DOING BUSINESS IN TURKEY

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Business Structures:
What types of business structures are permitted?

The type of business structures in Turkey are:
- Joint Stock Companies (Anonim Şirket)
- Limited Liability Companies (Limited Şirket)
- Branches
- Liaison Offices
- Ordinary Partnerships (Adi Ortaklık)
- Limited Partnerships (Komandit Şirket)
- Registered Partnerships (Kollektif Şirket)
- Limited Partnership Dividend Into Shares (“Sermayesi Paylara Bölünmüş Komandit Şirket”)
- Sole Traders

Below we set out the main characteristics of the most common entity types in Turkey.

**Joint Stock Company (JSC)**
Larger scale investments often operate as Joint Stock Companies as these are broader entities run by a Board of Directors.

- A JSC may be formed by at least one shareholder who may be foreign or local, individual or corporate. There is no upper limit to the number of shareholders. However, JSCs with more than 500 shareholders are subjected to Capital Markets Board regulations.
- Minimum of 50,000 Turkish Lira share capital must be subscribed.
- Ultimate responsibility lies with the Board of Directors. Joint stock companies are run by their board of directors. Board of directors may consist of one or more members which may be real person or legal entity.
- Liabilities of the shareholders of JSCs are limited with the capital they have contributed.
- It must hold an annual general meeting of its shareholders.

A joint stock company may be floated on the Istanbul Stock Exchange, at which point it comes under the authority of the Capital Markets Board.

These entities can operate banking and insurance businesses if they meet the stated requirements.

Internal auditors may be required depending on the turnover and number of employees.

This type of company is most suitable to run a Joint Venture between foreign investors and locals since there can be management control established by special voting rights on classes of shares or Directors.

**Limited Liability Companies (LLC)**
This is the preferred option for many foreigners operating in Turkey. As the name suggests liability is limited to the extent of the value of the foreigners’ shareholding, with the exception of public debts where the shareholders may be held personally liable if the company cannot pay. It can be established with the following conditions:
An LLC may be formed by at least one shareholder who may be local or foreign, individual or corporate, as well as residents and non-residents.

Board of managers is the main body which is responsible for the management and representation of the company.

There must be a minimum share capital of 10,000 Turkish Lira (“TL”).

It is expected that it will have a proper place of business (evidenced by a rent contract or title deed in Turkey).

LLC shareholders are liable to the company only with the amount of subscribes capital and pro rate to their capital contribution with regards to the third party receivables.

LLC shareholders are jointly and severally liable for the public debts with their own personal assets.

A limited company has full tax liability, and is taxable on its worldwide income.

A company must engage a locally qualified accountant, to be responsible for the accounting records of the company, tax returns and annual accounts.

The salaries of all employees of a company are subject to income tax and social security contributions.

Limited Companies cannot be floated on the Stock market, nor operate banks or insurance businesses.

**Branch**

A foreign company can establish a branch in Turkey. This is effectively a wholly-owned subsidiary which is entitled to trade. Main features are as follows:

A branch has a limited tax liability in that it is only taxable on income earned in Turkey. It is considered non-resident for tax purposes.

A branch of a foreign company can be incorporated, then a person who is residing in Turkey shall be appointed as a manager/representative.

The branch is managed by a manager who is granted authority by the parent company through a Power of Attorney.

There is no specific requirement for 'minimum capital'; although it does not have share capital as such it is subject to the Turkish Commercial Code much like any company.

A Branch must engage a locally qualified accountant to be responsible for the accounting records of the company, tax returns and annual accounts.

Employees of the company are subject to local taxes in the same way as in any Turkish company.
Profits of a branch office may be repatriated to the parent company without having to retain reserves locally.

**Liaison Office**

Though not actually an “investment entity”, a Liaison office is seen as a ‘first step’ to further investment although some foreign companies choose to continue to operate through this vehicle. The main features of a Liaison Office are as follows:

Permission from the General Directorate of Foreign Investment (GDFI) is required to establish a Liaison Office. In applying for permission a report justifying the establishment of the office must be submitted. Permission is granted for no more than 3 years at a time, and the GDFI may decide to refuse permission in subsequent years if it decides that a company or branch should be formed to carry out the activities.

The liaison office must represent a corporate body established outside Turkey.

It is not entitled to trade in Turkey, and all its expenses must be met by foreign currency brought in from outside the country. As such, care must be taken to ensure that its activities are not deemed as commercial and that it is not receiving funds from anywhere other than the parent company.

Salaries of Liaison office employees are not subject to Income Tax. Foreign Employees are also exempt from paying Social Security Contributions. However Turkish employees do pay Social Security Contributions on their salaries and the office must pay Employer’s contributions.

Except in the case of closure of the office, funds may not be remitted to the parent company.

A liaison office must be registered at the tax office, and while it pays no tax on income it receives it still must pay withholding tax applicable to rent payments and to charges from independent professionals.

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**Taxation:** Briefly explain the country’s tax regime including rates and how rates differ based on business structures.

**Tax Residency**

According to Turkish legal system, taxation differs according to the taxpayer’s place of residence. If both the legal and the business headquarters of an entity are located outside Turkey, such entity is regarded as a non-resident entity and shall be liable for the tax only for the income derived from the activities in Turkey. Resident entities are subject to tax on their worldwide income.

A brief outline of the principal taxes affecting foreign entities in Turkey are set out below. Other smaller taxes do exist and may apply from time to time.

**Corporation Tax**

This is taxation applied on profits of corporate entities. Currently it is assessed at 20% and profits are computed according to Turkish accounting principles.

Quarterly interim corporation tax returns must be submitted and quarterly profits are taxed at 20%. After the year end an annual return is submitted and any outstanding tax is payable in 3 instalments during the course of the subsequent year.

Tax losses may be carried forward and set off against future profits in the assessment of future corporation tax.

Withholding tax of 15% is applied to dividends which are remitted to shareholders (or the parent company in the case of a branch).
**Income Tax**

Income tax is charged on salaries and the profits of non-incorporated bodies and self-employed people.

Tax on salaries is applied progressively, from a starting rate of 15% up to a top rate of 35%.

Tax on self-employed people is applied progressively, up to a top rate of 35%.

Withholding tax must be paid on rent of property from individuals, at a rate of 20% of gross rent. It should be noted that generally rents are negotiated net, and so in effect the withholding tax payable added on to the agreed amount, and this works out to be a tax of 25% of the net rent paid. Withholding tax is also applied to the charges of local independent professionals such as accountants, lawyers and architects.

The income and withholding tax return is submitted quarterly for companies with fewer than 10 employees and monthly for those with more.

**Value Added Tax (VAT)**

VAT is applied upon the sale of most goods and services, at varying rates, depending on the nature of goods and services being sold. 18% is the standard rate and reduced rates of 1% and 8% apply for certain basic food items, restaurants, education costs, books and paper. Companies registered for VAT may set off the VAT paid on their purchases against VAT charged on sales.

VAT is also paid on the importation of goods to Turkey, at the applicable rates. Whilst this tax must be paid separately the amount of it may be set off against VAT on sales.

Exports of goods are not subject to VAT; export of services is not subject to VAT where they have been performed out of Turkey or are clearly benefited from outside Turkey.

Where input VAT (on purchases) exceeds output VAT (on sales) the balance is carried forward to be set off against future months’ payable tax. Generally a refund is not available except in the case of exporters who can apply for a refund, and this can be made after certain inspections.

VAT returns are submitted monthly.

There is no minimum threshold for being subject to VAT.

Other taxes are levied, such as stamp tax, banking and insurance transaction tax,excise taxes, special consumption tax, inheritance tax and vehicle purchase tax. In addition, there are various local taxes, dues, payments and similar charges that are paid to the local municipality such as real estate tax and environmental cleaning tax (popularly called “trash tax”).

**Visas and Work Permits**

According to Law on Foreigners and International Protection Law No. 6458 of 28 March 2013 (the “Foreigners Law”), and International Workforce Law No. 6735 of 28 July 2016 (the “Workforce Law”) foreigners wishing to reside and work in Turkey must obtain a visa, work permit and residence permit.

A foreigner should have a passport as well as visa (if not exempt) to visit Turkey. All passport owners can acquire visas from the Turkish Foreign Representatives located in their country or e-visa at the airport.

**Residence Permit**

1. Short-Term Residence Permit for Foreigners

Foreigners who intend to stay in Turkey for a period longer than the visa exemption, or for more than ninety days must obtain a residence permit.
To apply for a short-term residence permit, foreigners who own real estate in Turkey or will establish a business or commercial connections in Turkey must submit certain documents to the relevant Provincial Directorate of Immigration Administration (Göç İdaresi) after the application is made through the e-residence system. Short-term residence permits are issued for a maximum of two years. A residence permit is invalidated if it is not used within six months.

2. Long-Term Residence Permit for Foreigners
For a long-term residence permit, foreigners that have continuously resided in Turkey for at least eight years should submit the certain documents to the relevant Provincial Directorate of Immigration Administration (Göç İdaresi). Long term residence permits are issued indefinitely.

Work Permit

Foreigners can file an application to obtain a work permit in Turkey either while located in Turkey or abroad.

In the case of applications filed abroad, foreigners are required to file an application at a consulate of the Republic of Turkey in the country of which they are a citizen or a permanent resident. The application should be accompanied by a labor contract, letter of assignment, or a document stating company partnership. The employer in Turkey is required to file an online application and submit the required information and documents to the Ministry of Labor and Social Security, either in person or via mail, within ten business days following the date of the candidate’s application to a consulate. The consulates of the Republic of Turkey and the ministry will execute online the procedures for the work permit applications filed abroad.

Foreigners whose applications are approved by the Ministry of Labor and Social Security must enter Turkey within a maximum of hundred and eighty days after the date the work permit is issued. In the case of applications filed in Turkey, with the exception of residence permits issued for education in Turkey, foreigners who hold residence permits with a remaining term of at least six months, or employers thereof, may file work permit applications. Such foreigners are not required to submit an application to the consulates of the Republic of Turkey. The documents required for the application must be submitted to the Ministry of Labor and Social Security, either in person or via mail, within a maximum of six business days after the online application.

The procedures regarding duly submitted work permit applications are concluded by the ministry within a maximum of thirty days provided all required documents are submitted in full. In the case of applications filed abroad, the ministry forwards the affirmative or negative decision regarding the work permit application to the relevant consulate of the Republic of Turkey (via the Ministry of Foreign Affairs), which notifies the applicant.

The methods and principles concerning work permits to be issued to foreigners to be employed in Turkey vary by the relevant sector, such as education, housekeeping services, health services, tourism, aviation, entertainment, and others, as well as with respect to foreign direct investments, special foreign direct investments, professional services, and liaison offices.
According to Foreign Direct Investment Law No. 4875, foreigners are entitled to enter into Turkish market without any restriction, such as establishing joint stock companies, limited liability companies, branches and liaison offices in Turkey, as per Turkish Commercial Code No. 6102. However, foreign ownership may require permits from the relevant governmental authorities in some sectors such as follows:

- a. Private Radio and Television Broadcasting,
- b. Maritime transport within Turkish territorial seas, Turkish harbors
- c. Aviation of passengers, post, load in Turkish airports
- d. Airport ground services
- e. Petroleum and mining activities
- f. Electricity Market,
- g. Banking activities,
- h. Establishment of Private Education Institutions,

Incorporation of liaison office of a foreign company, must be notified to Foreign Investment Directorate and be established upon permit of Undersecretariat of Treasury.

The most major issue when dealing with local authorities in a business combination is to obtain sector specific permits, registering the transaction with the Trade Registry Office or other relevant bodies (if required) and merger clearance process. Finalization of these steps usually requires additional time, therefore needs to be considered while drafting the transaction documents.

For the settlement of disputes the investors can apply either to the authorized local courts, or to national or international arbitration or other means of dispute settlement. Juries are not part of the court system in Turkey. Both for civil and criminal cases, first instance courts are the first stage judicial authorities to settle the disputes. There is a three tier appeal system, which means Regional Court of Appeal examines the files coming from the first instance courts and Supreme Courts examine the decision of Regional Court of Appeal, if appealed by the applicant.

There are also administrative courts and tax courts, which deal with cases brought against the administrative bodies by virtue of implementation of the administrative legislation and tax elated disputes. In addition, Constitutional Courts audit the consistence of judicial decisions and the laws with the constitution and Court of Jurisdictional Dispute audits the disputes of jurisdictions between the courts.

The Turkish legislation governing the anti-money laundering are (i) Law to Prevent the Laundering of Criminal Income No.5549 dated 11 October 2006 (the "Law to Prevent Money Laundry") (ii) Regulation to Prevent the Laundering of Criminal Income and Financing of Terrorism No.26751 dated 9 January 2008 (the "Regulation to Prevent Money Laundry No. 1") (iii) Regulation on Obligations in the Compliance Program to Prevent the Laundering of Criminal Income and Financing of Terrorism No. 26999 dated 16 October 2008 (the "Regulation on Compliance Program"), (vi) Ministry of Finance’s Communique published in Official Gazette on 27 September 2008 dated No.27010 (the "Ministry of Finance’s Annunciation").
The Turkish legal system prohibits unfair competition via the relevant provisions of the Turkish Code of Obligations, the Turkish Commercial Code and specific laws enacted exclusively for the purpose of protection of competition, such as “Anti-Dumping Law” and “Law on Protection of Competition”. Mergers and acquisitions of companies are subject to the clearance from the Turkish Competition Authority as per Communiqué No. 2010/4, if the turnover of the parties exceeds the thresholds indicated in the Communique.

### Types of transaction: How may businesses combine?

In Turkey, the businesses usually combine via share transfers, asset transfers, mergers, acquisitions, spin off, joint ventures or unregistered partnerships. The business combine transactions usually governed by Turkish Commercial Code No. 6102 and Turkish Code of Obligations No. 6098.

### Competition Law: How do laws impact competition?

Turkish legal system prohibits unfair competition via the relevant provisions of the Turkish Code of Obligations, the Turkish Commercial Code and specific laws enacted exclusively for the purpose of protection of competition, such as “Anti-Dumping Law” and “Law on Protection of Competition”. Mergers and acquisitions of companies are subject to the clearance from the Turkish Competition Authority as per Communiqué No. 2010/4, if the turnover of the parties exceeds the thresholds indicated in the Communique.

### Employment Relations: Briefly summarize major laws impacting employment and employee relations.


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**Law to Prevent Money Laundry** sets out the procedures and grounds to prevent money laundering defines criminal income and determines the responsible administrative bodies to prevent money laundering. It shall apply on legal entities working in banking, insurance, individual annuity insurance, capital market, money loan and other financial services, post and logistic, luck and bet games, foreign exchange, real estate, precious stone and mine, jewelry, work machine, historical artifacts, trading or brokerage antiques and art pieces, notaries, sports clubs and all other entities determined by Council of Ministers. Such entities have to appoint an auditor to inspect their compliance with the relevant requirements of Compliance Program. Regulation on Compliance Program defines some precautions to prevent money laundering such as preparation of a compliance program by each legal entity subject to Law to Prevent Money Laundry.

### Penalties

Pursuant to the Criminal Law No. 5237 dated 26 September 2004 (“Criminal Law”), money laundering is punished by imprisonment between three (3) and seven (7) years and by a judicial fine up to twenty thousand (20000) days. Also receivers and concealers will be imprisoned between two (2) and five (5) years and the public officers, organizations shall be subject to special penalties.

### Anti-corruption and Anti-bribery

There is no specific anti-corruption and anti-bribery law in Turkey. The Criminal Law, Law No. 3628 on the Declaration of Assets and Combating Bribery and Corruption (the Asset Declaration Law), Law No. 657 on Civil Servants (the Civil Servants Law); and the Law Related to the Establishment of the Council of Ethics for Public Services and Amendments to Some Laws (the Ethics Rules Law) are the key legislations governing the anti-corruption and anti-bribery issues.
The mergers, acquisitions, share transfers, asset transfers and joint ventures have generally ruled by the Turkish Commercial Code No. 6102 dated 13 January 2011; Turkish Code of Obligations No. 6098 dated 11 January 2011 and he Capital Markets Law No. 6362 dated 6 December 2012.

### Statutes and regulations: What are the main laws and regulations governing business combinations?

The mergers, acquisitions, share transfers, asset transfers and joint ventures have generally ruled by the Turkish Commercial Code No. 6102 dated 13 January 2011; Turkish Code of Obligations No. 6098 dated 11 January 2011 and the Capital Markets Law No. 6362 dated 6 December 2012.

### Governing Law: What law typically governs the transaction agreements?

The parties of the transaction agreement can apply either Turkish or foreign law to the contract. In most cases, the law applicable to the target company is chosen as the governing law of the transaction agreements. However, even if the transaction agreements are governed by a foreign law, the transfer of shares or assets of a Turkish company must comply with certain formalities under Turkish law and procedures should be followed as per the Turkish law.

### Filings & Fees: Which government or stock exchange filings are necessary in connection with a business combination? Are there stamp taxes or other government fees payable in connection with a business combination?

Generally, business combinations concerning the private entities do not require any permission from the governmental authorities, except if merger clearance is required. Share transfer in the limited liability companies, mergers and spin-offs need formalization before Notary public and are to be registered with the Trade Registry Office. In addition, in case of the share transfer or take over by the foreign shareholders, whether real person or legal entity, the transaction should be notified to the Directorate of Foreign Direct Investment. If real estate is involved in the transaction, the transfer is to be registered with the relevant Title Deed Office.

Business combinations involving listed companies at the Istanbul Stock Exchange will require certain disclosures and approval from the Capital Market Board. The transaction agreements which will have effect in Turkey are subject to stamp tax and minor amount of fees payable while filing the business combinations to the relevant authorities. There are also sector specific permit and filing requirements for the business combinations, particularly in petroleum, energy, mining and banking sectors. For consummation of the business combination transactions in the specific sectors, the parties are required to obtain permission from the relevant regulatory bodies.

### Information to be Disclosed: What information must be made public in a business combination? Does this depend on the structure used?

The information to be made public and the type of publicity will depend on structure of the business combination and the private or listed nature of the acquirer and target. For instance, the share transfer in the limited liability companies should be made public however, in the joint stock companies this can be kept confidential.

### Disclosure of substantial shareholdings: What are the disclosure requirements for owners of large shareholdings in a company? Are the requirements affected if the company is a party to a business combination?

Listed companies must disclose immediately any information that is likely to have an impact on the stock price of the shares or on the decision of an investor to buy or sell shares. According to the Communiqué on Exceptional Situations, Serial II-15.1 ("Disclosure Communiqué") transfer of 5% or more shares of a listed company is considered as information which may have an impact on the decisions of investors and subject to disclosure requirement.

In addition, if a real person or a legal entity becomes a sole shareholder of a joint stock company, then the name and address of the sole shareholder should be disclosed via Trade Registry Gazette. The requirements are not affected if the company is a party to a business combination.
**Duties of directors and controlling shareholders:**
What duties do the directors or managers of a company owe to the company’s shareholders, creditors and other stakeholders in connection with a business combination? Do controlling shareholders have similar duties?

Directors’ general duties include diligent administration, faithful protection of corporate interests, loyalty and confidentiality. The general duty includes specific provisions regarding the misuse of an influential position and insider trading information, to prevent conflicts of interests and maintain the secrecy of all confidential information. Directors are liable to the company, its shareholders and its creditors for damage caused due to their willful acts and gross negligence, acts contrary to the articles of association of the company. All directors are jointly and severally liable. A director can only be released from liability if he or she proves that he or she acted in due care and/or she/he is a non-executive director, in other words he/she is not a signatory.

In addition, if the capital and contingency reserves of the company is depleted up to the levels indicated in the Turkish Commercial Code, due to the losses of the company, then the directors are obliged to invite the shareholders for a meeting and take necessary measures. Controlling shareholders have no duties under Turkish law to the company or the majority shareholders in connection with a business combination other than contributing their own share capital.

**Approval and appraisal rights:**
What approval rights do shareholders have over business combinations? Do shareholders have appraisal or similar rights in business combinations?

The shareholders may have pre-emption or tag along rights in the event of a share transfer to a third party. In corporate re-organizations such mergers, acquisitions and spin-offs, approval by majority of the shareholders of the companies will be required.

**Hostile transactions:**
What are the special considerations for unsolicited transactions?

‘Hostile’ transactions are not permitted under Turkish law, since prior to mandatory approval of board of directors and shareholders, it is not possible to take action and finalize the transactions, such as merger, share transfer, spin off.

**Break-up fees – frustration of additional bidders:**
Which types of break-up and reverse break-up fees are allowed? What are the limitations on a company’s ability to protect deals from third-party bidders?

Break-up fees are specifically described under Turkish legislations, however, the parties of the transaction may agree on penalties in case of break up by the other party, or breach of the agreements. In case a break up penalty is agreed between the parties, the claiming party is not required to prove its damages in order to be entitled to the penalty amount.

**Conditional offers:**
What conditions to a tender offer, exchange offer or other form of business combination are allowed? In a cash acquisition, may the financing be conditional?

There is no specific reference to the conditional offers under Turkish law. However, due to the freedom of contracts principle under Turkish law, the transaction agreement may include certain conditions. In cash acquisitions, financing may be included as a condition precedent to the transaction documents. However, while structuring financing, the restrictions under Financial assistance restrictions should be considered while structuring financing preconditions. To be more specific, under Turkish law, it is prohibited for a target company to enter into an agreement for loan, advance or security to grant its shares to finance the acquisition of its own shares. For the publicly held companies, the conditional offers are prohibited.
### Government influence: Other than through relevant competition regulations, or in specific industries in which business combinations are regulated, may government agencies influence or restrict the completion of business combinations, including for reasons of national security?

As indicated herein above, transactions in certain sectors, such as, energy, mining, banking, media, aviation, IT and insurance, require specific permits from the relevant governmental institutions. In addition, in Radio and Television and Broadcasting Services companies and aviation sector, the foreign shareholders cannot exceed a certain percentage of the total capital of the company.

An official Ministry of Customs and Trade representative must attend all general assembly meetings for companies active in banking, financial leasing, asset management, insurance and independent audit companies. For other companies, a representative must attend meetings where the agenda of the general assembly includes amendments for articles of association such as increasing or decreasing capital, adopting or leaving the registered capital system, changing the company’s field of activity, merger, split or change of company type.

It is the case that there have been examples where businesses combinations have not been permitted or have been limited due to concerns of national security.

### Financing: If a buyer needs to obtain financing for a transaction, how is this dealt with in the transaction documents? What are the typical obligations of the seller to assist in the buyer’s financing?

The conditions of financing are usually implemented in the transaction documents. The transaction documents usually indicate the financial method and the financing risk is mostly borne by the buyer. In case the buyer receives loan from the bank, the bank also participates the due diligence phase or requests additional securities from the buyer.

### Minority squeeze-out: May minority stockholders be squeezed out? If so, what steps must be taken and what is the time frame for the process?

The parties of the merger transactions may determine a squeeze out fee pro rata to the shares of the existing minority shareholders. In this case, 90% of the transferor entity’s shareholder’s approval should be obtained. The squeeze-out fee should be equal to the actual value of the acquired shares. Shareholders of the publicly held companies are also granted with squeeze-out right as per the relevant Capital Markets regulations.

### Cross-border transactions: How are cross-border transactions structured? Do specific laws and regulations apply to cross-border transactions?

There is no specific laws of regulations implemented for cross-border transactions. The general laws described above cover cross border transactions. Parties are free to choose the governing law.

### Waiting or notification periods: Other than as set forth in the competition laws, what are the relevant waiting or notification periods for completing business combinations?

Depending on the transaction type, there are certain waiting periods under Turkish law for completing the business combinations:

In a merger transaction, the participating companies must provide certain documents for shareholders’ review at their headquarters of the company, 30 days prior to the general assembly meeting at which the merger will be approved. Similarly, the companies participating the demerger transaction, must provide certain documents for shareholder’s review at the company’s headquarters two months prior to the general assembly meeting at which the demerger will be approved.
Companies participating in a merger or demerger, must announce the transaction in the Trade Registry Gazette and on their websites. Publicly traded companies must also make announcements as required by Capital Markets laws and disclose the transaction documents (i.e., merger or demerger agreement, merger or demerger report, financial statements) on the Public Disclosure Platform and the companies' websites 30 days prior to the general assembly meeting.

In addition, the companies participating merger, should publish an announcement in the Trade Registry Gazette for their creditors to make claim for payment, within three months of the merger transaction being registered. Similarly, the creditors must be notified about the demerger transaction via the Trade Registry Gazette for them to make claims within three months of the date of the last announcement. Additional requirements of announcement and notification to stakeholders may also be required for acquisition, merger or demerger of a financially distressed target. If these aren’t complied with, creditors might ask for annulment of the transaction (question 20).

### Sector-specific rules: Are companies in specific industries subject to additional regulations and statutes?

Companies active in specific sectors are often subject to additional regulations and statutes. Particularly for the companies operating in IT, banking and finance, energy and mining services approval may be required for share transfers, mergers and demergers from the relevant regulatory bodies such as the Energy Markets Regulatory Authority, the Banking Regulation and Supervision Agency, Mining Affairs General Authority, the Information and Communication Technologies Authority. In addition publicly held companies are subject to Capital Markets regulations.

### Tax issues: What basic tax issues are involved in business combinations?

In general;

Stamp tax applies for all agreements that include an amount Capital gains on share sales are subject to corporate tax of 20%. The capital gain derived from the shares held by a tax-resident entity at least two years before the sale of the share, is exempt from the corporate tax by 75%. In the merger transactions, the value contributed to the surviving entity by the dissolving entity is subject to corporate tax. However, there are certain tax exemptions for the merger transactions which should be evaluated case by case basis. Income arising from partial demergers is tax-free, as well as exempt from VAT, legal fee and stamp duty obligations. Non-residents should be consider within the scope of the treaties preventing double taxation.

### Labor and employee benefits: What is the basic regulatory framework governing labour and employee benefits in a business combination?

In case of a workplace transfer, the transfer shall not constitute a just cause for termination, all employment agreements will be transferred to the transferor employer. In this case, the transferor and the transferee shall be jointly liable for the employee entitlements prior to the transfer date. The transferor employer’s liability for these obligations is limited to two years after the transfer date.

In case of a merger or demerger transaction, the employees may object to the transfer of their employment agreement. In case the employee raises and objection to the transfer, then employment agreement will be termination at the end of the notice period.
### Restructuring, bankruptcy or receivership: What are the special considerations for business combinations involving a target company that is in bankruptcy or receivership or engaged in a similar restructuring?

According to Turkish Commercial Code, the companies in liquidation may participate in a merger transaction if distribution of its assets has not begun and the company will be the acquired company in the transaction.

A company that has depleted its total capital and statutory reserves, or is insolvent, may participate in a merger if the acquiring company has sufficient equity to meet the lost capital. The companies in bankruptcy cannot involved in mergers or demergers because during bankruptcy process.

### Anti-corruption and sanctions: What are the anti-corruption, anti-bribery and economic sanctions considerations in connection with business combinations?

Turkish Criminal Code, No. 5237 ("Criminal Code") mainly governs the issues in relation to corruption. There are no specific rules in relation to anti-corruption, anti-bribery and economic sanctions considerations in connection with business combinations. In general the foregoing crimes and offences are described in the Criminal Code.

According to the Criminal Code, the bribery action occurs in case the representatives of the public entities, or partners of public entities, associations established for public interest and publicly traded joint stock companies take an advantage from another person or entity to perform or not to perform a task which is considered within the scope of their duty.

While the Criminal Law allows for penalties to be sanctioned on real persons who commit the crime or are engaged in the committing of any such crime, the Turkish Criminal Code does not stipulate that a company, having a legal personality, is to be the subject to penalties for crimes committed. However companies can be subject to certain security measures. Therefore, if a bribe creates an unlawful benefit to a legal entity, the entity shall be punished through three measures: (i) invalidation of the licence granted by a public authority; (ii) seizure of the goods which are used in the commitment of, or the result of, a crime by the representatives of a legal entity; and (iii) seizure of pecuniary benefits arising from or provided for the commitment of a crime. Bribery warrants imprisonment from 4 to 12 years for the incumbent government official and bribe-giver, and appropriate measures are taken (such as confiscation of property, cancellation of licences, etc.) against legal entities benefiting from bribery, subject to attenuating and aggravating circumstances as set forth in the Turkish Criminal Code. In addition to the foregoing, if the public official who receives a bribe is a judge, a notary public or a sworn financial consultant, the length of imprisonment shall be increased by one third.

Law to Prevent the Laundering of Criminal Income No.5549 dated 11 October 2006 sets out the procedures and grounds to prevent money laundering defines criminal income and determines the responsible administrative bodies to prevent money laundering. It shall apply on legal entities working in banking, insurance, individual annuity insurance, capital market, money loan and other financial services, post and logistic, luck and bet games, foreign exchange, real estate, precious stone and mine, jewelry, work machine, historical artifacts, trading or brokerage antiques and art pieces, notaries, sports clubs and all other entities determined by Council of Ministers. Such entities have to appoint an auditor to inspect their compliance with the relevant requirements of Compliance Program.

Pursuant to the Criminal Law, money laundry is punished by imprisonment between three and seven years and by a judicial fine up to TRY 20,000/day. Also receivers and concealers will be imprisoned between 3 and five 7 years and the public officers, organizations shall be subject to special penalties.