

client alert

CORPORATE LAW | TURKEY |

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RECENT UPDATE ON INDEPENDENT AUDIT CRITERIA

With the entry into force of the new Turkish Commercial Code No. 6102 on 1 July 2012, one of the major impacts on Turkish corporate life relates to the auditing of certain types of commercial company, which shall now be carried out by independent auditors (Articles 397 *et seq.* of the Turkish Commercial Code).

Article 397/4 provides that companies affected by such an independent audit requirement shall be determined by the Council of Ministers. In this respect, in early 2013 the Council of Ministers set forth the applicable criteria to determine which companies shall be subject to such a mandatory independent audit. These criteria were later amended by the Council of Ministers' decision published in the Turkish Official Gazette on 13 March 2014.

In a new decision published in the Turkish Official Gazette on 1 February 2015, the Council of Ministers reduced once more the thresholds of the above-mentioned criteria with retroactive effect as of 1 January 2015, thus broadening the scope of the companies being subject to independent audit. Accordingly, companies fulfilling at least two of the following criteria during two consecutive financial years shall be subject to a mandatory independent audit:

- companies whose assets value amounts to TRY 50,000,000 (previously TRY 75,000,000);
- companies whose net sales proceeds reach TRY 100,000,000 (previously TRY 150,000,000); and
- companies that employ at least 200 employees (previously 250 employees).

To determine whether the above thresholds have been reached, the financial statements of the relevant companies as well as their average number of employees in the past two years shall be taken into account.

As regards companies with subsidiaries and affiliates, the above-mentioned thresholds shall be assessed in light of the sum of (i) all relevant financial figures (i.e. assets value and net sales) of such group companies and of (ii) the average number of all their employees.

It should be noted that other specific companies shall also be subject to a mandatory independent audit where slightly lower thresholds relating to the same criteria are fulfilled (e.g. newspaper companies and public companies not listed on any stock exchange), or regardless of any particular criteria (e.g. financial institutions, insurance companies, licensed warehouse and TV channel companies).

As regards companies that do not fulfil the criteria for mandatory independent audit, the Turkish Commercial Code provides for the principle of an alternative audit obligation, the framework of which still needs to be determined in a secondary legislation.

In compliance with Turkish bar regulations, opinions relating to Turkish law matters which are included in this client alert have been issued by Özdirekcan Dündar Şenocak Avukatlık Ortaklığı, a Turkish law firm acting as correspondent firm of Gide Loyrette Nouel in Turkey

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