

Gokce Attorney Partnership



# The Fine Print

September 2013

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## Requirement to Set up Websites for Companies

New Communiqué on Principles regarding Investment Trusts

Marketing and Sale of Alcoholic Beverages

## In the Spotlight

### Obligation for Companies to Set up Websites

Regulation regarding the websites to be Set up by companies (Regulation) was published in the Official Gazette on 31 May 2013 to be effective as of 1 July 2013.

The new Turkish Commercial Code (TCC) obliged companies to set up websites where their records and information are published as required by the law. This Regulation sets forth the scope, date and details of such obligation to set up websites.

According to the Regulation, only companies which are subject to independent audit are required to set up websites. Companies subject to independent audit had been determined by the Resolution of Accounting and Auditing Standards Board dated 28 March 2013 with no. 75935942-050.01.04-(01/05).

As per the Regulation, companies established before the Regulation shall (i) set up their websites and (ii) publish the required information within 3 months

following 1 July 2013. Companies which already have websites shall adjust their websites in accordance with the Regulation and start publishing the required information within the same period. On the other hand, companies established or to be established after the Regulation shall set up websites and fulfill their obligations arising from the Regulation within 3 months following the date of their incorporation. Companies are allowed to fulfill their obligations to set up websites on their own or through Central Data Recording Systems.

Also, the Regulation has made a distinction as follows: (i) information to be published permanently, and (ii) information to be published for a period of minimum 6 months.

### Information to be Published Permanently on the Website of the Company

- a. Trade name, registered address, Central Registry System (MERSIS) number of the Company, subscribed and paid in capital, name and surnames of the chairman and directors at joint stock companies, managers at the limited liability companies and directors at limited partnerships by shares,
- b. In the event of appointment of a legal entity as a Board member at joint stock companies or as a manager at limited liability companies; MERSIS

number, trade name and registered address of that corporate body and name and surname of the real person to be appointed by that corporate body on its behalf along with the announcement of such appointment, and

c. Name, surname, trade name and registered address of the Auditor and his registered branch office if applicable.

Any change with regards to issues and information listed above shall be published on the website of the Company without delay.

### Information to be Published for a period of minimum 6 months

The following information shall be published on the Website of the Company for at least 6 months in accordance with the periods stated under the Regulation:

- a. Documents, resolutions, declarations, announcements and other issues listed under the Regulation with respect to merger, acquisition or spin-off transactions shall be published on the website of the Company in accordance with the periods stated under the Regulation;
- b. In case of a lawsuit for annulment of the Company, such lawsuit shall be announced on the website of the Company;



- c. Resolutions and announcements regarding registered capital system;
- d. Information and other required issues with respect to capital decrease;
- e. Announcements, resolutions and minutes regarding general assembly meetings;
- f. Announcements regarding independent and corporate representatives for general assembly meetings as per Article 428 of the TCC;
- g. Documents, resolution and legal proceedings with respect to annulment of general assembly decisions;
- h. Articles of association together with the general assembly decisions amending the same;
- i. Resolutions with respect to pre-emption rights or restriction of pre-emption rights, resolutions with respect to issuance of premium stock;
- j. Notices to defaulting shareholders, resolutions regarding annulment of the stocks held by defaulting shareholders;

k. Resolutions on issuance of bearer stocks;

l. Notifications to be made to debtors in case of dissolution of the Company;

m. Declarations regarding share transfers to affiliates and dominance agreements between companies;

n. Declarations regarding sole shareholder status and required information with respect to shareholder;

o. Acquisition of an asset or business with the value equivalent to 1/10 of the total capital within 2 years following the establishment of the Company;

p. Board members authorized to bind and represent the Company;

q. Internal directives stating practice terms and conditions of the general assemblies for joint stock companies; and

r. Reports and other documents required by the Regulation with respect to general assembly meetings in electronic environment.

You can find the Turkish language text of the Regulation at the following link:

<http://www.resmigazete.gov.tr/eskiler/2013/05/20130531-15.htm>

## Newsfeed

### Amendments to Rules on Marketing and Sale of Alcoholic Beverages entered into force

Some of the provisions of the Law Amending Certain Laws and Decrees No. 375 (Amending Law) on marketing and sale of alcoholic beverages entered into force as of 9 September 2013.

These Amendments are as follows: Alcoholic beverages cannot (i) be sold through vending machines; (ii) be subject to any kind of games or games of chances through any kind of game machine and/or any other different ways; (iii) be sold to consumers through press and sent through mail order selling; (iv) be sold to customers between 10 p.m. and 6 a.m. as a retail sale; and (v) be displayed in a way that can be seen outside of shop by retailers.

In addition to this, Amending Law also banned the advertisement and promotion of alcohol as of 11 June 2013.

You can find the Turkish language text of the Amending Law at the following link:

<http://www.resmigazete.gov.tr/eskiler/2013/06/20130611-1.htm>



## New Banking Regulations

Banking Regulation and Supervision Agency (Agency) prepared two Regulations according to the Third Basel Accord (Basel III) with the purpose of strengthening capital requirements of banks by increasing bank liquidity and decreasing bank leverage.

- Regulation on the Equity Capitals of Banks

Regulation on the Equity Capitals of Banks (Equity Capital Regulation) was published in the Official Gazette on 5 September 2013 to be effective as of 1 January 2014. With this Equity Capital Regulation, the Agency has regulated procedures and principles for calculation of the equity capital and the consolidated equity capital of banks.

Under the Equity Capital Regulation; procedures has been set forth for calculating principal capital, seed capital, additional principal capital and supplementary capital. In addition

to the aforementioned, discount principles to be applied to equity capital and calculation of consolidated equity capital has been regulated under the Regulation.

You can find the Turkish language text of the Regulation at the following link:

<http://www.resmigazete.gov.tr/eskiler/2013/09/20130905-10.htm>

- Amendment of the Regulation on Assessment and Evaluation of Capital Adequacy of Banks

Regulation on Assessment and Evaluation of Capital Adequacy of the Banks (Capital Adequacy Regulation) has been amended with the Amending Regulation published in the Official Gazette on 5 September 2013 to be effective as of 1 January 2014. The amendments introduce new adequacy rates along with the current minimum capital adequacy rate. Due to certain misunderstanding in the bank relating to the implementation of the Amending Regulation, the Agency made a written statement in order to clarify this issue.

The Agency stated that the current minimum capital adequacy rate cor-

responding to 8% for the banks is still applicable. In addition to this rate, the Amending Regulation introduces new rates of (i) 6% as principal capital adequacy rate, and (ii) 4.5% as seed capital adequacy rate for the banks to maintain. The Agency also expressed that the new rates will not affect the current minimum capital adequacy rate and will only constitute internal sub-distribution of the current rate.

You can find the Turkish language text of the Regulation at the following link:

<http://www.resmigazete.gov.tr/eskiler/2013/09/20130905-11.htm>

## New Land Registry Statute

The new Land Registry Statute (Statue) was published in the Official Gazette and entered into force as of 17 August 2013.

The Statute introduces a number of provisions such as procedures on transactions and record keeping in electronic form in the Land Registry and Cadastre Information System (TAKBİS). The new Land Registry Statute (Statue) was published in the Official Gazette and entered into force as of 17 August 2013.



The of provisions such as procedures on transactions and record kee Statute introduces a number ping in electronic form in the Land Registry and Cadastre Information System (TAKBİS),

You can find the Turkish language text of the Statue at the following link:

<http://www.resmigazete.gov.tr/eskiler/2013/08/20130817-2.htm>

## New Communiqué on Principles regarding Investment Trusts

Communiqué on Principles regarding Investment Trusts (Communiqué), published in Official Gazette on 29 August 2013, entered into force save for its provisions on portfolio custody. Some of the changes introduced by the Communiqué are as follows: (i) the distinction of type A investment trust and type B investment trust is removed for the new investment trusts to be incorporated, (ii) in the event that an investment trust does not prefer to manage its own portfolio, it will be allowed

to engage with a portfolio management company for obtaining services for portfolio management and investment consultancy as of 1 July 2014, (iii) an investment trust must keep all its assets in its portfolio with a portfolio custodian, and (iv) responsibilities of the board of directors and executive directors (if any) are regulated.

Turkish language text of the Communiqué can be found at the following link:

<http://www.resmigazete.gov.tr/eskiler/2013/08/20130829-6.htm>

## Amendments to the Communiqué on Capital Market Credit Rating Activity and Rating Agencies

Communiqué (Amending Communiqué) Amending the Communiqué on Capital Market Rating Activity and Rating Agencies (Communiqué) was published in the Official Gazette on 29 August 2013. The Amending Communiqué provided the following changes: (i) the scope of Communiqué was extended to include principles on the disclosure of credit ratings of the countries which effects the values of capital market instruments and investment

decisions of investors, issuers of capital market instruments and capital market institutions, (ii) review period regarding credit ratings of the country, regardless of being provided on demand or not, was determined as a maximum period of 6 months; (iii) disclosure of the credit rating or outlook rating must be made at a date which is previously announced to the public at one hour prior to the opening of the first session or an hour after the closing of the second session of the stock exchange; (iv) disclosure of a detailed research report including all the points taken into account for determination of the country's credit rating and outlook rating must also be made when disclosing the country's credit rating and outlook rating; (v) the rating institutions must announce, at the end of December of each year, the dates of disclosure of credit ratings and outlook ratings to be made within the following year in their websites and through data distribution companies and submit this information to the Capital Markets Board.

Turkish language text of the Amending Communiqué can be found at the following link:

<http://www.resmigazete.gov.tr/eskiler/2013/08/20130829-7.htm>



## New Regulations on Workplace Safety

- Regulation on Protection of the Employees from the Risk of Vibration was published in the Official Gazette and entered into force as of 22 August 2013. Minimum requirements are set out in order to protect the employees from the health and safety risks as a result of being exposed to mechanical vibration.

Turkish language text of the Regulation can be found at the following link: <http://www.resmigazete.gov.tr/eskiler/2013/08/20130822-2.htm>

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- Regulation on Occupational Health and Safety with respect to Temporary or Fixed Term Employment was published in the Official Gazette dated 22 August 2013. The Regulation aims to provide the equality in terms of occupational health and safety between the employees working under the conditions of temporary employment contract or fixed term contract and the other employees who work in the same workplace.

Turkish language text of the Regulation can be found at the following link: <http://www.resmigazete.gov.tr/eskiler/2013/08/20130823-4.htm>

- Communiqué on Qualifications of Employees' Representatives for Occupational Health and Safety and Proce-

dures and Principles for Election of the Same was published in the Official Gazette and entered into force as of 28 August 2013. The Communiqué sets out the qualifications of employees' representative, who is to be elected in accordance with Occupational Health and Safety Law; conditions of his/her election, assignment, powers and responsibilities.

Turkish language text of the Communiqué can be found at the following link: <http://www.resmigazete.gov.tr/eskiler/2013/08/20130829-5.htm>



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## *Answers. Not theories.*

Gokce Attorney Partnership

### **About our firm**

Gokce Attorney Partnership is an Istanbul-based law firm offering legal services across a broad range of practice areas including mergers and acquisitions, joint ventures, private equity and venture capital transactions, banking and finance, capital markets, insurance, technology, media, telecoms and internet, e-commerce, data protection, intellectual property, regulatory, real property, and commercial litigation. Please visit our web site at [www.gokce.av.tr](http://www.gokce.av.tr) for further information on our legal staff and expertise.

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