



Publicly Traded Companies: New Amendments Introduced to the Communiqué on Shares (VII-128.1)

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The Capital Markets Board of Turkey (“**CMB**”) has amended “Article 27 - Obligation to Issue Memorandum of Information as to the Shareholders of Publicly Traded Companies” of the Communiqué on Shares (VII-128.1) (“**Communiqué**”) and expanded the coverage of the article. The amendments came into effect with publication in the Official Gazette No. 31195, dated July 24, 2020. In this article, we will focus on the most prominent changes related to the Communiqué recently introduced by the CMB.

The former version of Article 27 was stipulating that if shareholders of a publicly traded company, holding the management control, had a plan to sell their shares on the stock exchange with the ratio exceeding (i) 10% of the share capital or (ii) 50% of nominal value of the shares being in actual circulation, in any period of twelve-months, they had to issue a memorandum of information in the form sought by the CBM and obtain the CBM’s approval for this document before the contemplated sale process. Furthermore, if the shares subject to the sale were not listed on the stock exchange, approved version of the memorandum of information had to be published in the Public Disclosure Platform (KAP) as well before application to the Central Securities Depository (MKK). That said the wholesales realized in relevant market of the stock exchange were exempt from the foregoing requirements.

Amended version of Article 27 still requires issuing a memorandum of information in the form sought by the CBM, obtaining the CBM’s approval for this document, publishing approved version of it in the Public Disclosure Platform (KAP) and applying to the MKK (if necessary); however, it has essentially changed qualifications of the shareholders and sales fall under such requirements. In this regard, the share sales, to occur in any period of twelve-months and exceeding 10% of the share capital, of the shareholders who have (a) more than 20% of the share capital alone or with other shareholders acting together or (b) privileged shares providing the right to elect or nominate at least one member of the board of directors have become subject to the foregoing procedures.



In order to provide clarity and consistency on implementation of Article 27, the article has also defined the persons that would be regarded as acting together with the foregoing shareholders, and elaborated the timing of necessary public disclosures as well as calculation of the share sale ratio exceeding 10% of the share capital. Moreover, besides the wholesales realized in relevant market of the stock exchange; the share sales realized through orders, within the scope of liquidity providing/market making and secondary offerings of public companies have been also exempt from the coverage and requirements of said article. It is also worth noting that Article 27 will no longer apply to the shares held by public institutions and organizations, Türkiye Varlık Fonu Yönetimi A.Ş, its sub-funds or other companies, the Privatization Administration. Previously, such exemption was only covering the Privatization Administration amongst the government-linked entities.

It should be also underlined that on July 24, 2020 on which new amendments entered into force, the CMB published an announcement on its website regarding implementation of Article 27 and introduced a guideline including the statutory draft for the memorandum of information together with the relevant explanations thereof.

In light of the above, the shareholders of the publicly traded companies should consider amended version of Article 27 and new draft of the memorandum of information, regularly follow up further announcements of the CMB that could be made on this matter, and take necessary actions in case of potential share sale transactions to comply with Turkish capital markets legislation.

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