

Crowdfunding Legislation Introduced in Turkey

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I - Introduction

On December 5th, 2017, with the Omnibus Bill No. 7061 published on the Official Gazette, the Capital Markets Law No. 6362 (“Law”) is amended in a way to pave the way for the financing tool “crowdfunding” in Turkey. As per the changes introduced under Articles 3, 4, 16, 35/A and 99 of the Law, Turkey is now one of the few countries which governs crowdfunding in its domestic legislation. The Turkish Capital Markets Board (“Board”) is now authorized to regulate crowdfunding and license crowdfunding platforms in accordance with the legislation. The Board is also authorized to enact the secondary legislation for crowdfunding.

The idea behind the amendment is encouraging investment in start-ups by way of building a bridge between small-scaled funders and start-ups through online crowdfunding platforms.

Our article hereby summarizes how crowdfunding works and the principles under the Law.

II – What is Crowdfunding?

Crowdfunding, as explained by the European Commission¹, is a way of raising money to finance projects and businesses. It enables fundraisers to collect money from a large number of investors (investors can include companies, non-profit organizations, and individuals) via online platforms.

In Turkey, Article 3 of the Law describes crowdfunding as “fundraising through funding platforms in an attempt to provide a project or entrepreneurs with the required funding within the principles set forth by the Board, without being subject to provisions related to investor compensating of the Law.”

There are more than 600 crowdfunding platforms around the world, with fundraising reaching billions of dollars annually, according to the research firm Massolution.² According to a Commission Report published in 2015, amongst 510 platforms operating in the EU within the period under observation, the UK had the largest number of platforms (143), which also accounted for the majority of the €2.0 billion raised by the participating platforms in total. The UK was followed by France, with 77 platforms, Germany (65 platforms), the Netherlands (58 platforms) and Italy (42 platforms)³.

¹ See at https://ec.europa.eu/growth/tools-databases/crowdfunding-guide/what-is/explained_es

² See at <https://www.entrepreneur.com/article/228125>.

³ [http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/595882/EPRS_BRI\(2017\)595882_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/595882/EPRS_BRI(2017)595882_EN.pdf)

III - How Does Crowdfunding Work?

Crowdfunding, so-called “social media version of fundraising”, is a new sector and is still developing. According to the European Commission, fundraisers are usually charged a fee by crowdfunding platforms if the fundraising campaign has been successful. In return, crowdfunding platforms are expected to provide a secure and easy to use service.

While advantages of crowdfunding are piling up from reaching out to a global audience/customer group to actualizing a business idea almost without cost, there is, as always, the flip side of the coin. Many platforms require entrepreneurs to meet their stated goals in order to receive the funds that have been pledged to their idea. This means if entrepreneurs fail to reach their pre-determined funding amount after putting in a longtime of work and effort, donations can be returned to the funders.

IV – Legislative Criteria in Turkey

Below is the outline of new crowdfunding principles introduced with the Law in Turkey.

- The Board will be regulating crowdfunding within the boundaries of the Law and enacting the secondary legislation accordingly.
- Online/electronically operating crowdfunding platforms will be required to obtain a license from the Board and those who carry out crowdfunding activities without obtaining a license from the Board, will face access ban of the website with the decision to be given by the Information and Communication Technologies Authority.
- Crowdfunding will not be deemed as a public offering of shares, thus will not be subject to the related legislation such as requirement of issuing an offering circular.
- The Board will determine the rules and procedures applicable to establishment, shareholders, share transfers, employees, maximum funding limits of these platforms and fund collection for one project/company and will be authorized to monitor and audit compliance of crowdfunding activities with these standards.
- According to Article 35/A of the Law, crowdfunding platforms and relationship between investors and entrepreneurs will be subject to the general conditions of Turkish laws (e.g. general rules under Turkish Commercial Code and the Turkish Code of Obligations).

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(First published in Mondaq on January 2, 2018)