Registered Share Capital System in Non-Publicly Traded Joint Stock Companies

The Turkish Commercial Code No 6102 considerably changed the longstanding legal framework on companies law. Registered share capital system (*kayıtlı sermaye sistemi*) (the "**System**") for non-publicly traded joint stock companies is one of the major changes introduced by the new Code.

In the System, the Board of Directors of a joint stock company is allowed to unilaterally increase the share capital within the limits set forth in the Articles of Association, without the intervention of the General Assembly of Shareholders. Below are the key aspects of this system:

- ***Glossary***.
  - ***Initial share capital***. Share capital amount that companies intending to adopt the System must have. Initial share capital amount may not be less than 100.000.-TL (~EUR 55,000).
  - ***Issued share capital***. Total amount of share capital representing total nominal value of shares issued to shareholders.
  - ***Registered share capital***. Maximum amount of share capital ceiling that a Board of Directors is authorized to unilaterally increase the share capital.
- ***Adoption of and acceptance to the System***.
  - The System may be adopted at incorporation or after.
  - Prior authorization of the Ministry of Customs and Trade (the "**Ministry**") must be obtained.
  - Articles of Association must be amended to allow the functioning of the System.
  - To adopt the System, the issued share capital, which must not be less than the initial share capital, must be paid in full.
  - ***Limits to the System***.
    - ***Duration***. Authorization given to the Board of Directors to increase the share capital may be of maximum five (5) years. This period may be extended before its expiry by a decision of General Assembly of Shareholders.
    - ***Amount of registered share capital***. Registered share capital may be up to five (5) times of the initial share capital. This amount may be revised from time to time by amending Articles of Association considering the issued share capital.
    - ***Specific powers***. If the Board of Directors is vested with the power(s) to issue privileged or premium (*agio*) shares and/or to restrict preemption rights of shareholder(s) during share capital increases, these specific powers must be explicitly stated in the Articles of Association.
- ***The increase***.
  - ***Functioning***. The share capital may be increased by a Board of Directors resolution up to the registered share capital. Approval of the Ministry is not required for increases.
  - ***Exception***. If the share capital will be increased through *internal funds*, registered share capital may be exceeded.
- ***Exit***.
  - ***Voluntarily***. By obtaining approval of the Ministry, a company may exit from the System.
  - ***Automatically***. If Board of Directors will not use its power to increase share capital up to registered share capital within the authorization period, the company is deemed automatically left the System.
  - ***By the Ministry***. Under certain circumstances the Ministry may also remove a company from the System.
  - ***Consequences of the Exit***.
    - ***Principle***. Prohibition for two (2) years to re-accepted to the System.
    - ***Exceptions***. If (i) management of the company changes, or (ii) circumstances that pulled the company out of the System cease to exist, such company may be re-accepted to the System.