

**CAPITAL MARKETS LAW NEWSLETTER**

This newsletter updates readers on the recent developments occurred in July 2024 in the capital markets. It includes (i) new regulations on intermediary institutions as stipulated with the Principle Decision numbered 36/1043 in the Turkish Capital Markets Board (the “**Board**”) Bulletin dated 11.07.2024 and numbered 2024/32 (the “**Principle Decision**”); and (ii) the administrative fines imposed on Astor Enerji AŞ and its independent board members in supervision committee due to failure to comply with reporting obligations related to the use of funds obtained from the initial public offerings (“**IPO**”).

**1. Principle Decision on Intermediary Institutions**

New regulations have been stipulated with the Principle Decision regarding the minimum capital commitments and operating conditions of intermediary institutions.

The legal basis for the Principle Decision is the Communiqué on Principles Regarding Intermediary Institutions (“**Communiqué**”), which regulates the capital requirements and adequacy of intermediary institutions in accordance with Articles 31 and 34 of the Capital Markets Law numbered 6362 (“**Law**”). Article 31 of Law states that the total amount of debt instruments issued by issuers cannot exceed the limit set by the Board, which may vary according to the type of issue, the issued debt instrument, and the nature of the issuers. Article 34 defines capital market activities, which include investment services and ancillary services under the law.

The Principle Decision amends the Communiqué by establishing new minimum capital commitments and operating conditions for intermediary institutions. These new requirements aim to enhance the stability and reliability of intermediary institutions in the Turkish capital markets.

**2. Administrative Fines Imposed on Astor Enerji A.Ş. and its Independent Board Members**

Astor Enerji A.Ş. (“**Astor**”) and its independent board members (whose qualifications are defined in the Board’s Communiqué on Corporate Governance No. II-17.1, including but not limited to not holding shares in the company and being a non-executive board member) in supervision committee have been subjected to administrative fines by the Board.

The fine was imposed due to violations of the Communiqué on Shares numbered VII-128.1. Specifically, Astor failed to comply with reporting obligations related to the use of funds obtained from the initial public offering, as outlined in Article 33 of the Communiqué on Shares. This article mandates that companies’ supervision committee must prepare a report detailing the intended use of funds from a capital increase through an IPO and submit this report to the Board for approval. The report must also be publicly disclosed and is prepared by the same committee.

Astor violated these requirements by failing to submit the required reports on the use of IPO funds in accordance with the regulations. As a result, the Board imposed administrative fines of TRY 777,835.00 each on both Astor and its independent board members on the supervision committee.

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## L A W F I R M

This case and especially the fines imposed on independent board members in supervision committee highlight that *(i)* full compliance with capital markets regulations- even for independent board members- matters, and *(ii)* lack of compliance by independent board members, by failing to fulfill their reporting obligations shall cause them to face administrative fines.

### 3. Fines Imposed by the Board for Violation of Corporate Governance Principles

Alkim Kimya A.Ş. and Ayen Enerji A.Ş. have been subjected to administrative fines by the Board due to being in violation of Corporate Governance Principles regulated in Communiqué on Corporate Governance No. II-17.1.

Violation of the Communiqué on Corporate Governance No. II-17.1 arises when public companies fail to comply with the Corporate Governance Principles determined by the Board. According to the Communiqué, companies are required to act in accordance with the principles of transparency, accountability, responsibility and fairness.

Violations of the Communiqué on Corporate Governance No. II-17.1 may be observed in the practices of companies in the areas of board structure and functioning, company policies and practices, disclosure and transparency, and shareholder relations. In the event of such violations, the Board imposes penalties on the relevant companies and their executives.

Article 4.3.4 of the Corporate Governance Principles states that the number of independent board members within the board of directors shall not be less than one-third of the total number of board members, and that in any case, the number of independent members shall not be fewer than two.

Due to the failure to elect enough independent board members at the shareholders' meeting to meet the required ratio in the board of directors, the Board announced the imposition of an administrative fine of TRY 139,566.00 on Alkim Alkali Kimya A.Ş. and TRY 311,134.00 on Ayen Enerji A.Ş., totaling TRY 450,700.00.

### 4. Recent IPOs

In July 2024, the Board authorized 1 (one) company's (DCT Trading Dış Ticaret A.Ş.) IPO application.

Should you have any inquiries, please do not hesitate to contact us.

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