

## COUNCIL OF MINISTERS DECISION REGARDING THE INDEPENDENT AUDIT OF COMPANIES

*by Gokmen Baspinar and Burak Gencoglu\**

### A. INTRODUCTION

Turkish Commercial Code (“TCC”) dated 13.01.2011 and numbered 6102 introduces significant provisions regarding good management and internal and independent audit that are to be applied to capital stock companies. The council of ministers decision (“decision”), concerning the determination of the companies which are subject to independent audit, is published on the Official Gazette dated 23.01.2013 and numbered 28537. This decision specifies the procedures and principles for companies which are subject to auditing in the scope of the TCC article 398.

The decision enters into force on the date it is published on the Official Gazette, namely on January 23<sup>rd</sup>, 2013. However, it shall be effective from January 1<sup>st</sup>, 2013 for the related persons.

### B. COMPANIES SUBJECT TO INDEPENDENT AUDIT

In the event a company is subject to independent audit; the auditor of the company must be an independent auditing firm whose shareholders hold the title of sworn financial advisor or a certified public accountant. Small and medium-sized joint stock companies can elect one or more sworn financial advisors or certified public accountants as auditor.

The decision classifies the companies, subject to independent audit, under three different categories:

- I. List Number (I) annexed to the decision is the first category which determines the companies required to have independent auditors.

The companies mentioned in the list number (I) are;

- Certain companies subject to the Capital Market Board’s supervision (i.e. Investment institutions, portfolio management companies, asset leasing companies, credit rating agencies etc.),
- Certain companies subject to Banking Regulation and Supervision Agency’s supervision (i.e. Banks, factoring and financial leasing companies, credit rating agencies, financing companies, asset management companies etc.),

- Insurance, reinsurance and pension companies,
- Authorized institutions active in the Istanbul Gold Exchange, brokerage companies dealing with precious metals,
- Joint-stock companies licensed for agriculture products storage, joint-stock companies incorporated pursuant to public warehouses law,
- Media service providers who own national terrestrial, satellite, cable televisions.

**II.** Companies, including their subsidiaries and affiliates, which meet at least two criteria mentioned below are subject to independent audit:

- 150 million TL and higher total assets
- 200 million TL and higher total net annual sales
- 500 or more employees

In the event a company meets at least two of the above mentioned requirements both in 2011 and 2012; this company should be subject to independent audit in 2013. This company should appoint its auditors in its General Assembly which should take place until the end of March.

**III.** Companies, including their subsidiaries and affiliates, stated in the List Number (II) annexed to the decision, should be subject to independent audit provided that limitations in the List Number (II) are taken into account.

In the event a company meets at least two of the criteria stated in the List Number (II) both in 2011 and 2012; this company should be subject to independent audit in 2013. This company should appoint its auditors in its General Assembly which should take place until the end of March.

## C. IMPLEMENTATION PRINCIPLES

A company is subject to independent audit beginning from the following accounting period, provided that it meets at least two criteria in two consecutive accounting periods. In the event the company is unable to meet at least two criteria in two consecutive accounting periods or

the company is under the mentioned limits for twenty per cent (20 %) or more; then the company is exempted from independent audit as of the following accounting period.

Financial statements, to be taken account for calculating total assets and total sales figures, are the 2011 and 2012 financial statements which are prepared in accordance with the current regulations (Tax Procedure Law). Average of the 2011 and 2012's employee numbers should be taken account for calculating the employee number criteria mentioned in the decision.

Figures stated in the parent company and subsidiary/affiliate company's financial statements should be summed up and this total number (excluding internal group transactions) should be taken account to determine whether a company having subsidiaries/affiliates is required to have independent auditor or not. Average number of employees working in the company and its subsidiary/affiliate in 2011 and 2012 should be taken account for calculating the employee number criteria mentioned in the decision.

Turkish Accounting Standards provisions should be implemented for the issues which are not regulated in the decision.

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*

*Gokmen Baspinar is the founding partner and Burak Gencoglu is an associate at Baspinar & Partners Law Firm. They can be contacted at [gokmen.baspinar@baspinar.av.tr](mailto:gokmen.baspinar@baspinar.av.tr) and [burak.gencoglu@baspinar.av.tr](mailto:burak.gencoglu@baspinar.av.tr) respectively.*