications Market: Announced on the website of the Information Technologies and Communication Authority, but it is not clear when it will come into effect.

Pharmaceuticals

Biocidal Products Regulation: Published by the Ministry of Health on 31 December 2009. Sets out principles on producing biocides to comply with human and environmental health. It also introduces rules about importing and registering biocidal products.

Legislation reducing medicine prices: On 3 December 2009, the Council of Ministers introduced through a new Decree (which amended the Decree On Pricing of Human Medicine) new calculation rates for pharmacists to decide medicine sale prices. On 4 December 2009, the Social Security Institution published a Communiqué (amending the Social Security Institution Health Application Communiqué) underlining new rules for calculating and collecting “patient participation fees”. Together these changes mean a significant decrease in medicine prices and therefore many pharmacists have protested against these changes.

Insurance

Coastal facilities must hold insurance against potential marine pollution: Under Article 8 of the Law on Principles of Emergency Response and Compensation for Damages in Pollution of Marine Environment by Oil and Other Harmful Substances (No: 5312 Date: 3 March 2005) coastal facilities must hold financial liability insurance against marine pollution damages. The Communiqué On Tariffs and Instructions of Marine Pollution Compulsory Financial Liability Insurance of Coastal Facilities, which was published on 6 November 2009, brings this into effect on 1 January 2010. This Communiqué also sets out tariffs and instructions which will be relevant to this insurance.

Real Estate

New Regulation for official deeds issued by Land Registry Offices: Came into effect on 10 November 2009. Governs the procedures and principles for official deeds that Land Registry offices issue. The main contents are as follows:

- the form of official deeds and the duties of land registry officers;
- applicable procedures for issuing official deeds;
- transactions which need participation of witnesses;
- audit mechanisms; and
- specific conditions about certain types of official deeds such as deeds of real estate mortgage.

Energy

Storage of energy products: new legislative controls: The Turkish Energy Market Regulatory Authority (EMRA) amended the Regulation on the Petroleum Market Information System in December 2009 (effective 1 January 2009). The amendment introduces certain new duties for storage licence holders and warehouse operators, as follows:

- licence holders should report the sources of their stored products to EMRA yearly;
- licence holders and warehouse operators should provide EMRA with monthly notices stating the total amount of their stored products; and
- licence holders and warehouse operators will have to make a special report if they grant any portion of their storage capacities to a third party.

One other novelty introduced by the amendments is the duty to serve the official notices via electronic signature under the Turkish Electronic Signature Act No: 5070. This amendment aims to make reporting convenient for the reporting parties. With this legislation EMRA wishes to receive more solid and frequent information from licences and control the traffic of stored products in a more comprehensive way.

New Communiqués re fines: EMRA issued several communiqués on fines in 2010 (Official Gazette Date: 5 December 2009, No: 27423) in the Electricity, Natural Gas and Oil markets.

Extension of deadline for renewable energy incentives: The Council of Ministers decided (on 17 December 2009) to extend the deadline stipulated in Article 6 of the Renewable Law. Article 6 introduced certain incentives for RER-certified generators that are set up before 31 December 2011 and have been producing for less than 10 years. The decision extended the deadline for establishment to 31 December 2013.

Amendment to Electricity Market Customer Services Regulation: Amended on 31 December 2009. The amendment calls for an extension of one year to the date when the electricity retail companies will be allowed to sell electricity or capacity to non-eligible customers. The amendment extended the date to 1 January 2011.

Mining/Environment

Parliamentary Mining Investigation Commission set up: The Turkish Parliament decided to set up a new investigation commission on 3 December 2009. The commission will examine the problems experienced in the mining industry and will aim to find applicable resolutions. The commission will comprise 16 members and will work for three months.

Support for Boron Research: The Regulation on Principles of Project Support by the National Boron Research Institute came into effect on 22 October 2009. It identifies the research projects eligible for support by the National Boron Research Institute and sets out evaluation and audit procedures for supported projects.

Cancellation of Environmental Impact

Assessment exemption: A cancellation decision of the Turkish Constitutional Court of 21 December 2009 will enter force in January 2010. This decision is mainly about the exemption from environmental impact assessment that Turkish Environmental Law grants to parties that are exploring petroleum, geothermal resources and mines. The legislators created this exemption to encourage exploration by removing the burdens of making an environmental impact assessment filing. The Constitutional Court cancelled this exemption, having decided that it was contrary to the Turkish Constitution because the state has a duty to protect the environment. Following the cancellation decision, the Ministry of Environment and Forestry amended the relevant section of the Environmental Impact Assessment Regulation by this decision.

Effective date of Environmental Regulation

delayed: The Ministry of Environment and Forestry amended the Regulation on the Permits and Licences that are Necessary under the Environment Law dated 29 April 2009. The key amendment postponed the effective date until 1 April 2010.

Debt Restructuring/Arbitration

Hague Convention on Taking of Evidence Abroad in Civil or Commercial Matters: Turkey consented on 4 November 2009 to the following countries entering the Hague Convention on taking of evidence abroad in civil or commercial matters:

Argentina	Kuwait	Seychelles Islands
Australia	Latvia	Singapore
Barbados	Lithuania	Slovenia
Belarus	Mexico	South Africa
Bosnia Herzegovina	Monaco	Sri Lanka
Bulgaria	Poland	Ukraine
China	Romania	Venezuela
India	Russia	

Part 2 - “Hot Topics”

Scroll down to view all the Hot Topics or click on the headings below to shortcut directly to your preferred topic:

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Investment opportunities in Turkey for 2010

Opportunity	2010 Timetable ¹
Energy and transport	
Electricity distribution companies.	<p>Privatisations in this field continue with the privatisation tenders for the shares of Camlibel, Firat, Uludag and Vangolu electricity distribution companies. Bidders must file their final bids by 12 February 2010.</p> <p>The Privatisation Authority (PA) will also hold new tenders for the remaining companies in its portfolio. Ahmet Aksu, the vice-president of the PA, mentioned that the PA may hold new tenders for three more distribution companies in mid-2010.</p>
Electricity generation companies.	<p>19 groups comprising 52 hydroelectric stations owned by Elektrik Uretim A.S. will be privatised by a transfer of operating rights. Bidders must file their final bids by 19 February 2010.</p>
Electricity wholesale companies.	<p>The Privatisation High Council decided (on 3 December 2009) to privatise 20% of distribution company Kayseri ve Civari Elektrik T.A.S. by selling the shares currently owned by the state-owned wholesale company TETAS. According to the decision the privatisation will complete in 18 months.</p>
Toll rights on highways/bridges.	<p>Toll rights on highways/bridges are still in the portfolio of the Privatisation Administration (PA). The draft law enabling the privatisation of motorways/bridges is still before the Parliament. Ahmet Aksu has stated to the media that, once the Parliament passes the relevant law amending certain laws to enable the PA to open this tender, the PA is planning to open the tender in the first quarter of 2010.</p>
Health	
Construction and lease of Kayseri and Ankara Hospitals.	<p>The authorities first scheduled the Kayseri project, the pilot health PPP tender, for 2009. However, this was later postponed to 2010. The pre-qualification tender took place on 23 October 2009 and eight bidders qualified.</p> <p>The pre-qualification tender for the Ankara project, the second health PPP project, will take place on 24 February 2010.</p>

¹ Note: these 2010 timetables should not be seen as definitive. They are based on the most recent statements by either the Turkish Finance Minister or the Privatisation Authority.

Other	
Malatya, Erzincan, Elazig and Elbistan state-owned sugar plants	Bidders previously needed to file final bids by 21 January 2010. However, the State of Council made a stay of execution decision over the tender due to legal claims trying to cancel the tender specifications. There is now no date by which bidders need to file final bids.
TEKEL Tutun, Tutun Mamulleri, Tuz ve Alkol İşletmeleri A.S.'s shares in Kazakistan JTI Central Asia LLP.	Bidders must file their final tender bids for the block sale of Tutun Mamulleri, Tuz ve Alkol İşletmeleri A.S.'s 20% shares in Kazakistan JTI Central Asia LLP before 5 February 2010.
National lottery (Milli Piyango).	There is not yet any certain timetable for the national lottery company Milli Piyango.
Airports.	The State Airports Authority has recently made a tender announcement for Zafer (Kutahya-Afyon-Usak) Regional Airport. Bidders must make their final bids by 9.30am on 1 March 2010.
Galataport.	Ahmet Aksu has stated to the media that authorities aim to complete the Galataport tender in 2010.

Buy-back of shares introduced to the Turkish capital markets

The limits the Turkish Commercial Code imposes on the buy-back of shares by Turkish companies have been criticised for some time now as being unresponsive towards the current needs of the Turkish market. Taking this criticism into account, the current Draft Turkish Commercial Code (DTCC) contains several rules enabling Turkish companies to repurchase their own shares if they satisfy certain conditions.

While discussions on the DTCC continue at the Turkish Parliament, the Capital Markets Board of Turkey (CMB) has taken an anticipatory step in this direction by enabling listed brokerage companies and investment trusts to buy back their own shares. The CMB announced this in its Weekly Bulletin numbered 2009/39 and this announcement describes in detail the procedures and principles which apply to such buy-back transactions.

The announcement only currently allows listed brokerage companies and investment trusts (each a Relevant Company) to buy back their shares. However, any buy-backs by a Relevant Company may inform future buy-backs by unlisted Turkish companies (once the DTCC is in force) and any future extension of the announcement by the CMB to other listed Turkish companies.

We summarise below the key rules and conditions that a Relevant Company must follow if it wishes to buy-back its shares:

1. "Buy-back Programme" and its authorisation

- A Relevant Company must buy back its shares through a "Buy-back Programme" that its Board of Directors prepares and its General Assembly of Shareholders approves.
- The "Buy-back Programme" must clearly identify:
 - the purpose of and the funds granted for the proposed buy-back;
 - minimum and maximum purchase price limits;
 - the person(s) allowed to carry out the buy-back;
 - the buy-back period that will be sought from the General Assembly (the maximum allowed period being 18 months); and
 - the outcome of any previous buy-back.
- The Board of Directors must publish the proposed "Buy-back Programme" on the Relevant Company's web site at least 15 days before the date of the General Assembly meeting which will discuss that programme.

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- If there are immediate needs, a Relevant Company may carry out a buy-back transaction without the consent of the General Assembly. However, in this case the Relevant Company must comply with certain other public disclosure rules and tell the General Assembly about the buy-back at the next General Assembly meeting.
2. Relevant Companies may only buy back listed shares
- Turkish public companies may have certain portions of their shares which are privately held and other portions which are listed on the Istanbul Stock Exchange (ISE). The CMB announcement provides that a Relevant Company may only buy back its shares traded on the ISE.
3. Buy-back limits
- A Relevant Company may not buy back shares:
 - if the cumulative maximum portion of shares bought back has a total nominal value that exceeds 20 per cent of the value of that company's entire issued share capital, and in this case the company must dispose of any excess within six months;
 - if this would prejudice the "net active capital" mentioned in the latest financial statements of the Companies;
 - if that company has postponed disclosure of any insider information as allowed under the relevant communiqués of the CMB;
 - between the resolution and completion dates of a capital increase.
4. Buy-backs must comply with other specific rules
- Besides applicable ISE exchange rules, a Relevant Company must also comply with other specific rules during buy-back transactions, for example the rules about transaction period, placement of purchase orders, daily purchase limits and working with a single brokerage company on each transaction day.
5. Cannot use voting rights
- A Relevant Company cannot use the voting rights associated with the bought-back shares.
6. Reflection of buy-back in financial statements
- The financial statements of a Relevant Company shall reflect the bought-back shares as a deduction item under equity according to the Turkish Accounting Standard numbered 32. The income statement of the Relevant Company cannot reflect revenues and losses arising from disposal of these shares.
7. Disposal of bought-back shares
- **When?** A Relevant Company may freely decide on the period in which it will hold the bought-back shares but this period shall not exceed three years. If a Relevant Company does not dispose of all its bought-back shares during such period, it must cancel such shares by a capital decrease.
 - **How?** A Relevant company must dispose of its bought-back shares by sale on the ISE.
8. Public disclosure of a buy-back
- **Disclosures before buy-back.** A Relevant Company must make a public disclosure two business days before starting a buy-back transaction which states:
 - the start date of the transaction; and
 - the appointed brokerage company (and commissions payable to it).
 - **Disclosure on day 1 following buy-back.** A Relevant Company must make a disclosure on the first business day following the date of each buy-back transaction which identifies:
 - the nominal value and purchase price of the bought-back shares;
 - the ratio of the total nominal value of bought-back shares to the value of that company's entire issued share capital; and
 - the privileges associated with the bought-back shares (if any).

- **Disclosure on day 5 following completion of the “Buy-back Programme”.** A Relevant Company must make a disclosure within five business days after completing a “Buy-back Programme”. This disclosure must detail of the individual buy-back transactions carried out during the term of that program. The Board of Directors shall also present this information to the General Assembly at the first General Assembly Meeting following completion of the “Buy-back Programme”.
- A Relevant Company must also make a public disclosure if its General Assembly amends:
 - the first “Buy-back Programme” proposed by the Board of Directors; or
 - a “Buy-back Programme” which it has previously approved.

New era for Turkish Tender Offers

Part 1 - Introduction and key differences between Old Legislation and New Legislation

Buying public company shares through voluntary and compulsory tender offers has experienced fast and significant development in global capital markets.

The Capital Markets Board of Turkey (CMB) introduced tender offers to the Turkish capital markets in 1994 with Communiqué Serial: IV No: 8 (the Old Legislation). The CMB published a new Communiqué Serial: IV No: 44 (the New Legislation) on 2 September 2009 which supersedes the Old Legislation². The broad aim of this New Legislation was to bring Turkish legislation in line with EU standards and make the Turkish Capital Markets more attractive to investors.

We compare the Old Legislation to the New Legislation in Part 2 below and comment on the differences.

Some of the key differences are as follows:

- (1) **Precise definition of “management control”.** In the New Legislation the key trigger for a compulsory tender offer is a change in “management control”. The New Legislation defines “management control” in detail, which will make it easier for a potential buyer of shares in a public company to understand whether a compulsory tender offer is necessary.
- (2) **Abolition of 25 per cent threshold.** Under the Old Legislation a compulsory tender offer must be made if a person held 25 per cent or more of the share capital and voting rights of a Turkish public company. The New Legislation in its definition of “management control” changes this threshold to 50 per cent, which will help to promote strategic partnerships in Turkish public companies.
- (3) **It is clear what does not trigger a compulsory tender offer.** The New Legislation sets out a clear set of circumstances where a compulsory tender does not need to be made (despite there being a change in management control). This again gives greater clarity for potential buyers.
- (4) **No “General Assembly” exemption to a compulsory tender offer.** The New Legislation removes the controversial exemption from a compulsory tender offer in the Old Legislation if 2/3 of the shareholders of a company approve it in a General Assembly. This change protects minority investors.
- (5) **Clarification of compulsory tender offer timeline, price and disclosure principles.** The New Legislation: clarifies the compulsory tender offer timeline; contains detailed rules about calculating compulsory tender offer price; and clarifies what public disclosures should be made in a compulsory tender offer. Again these amendments aim to create greater market certainty.

² Please note that aspects of Communiqué Serial: IV No: 8 which do not relate to tender offers are still in force so this Communiqué has not become entirely extant.

(6) **Partial voluntary tender offers.** Under the New Legislation partial voluntary tender offers are possible (for example a tender offer directed at a specific share group of the target public company). This allows potential investors greater flexibility.

Therefore the changes introduced by the New Legislation encourage potential investors to invest in Turkish public companies by introducing certainty and flexibility. The New Legislation also protects minority investors by abolishing the "General Assembly" exemption and setting out detailed disclosure rules.

Part 2 - Detailed comparison between Old Legislation and New Legislation and comments

Matter	Old Legislation	New Legislation	Comments
1. What triggers a compulsory tender offer?	<p>If any party or parties acting in concert, directly or indirectly, gain:</p> <ul style="list-style-type: none"> • 25% or more of the capital and voting rights; or • shares granting the management control of a public company (regardless of the percentage of shares bought), <p>through voluntary bid, block sale, series of sales or by any other means, such party or parties must make an offer to the other shareholders to buy their shares.</p> <p>Further, if any party or parties acting in concert own between 25% and 50% of the capital and voting rights of a public company and increase this percentage by 10% or more in any given 12-month period, such party or parties shall make an offer to the other shareholders to buy their shares.</p>	<p>If any party or parties acting in concert, directly or in directly, gain:</p> <ul style="list-style-type: none"> • shares granting the management control of a public company, <p>through voluntary partial bid, block sale, series of sales or by any other means, such party or parties must make an offer to the other shareholders to buy their shares.</p>	<p>The Old Legislation referred to management control but did not define it. This made it difficult for potential buyers to understand whether their acquisition would trigger a change in management control.</p>

2. "Management control".	No precise definition.	<p>"Management control" shall mean direct or indirect acquisition of 50% or more of the capital and voting rights of a public company by a party or parties acting in concert.</p> <p>"Management control" will also be gained if a person gains privileged shares which grant the right to appoint a majority of the directors or a public company. This will apply regardless of the percentage of shares bought.</p> <p>An indirect acquisition of management control will occur if there is any change of management control at controlling shareholder level (or further up the chain of control if relevant).</p>	<p>The more precise definition of "management control" aims to minimise market confusion.</p> <p>The increase in the threshold from 25% to 50% may make it easier for Turkish public companies to enter strategic partnerships.</p>
3. What does not trigger a compulsory offer?	The Old Legislation does not mention any circumstances which do not trigger a compulsory offer. The Old Legislation only describes conditions under which the CMB may grant an exemption from the compulsory tender offer.	<p>The New Legislation sets out circumstances which will not trigger a compulsory offer (even if there is a change in management control):</p> <ul style="list-style-type: none"> • If the change in management control is due to a voluntary tender offer or intra-group transfer. • If the change in management control results in management being equally shared with an existing controlling shareholder. • If percentage threshold has been triggered by a shareholder who already has management control (for example by holding privileged shares). 	The New Legislation provides clarity by setting out specific circumstances where a compulsory tender offer will not be triggered.

		<ul style="list-style-type: none"> • If a shareholder who has management control loses that management control and then regains it (and no other shareholders or third parties gain management control during this period). 	
4. Exemption conditions.	<p>Under the Old Legislation a person can apply to the CMB to be exempt from a compulsory offer if they meet the following conditions:</p> <ul style="list-style-type: none"> • The acquisition of shares is necessary to strengthen the capital of the target public company. The CMB had the right to examine the relevant company or request an independent audit. • A general assembly meeting attended by shareholders representing 2/3 of the capital of the target public company approves the acquisition of shares. • There is no change in the management control of the target public company following the acquisition. In such cases, the CMB may examine this and revise the capital of the relevant company if necessary. • The acquisition is carried out due to compulsory legal requirements (e.g. inheritance) or the thresholds have been unwillingly exceeded and the acquirer undertakes with the CMB it will dispose of the excess as required by the CMB. • The shares were received due to a privatisation. 	<p>Under the New Legislation a person can apply to the CMB to be exempt from a compulsory offer if they meet the following conditions:</p> <ul style="list-style-type: none"> • The acquisition of shares is necessary to strengthen the financial position of the target public company. To grant an exemption, the CMB may require funding to be made to the target company or request an independent audit. • The acquirer undertakes with the CMB that it will dispose of the portion of gained shares or voting rights that triggered the compulsory bid requirement as required by the CMB. • The change in the management control of the parent company of a public company is not aimed at gaining the management control of the public company. To assess this the CMB shall consider whether the parent company's shareholding in the public company exceeds 10% of its total assets in its latest balance sheet, whether the shareholding in the public company is insignificant for the general activities of the parent company and similar conditions. • The shares were acquired because of a privatisation. 	<p>The "general assembly approval" exemption (which was unclear and controversial) no longer applies to the New Legislation. The CMB commented that this was due to a significant number of requests from investors to remove the exemption.</p>

<p>5. Timeline.</p>	<p>The compulsory tender offer timeline under the Old Legislation is as follows:</p> <ul style="list-style-type: none"> • Time of triggering event = T • Last day for CMB exemption application (if an application will be made) = T + 5 days • Last day for CMB compulsory offer application = T + 15 days • Last day for CMB to approve the compulsory offer documentation = Application date + 30 days • Last day for beginning of offer period = Not defined. • Offer period = Min. 15 – Max. 30 days • Last day by which the CMB and ISE must be notified of the new shareholding and management as a result of the offer = End of offer period + 1 week 	<p>The compulsory tender offer timeline under the New Legislation is as follows.</p> <ul style="list-style-type: none"> • Time of triggering event = T • Last day for exemption application to CMB (if an application will be made) = T + 6 business days • Last day for compulsory offer application to CMB = T + 6 business days • Last day for CMB to approve the compulsory offer documentation = Application date + 33 business days • Last day for beginning of offer period = Date of CMB approval + 6 business days • Offer period = Min. 10 – Max. 20 business days <p>The New Legislation also describes in detail the timeline which will apply if the CMB rejects a company's exemption application:</p> <ul style="list-style-type: none"> • Rejection date of exemption application = R • Last day for CMB compulsory offer application = R + 6 business days • Last day for CMB to approve the compulsory offer documentation = R + 18 business days • Last day for beginning of offer period = Date of CMB approval + 6 business days • Offer period: Min. 10 – Max. 20 business days 	<p>The New Legislation clarifies the compulsory offer timeline (for example by referring to business days for the first time and by providing a specific timeline if the CMB rejects an compulsory tender offer exemption application</p>
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6. Offer price.	<p>The Old Legislation only contains basic rules on compulsory tender offer price.</p>	<p>The New Legislation contains much more detailed rules on offer price, which we briefly summarise below.</p> <p>The compulsory offer price cannot be less than the highest price paid for the shares of the same kind (including the shares gained to trigger the compulsory offer) within six months before T.</p> <p>If the compulsory offer price cannot be determined by this method the CMB may ask certain institutions (such as investment banks) to prepare a valuation report to decide a price.</p> <p>There are also separate price determination mechanisms if there is an indirect change in the management control of the target public company (i.e. a change in control at parent company level or higher) or if the relevant Turkish public company has different share groups.</p> <p>The New Legislation also contains various rules on price equality in compulsory tender offers, and the interest/exchange rates that will apply to compulsory tender offer prices.</p>	<p>Investors are likely to welcome the clarification the New Legislation provides on compulsory tender offer price.</p>
7. Public disclosure.	<p>(a) Triggering events The Old Legislation does not contain any specific rules on public disclosure events associated with tender offers. Offerors are mainly obliged to comply with other legislation of the CMB on the public disclosure of material events.</p>	<p>(a) Triggering events The New Legislation requires the following events should be disclosed to the ISE (and the relevant online public disclosure platform):</p> <ul style="list-style-type: none"> • A person becoming obliged to make a compulsory tender offer (whether an exemption will be sought or not). 	<p>It is expected the more-specific public disclosure rules in the New Legislation will result with a much stronger information flow from the target company and offerors to the offerees. This should help offerees decide whether to accept a tender offer or not.</p>

(b) Disclosure documents

The disclosure documents that need to be prepared and sent to relevant public bodies to make a compulsory tender offer are as follows:

- Offerors have to prepare and send to the CMB for approval a compulsory information form and an offer text in a true, accurate, clear and sufficiently detailed manner highlighting all the material facts on the transaction.
 - Once approved by the CMB, the offerors must publish the compulsory information form in at least two national newspapers, and in addition send the same to the shareholders holding the target shares (by publication in the daily bulletin of the ISE).
 - Offerors must also inform the CMB and ISE about the shareholding structure, the management structure and information on the shares gained through tender offer within one week following the end of the offer period.
- A person making an exemption application should disclose the basis of this application before making the application.
 - A person should make a disclosure on the date when an offeror makes an application to the CMB for (a) a tender offer or (b) an exemption from a compulsory tender offer.
 - A person receiving the results of a tender offer or exemption application.
 - A person receiving the results of a valuation report deciding a tender offer price.
 - At the end of each transaction day during an offer period, the number and value of shares bought and the number of shareholders who have responded to the offer.
 - On the last day of the offer period, the total number and value of shares acquired and the total number of shareholders who have responded to the offer.
 - Immediately following the end of the tender offer period the person making the tender offer should disclose in detail the new shareholding/management of the target company.
 - A person taking a decision to buy shares of a public company by a voluntary tender offer or deciding to withdraw from that voluntary tender offer.

		<ul style="list-style-type: none"> • A person taking an action to achieve offer price equality under the New Legislation. <p>(b) Disclosure documents Same as for the Old Legislation.</p>	
8. Voluntary tender offer.	The Old Legislation contains basic rules for voluntary tender offers.	Under the New Legislation, investors can make a partial voluntary tender offer (i.e. a tender offer directed at a specific share group of the target public company).	Provides flexibility for investors.

Further Information

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