

INITIAL PUBLIC OFFERINGS 2023

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INITIAL PUBLIC OFFERINGS 2023

Contributing editors**William R Golden III and Aarth S Thamodaran**Simpson Thacher & Bartlett LLP

Lexology Getting the Deal Through is delighted to publish the eighth edition of *Initial Public Offerings*, which is available in print and online at www.lexology.com/gtdt.

Lexology Getting the Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique Lexology Getting the Deal Through format, the same key questions are answered by leading practitioners in each of the jurisdictions featured.

Lexology Getting the Deal Through titles are published annually in print. Please ensure you are referring to the latest edition or to the online version at www.lexology.com/gtdt.

Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Lexology Getting the Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to the contributing editors, William R Golden III and Aarth S Thamodaran of Simpson Thacher & Bartlett LLP, for their assistance with this volume.

 LEXOLOGY
Getting the Deal Through

London
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Turkey

İltem Dokurlar, Kerem Turunç and Naz Esen

Turunç

MARKET OVERVIEW

Size of market

1 | What is the size of the market for initial public offerings (IPOs) in your jurisdiction?

In 2021, there were 32 IPOs in Turkey, compared to eight during 2020, raising a total of approximately 14.6 billion Turkish liras, according to the information provided by the Capital Markets Board of Turkey (CMB). Since 2016, companies have raised approximately 23 billion liras of funds through IPOs. In line with these increases, in terms of the number of public offerings among the world stock exchanges, Borsa İstanbul rose 14 places to 13th place.

As at April 2022, there were over 2.4 million individual investors in the equity market, compared to 1.2 million at the beginning of 2020.

2022 has already seen an increase in the number of IPOs and expected IPOs. As of 25 March, 21 companies had officially applied to the CMB for the approval of an IPO prospectus. Despite macroeconomic setbacks in the early part of the year, investors' interest in capital markets instruments has increased compared to the previous year, and the number of IPOs in 2022 is expected to be significantly higher than in the past few years.

Issuers

2 | Who are the issuers in the IPO market? Do domestic companies tend to list at home or overseas? Do overseas companies list in your market?

In accordance with the Capital Markets Law and the Communiqué on Shares (VII-128.1), only joint stock companies are allowed to go public and have their shares listed on Borsa İstanbul, Turkey's national stock exchange. To be listed on Borsa İstanbul, the company must have been incorporated for at least two years prior to its application for listing.

As of May 2022, there were 557 companies listed on Borsa İstanbul, of which 167 were listed on the Stars Market (BIST STAR) and 230 on the Main Market (BIST MAIN).

Domestic companies tend to list at home. One of the two very rare examples is Hepsiburada, an e-commerce company, which was listed on Nasdaq in 2021. The other is Turkcell, a major telecommunications company, which was the first Turkish company to list on the New York Stock Exchange in 2000.

Even though it is not common practice, it is also possible for a foreign company to be listed on Borsa İstanbul. As at March 2021, there was only one foreign company, DO & CO Aktiengesellschaft, incorporated in Austria, listed on Borsa İstanbul.

Primary exchanges

3 | What are the primary exchanges for IPOs? How do they differ?

Borsa İstanbul is the only stock exchange in Turkey. Borsa İstanbul was previously known as the Istanbul Stock Exchange or İstanbul Menkul Kıymetler Borsası (İMKB).

Borsa İstanbul consists of four main markets: the equity market, the debt securities market, the derivatives market, and the precious metals and diamond market.

The equity market, where publicly held companies are traded, has seven sub-markets. The foremost of these are the BIST Stars Market, BIST Main Market and BIST SubMarket.

BIST Stars Market is the market where companies with a market cap of actual free float shares of at least 300 million liras, and a free float ratio of at least 15 per cent are traded. BIST Main Market is the market where companies with a market cap of actual free float shares of between 75 million liras and 300 million liras, and a free float ratio of at least 20 per cent are traded. Companies with a market cap of shares in actual free float of between 40 million liras and 75 million liras, and a free float ratio of at least 25 per cent are traded on the BIST SubMarket.

The market where a company applying for listing on Borsa İstanbul will be traded is determined by the Borsa İstanbul's board based on the Borsa İstanbul's listing department's review of the issuer's application. The detailed criteria for the listing are set forth in the Listing Directive of Borsa İstanbul.

REGULATION

Regulators

4 | Which bodies are responsible for rulemaking and enforcing the rules on IPOs?

The Capital Markets Board of Turkey (CMB) is the main body regulating Turkish capital markets, including the rules on IPOs. CMB is an autonomous regulatory body authorised to promulgate secondary legislation under the Capital Markets Law (CML), and mostly exercises this power via specific, topic-based communiqués. The CMB also issues from time to time interpretive guidance on the implementation of the CML and its secondary legislation. The CMB is also vested with enforcement powers.

In addition to the CMB, Borsa İstanbul, the Central Security Depository (CSD), and Istanbul Settlement and Custody Bank (Takasbank) are the main rulemaking and enforcement authorities on IPOs.

The most important pieces of legislation applicable to companies considering going public in Turkey are the following:

- Capital Markets Law;
- Communiqué on Shares (VII-128.1);
- Communiqué on Prospectus and Issuance Document (II-5.1);
- Communiqué on Sales of Capital Market Instruments (II-5.2);
- Communiqué on Material Events (II-15.1);

- Communiqué on Corporate Governance (II-17.1);
- Listing Directive of Borsa Istanbul; and
- relevant directives, general letters and announcements of Takasbank and the CSD.

Authorisation for listing

5 | Must issuers seek authorisation for a listing? What information must issuers provide to the listing authority and how is it assessed?

For capital market instruments to be offered to the public and admitted to trading on Borsa Istanbul, a prospectus is required to be prepared. The prospectus must be approved by the CMB and issuers are also required to obtain Borsa Istanbul's authorisation to have their shares listed.

The Listing Directive of Borsa Istanbul details the eligibility requirements and lists the documents to be provided by issuers in their listing applications. These documents include, among others, the following:

- 'Information form' (as per Borsa Istanbul's pre-set template) signed by the company;
- amended articles of association approved by the CMB;
- Turkish identity numbers or tax identity numbers of the relevant parties;
- statement of the issuer verifying that its shares are not restricted by encumbrances precluding the shareholders from using their shareholding rights, and that its articles of association does not contain provisions restricting the transfer and circulation of shares to be traded on the stock exchange;
- if the company is subject to special laws and regulations, a copy of the relevant certificates of authorisation and permission it received, and if it is operating under licence of another corporation, a copy of licence and other similar agreements in connection therewith;
- financial statements and independent audit reports prepared in accordance with CMB regulations;
- draft prospectus;
- underwriting or intermediary agreement(s), and other agreements signed with investment firms, if any;
- signature circular of the authorised signatories of the company;
- independent legal opinion;
- price determination report;
- results of public offering sales in the format as determined by the exchange; and
- investor list of the finalised IPO.

Per the Listing Directive, if a shortcoming is observed in an application for listing, which may prevent the secure, transparent, efficient, stable, fair and competitive operation of the exchange, Borsa Istanbul's board is authorised to refuse the application for listing outright, or to decide that the shares should be traded on a market different from the market where they would normally have been traded in accordance with the Listing Directive, or to transfer the shares to the Watchlist Market.

Prospectus

6 | What information must be made available to prospective investors and how must it be presented?

Issuers are required to publish a prospectus in connection with an IPO. Per the Communiqué on Prospectus and Issuance Document (II-5.1), the prospectus may be prepared as a single document, or as multiple documents so as to contain information about the issuer and the capital markets instrument to be issued, as well as a summary section. The CMB may require the preparation of the prospectus as a single document or multiple documents based on nature of the issuance or the capital markets instrument to be issued.

If prepared as multiple documents, the prospectus will consist of the following three different documents:

- a registration document, providing information on the capital, management and activities, financial situation and profitability of the issuer and the guarantor, if any, and persons in charge of management and audit of the issuer;
- a securities note providing information regarding the characteristics of, and rights, obligations and risks associated with the capital markets instrument to be issued or admitted to trading on the stock exchange, and information about the public offering and trading on the stock exchange; and
- a summary using brief, clear and easy-to-understand language, drafted in accordance with the information included in the registration document and the securities note, and containing basic information relating to the issuer, any guarantors and the nature of any guarantees, as well as the fundamental characteristics and the rights and risks associated with the capital markets instrument to be issued.

If the prospectus is to be prepared as a single document, the foregoing information must be provided in the same document.

The draft prospectus must be submitted to the CMB for approval before the public offering or admission to trading on Borsa Istanbul. Within five business days following the date of such application to the CMB, the prospectus must be published on the issuer's website, if the issuer is already a member of the Public Disclosure Platform (PDP) on the PDP website, and on the website of the relevant intermediary institution as well. If the announcement is made after the submission to the CMB but before the approval, it must be clearly expressed in the front part the prospectus that the prospectus has not yet been approved by the CMB.

Once the prospectus is approved by the CMB, within 15 business days of the date of receipt of such approval, it must be published on the issuer's website, and if the issuer is a member of PDP on the PDP website, and on the website of the relevant intermediary institution as well. The issuer may also choose to publish the CMB-approved prospectus in the press and other media.

Publicity and marketing

7 | What restrictions on publicity and marketing apply during the IPO process?

Publicity and advertisements, including the verbal declarations, regarding the IPO must be consistent with the information contained in prospectus, must not contain untrue, exaggerated or misleading information, and must not lead the investors to form inaccurate opinions or impressions about the issuer, the relevant capital markets instrument, or the guarantor, if any.

If a public offering price is included in the advertisements or other publicity materials, it must be clearly stated that neither the CMB nor the stock exchange has any discretion or approval right in the determination of the public offering price of the shares to be offered for sale. The prospectus, and any publicity or advertisement relating to the issuance, must not contain any statement to the effect that the approval of prospectus or the issuance document is a representation, warranty or recommendation given by the CMB.

The advertisement text must be drafted to be easily recognised as an advertisement and must contain a disclaimer stating that any investment decision must be taken only upon a due review of the prospectus and other relevant documentation.

Any advertisements and publicity published after the date of application to the CMB for approval of the prospectus, but before the date of publication of the prospectus, are required to be solely about the sector

in which the issuer operates, and the issuer's position in this sector, its field of business, and goods or services produced by the issuer. Such advertisements and publicity must also clearly state that the prospectus has not yet been approved. If the prospectus has been approved but not yet published, the place of publication must also be mentioned.

Advertisements and other publicity following the approval and publishing of the prospectus must provide information on the places where the copies of the prospectus may be obtained, and the websites, including the Public Disclosure Platform, where the prospectus is published.

Any information provided by the issuer or the intermediary institution with respect to the public offering, and addressed to investors in general or to a specific group of investors, including foreign investors, must also be included in the prospectus. Issuers must refrain from engaging in any kind of action that may result in information asymmetry among investors.

Enforcement

8 | What sanctions can public enforcers impose for breach of IPO rules? On whom?

The CMB has various statutory tools for sanctioning issuers and other market participants who are found to be in breach of the Capital Markets Law and relevant secondary legislation.

In cases of less severe violations (eg, breach of certain disclosure rules), the CMB has the right to impose administrative fines ranging from several thousand to several hundred thousand Turkish liras. In cases where a benefit has been made by way of a violation of a statutory obligation, the amount of the administrative fine to be imposed must be at least twice the amount of the benefit made. For more severe offences, the CMB is also authorised to temporarily or permanently prohibit the violators from trading on regulated stock exchanges or cancel the licences of their authorised personnel.

For an unlawful or unauthorised public offering of shares, the CMB can seek injunctive relief from courts. Such issuances can also be sanctioned by judicial (punitive) fines or imprisonment (through a court trial in both cases).

If the CMB determines that unauthorised capital markets' activities, including an IPO, are being carried out via the internet, in cases where the domain and hosting are located within Turkey, the CMB must file a request with an authorised court to restrict access to the related website, and in cases where the domain and hosting are located abroad, the Information and Communications Technologies Authority will restrict access upon the request of the CMB.

In cases where suspected insider trading or market manipulation activities are in question, the CMB has a broad authority, including imposing partial or outright trading restrictions on the alleged violators, requiring the use of different clearing and settlement methods, and imposing additional guarantee obligations. Insider trading and market manipulation can also result in the disgorgement of profits, judicial (punitive) fines and imprisonment (through a court trial in all cases).

The CMB has an extensive range of discretionary powers available to take various measures to ensure the efficient and robust functioning of the capital markets. However, in cases of offences subject to punitive fines and imprisonment (ie, capital markets crimes), the CMB must file a criminal complaint with the public prosecutor's office and is not authorised to impose such sanctions on its own initiative.

TIMETABLE AND COSTS

Timetable

9 | Describe the timetable of a typical IPO and stock exchange listing in your jurisdiction.

The timing of an IPO depends on several factors, including the complexity of the transaction, the size of the issuance, and the corporate structure of the issuer. There are many other factors that may be relevant in a given IPO roadmap such as the financial particularities of the issuer, features of the industry in which the issuer operates, the method to be used in the IPO, as well as the overall market conditions during the course of the actual IPO process. Therefore, it is difficult to create a one-size-fits-all timetable, although prospective issuers would be well advised to spare at least six months ahead of their planned IPO to complete the necessary preparations. Below is a general roadmap that issuers go through in a typical IPO scenario.

Preliminary

Because the IPO process and listing on Borsa Istanbul require various procedures to be completed internally or through external professional assistance, it is necessary to constitute an internal working group within the issuer for carrying out and coordinating the required work. This task force should ideally be comprised of members of staff from different functions such as finance, tax, legal and public relations, as well as relevant mid- to senior-level managers. The working group should draft a detailed time plan ahead of the applications to be filed with the Capital Markets Board (CMB) and Borsa Istanbul, and start including all relevant parties as early as possible in the process, including outside advisers.

The first required step after the company takes a decision to undertake an IPO is the revision of its articles of associations to ensure its compliance with capital markets regulations. The company must submit the contemplated amendments to the CMB for approval.

In parallel, the issuer needs to sign an agreement with an intermediary institution authorised by the CMB. Companies applying for an IPO must have their financial statements prepared in accordance with capital markets regulations, which requires the sign-off of an independent audit firm accredited by the CMB.

The price determination process, one of the most crucial stages in an IPO application, is undertaken by the intermediary institution. Neither Borsa Istanbul nor the CMB can intervene in this process.

The preliminary preparations usually take several months.

Official application and marketing

The company is required to draft a prospectus and apply to the CMB for approval. It must also apply to Borsa Istanbul for listing on the relevant market. A simultaneous filing with the CMB and Borsa Istanbul is advisable to reduce processing times. The applications may be filed directly by the company or on its behalf by the authorised intermediary institution. The prospectus and financial statements submitted to the CMB as part of the application process need to be made available on the websites of the issuer and the authorised institution.

The scope of the marketing efforts relating to the IPO is expected to be defined at this stage. This often includes executive statements on the company's intention to proceed with an IPO, and statements and other visuals showcasing the company's core business activities.

Following the successful filing of all required documentation, experts from both the CMB and Borsa Istanbul may visit the company's headquarters and other facilities to perform on-site investigations.

Borsa Istanbul normally evaluates the application and approves it within 20 business days if it is of the opinion that the conditions have been duly met. However, Borsa Istanbul can also request additional information from the company within 10 business days of the application, in

which case it may grant an additional 20 days to the company to provide the required information. Borsa Istanbul's listing approval will also be disclosed in the prospectus.

The CMB will approve the prospectus within 20 business days if the disclosure is found to be complete according to CMB standards and regulations. In practice, the CMB generally requests additional documents and information from prospective issuers. In this case, the company will be informed by the CMB regarding the requested information in writing or electronically within 10 business days of the date of application.

Once the prospectus is approved by the CMB, it must be published on the issuer's website within 15 business days of the date of receipt, as well as on the Public Disclosure Platform (PDP).

All issuers with listed securities are required to become members of the Central Securities Depository (CSD) and the PDP before the actual listing on the exchange takes place.

Offering

The public offering can take place only after the publishing of the prospectus and the price evaluation report, which sets forth the price and the price determination methods used by the intermediary institution, on the PDP. This report must be made available at least three days before the commencement of the public offering. The sale period will be determined by the issuer and must be no fewer than two and no more than 20 business days. The shares are offered to the public via an intermediary institution or a consortium of intermediary institutions within the dates and according to the principles set forth in the prospectus.

Once the sales operation is finalised, the intermediary institution publishes the figures on the PDP, and sends them to the CMB and Borsa Istanbul.

Finally, Borsa Istanbul will make one last evaluation to determine whether the sales operation fulfils the conditions of Borsa Istanbul's initial listing approval, which will have been rendered prior to the approval of the prospectus by the CMB and therefore disclosed in the prospectus. Upon the final sign-off by Borsa Istanbul, the shares will begin trading. A bell-ringing ceremony is held on the first trading day of the stock on Borsa Istanbul.

Costs

10 | What are the usual costs and fees for conducting an IPO?

According to Borsa Istanbul's estimation, the aggregate amount of the fees and various costs correspond roughly to four to seven per cent of the total offering proceeds for listings on the main equity market. These costs and fees, by and large, lend themselves to the following classifications.

Intermediary Institutions, IPO advisory and legal consultancy fees

Issuers pay fees to intermediary institutions, as determined by the agreements to be signed with these institutions. These are generally assessed as a certain percentage of the proceeds of the IPO. Additionally, issuers pay consultancy fees to their legal advisers and to specialised IPO advisers, who assist them throughout the process.

Capital Markets Board fees

Issuers are required to deposit the Capital Markets Board fee into the bank account of the CMB before the CMB's approval of the prospectus. The fee is the sum of (1) 0.1 per cent of the difference between the nominal value of the shares offered and their IPO offering price, and (2) 0.2 per cent of the nominal value of any shares that are not being publicly offered.

Fees paid to Borsa Istanbul

To incentivise IPOs, Borsa Istanbul does not charge listing fees on new listings. However, Borsa Istanbul charges a fee on applications for the start of trading of the float on the relevant market, which can be deducted from the yearly maintenance fees to be charged in future years. As an additional incentive to attract foreign listings, Borsa Istanbul waives 50 per cent of the fees on applications for the start of trading of the float and maintenance fees for all IPOs (whether through an initial or dual listing) for foreign issuers.

Fees paid to the Central Securities Depository

The Central Securities Depository collects a membership admission fee from companies going public, which is calculated as 0.1 per cent of the paid-in share capital of the company (minimum and maximum fees being approximately 6,500 liras and 163,500 liras respectively).

Other costs

In addition to the foregoing, costs such as fees to be paid to independent auditors for preparing the independent audit report and marketing expenses should be factored in.

CORPORATE GOVERNANCE

Typical requirements

11 | What corporate governance requirements are typical or required of issuers conducting an IPO and obtaining a stock exchange listing in your jurisdiction?

There are board composition requirements for companies to be listed on the BIST Stars and BIST Main markets. In accordance with the Communiqué on Corporate Governance (II-17.1), the board of a public company cannot consist of fewer than five members, and the majority of the board is required to be composed of non-executive directors. Among the non-executive members of the board of directors, there must also be independent members. The number of independent members cannot be less than one-third of the total number of members. In any case, the board must contain at least two independent members.

Per the Communiqué on Corporate Governance (II-17.1), issuers are required to form an audit committee, an early risk detection committee, a corporate governance committee, a nomination committee, and a remuneration committee to ensure that the board of directors fulfils its duties and responsibilities properly.

Issuers are also required to establish an investor relations department to establish open communication with their investors. This department prepares and submits a report to the company's board at least once a year regarding its activities.

New issuers

12 | Are there special allowances for certain types of new issuers?

To incentivise IPOs, Borsa Istanbul does not charge listing fees on new listings. As an additional incentive to attract foreign listings, Borsa Istanbul waives 50 per cent of the fees on applications for start of trading of the float and maintenance fees for all IPOs (whether through an initial or dual listing) for foreign issuers.

Anti-takeover devices

13 | What types of anti-takeover devices are typically implemented by IPO issuers in your jurisdiction? Are there generally applicable rules relevant to takeovers that are relevant?

Hostile takeovers are not common in Turkey. The majority of publicly held companies listed on Borsa Istanbul do not have their majority

shares in free float. Majority is usually held by a single controlling shareholder or small group of shareholders acting in concert, which prevents hostile takeovers in practice.

Turkish law does not specifically govern hostile transactions although voluntary tender offers and squeeze-out transactions are permitted, and their procedures are regulated.

If a person or persons acting together acquire control of a public company by fully or partially acquiring the shares of the company, they are required to make a takeover bid. This mandatory tender offer requirement is also triggered if some shareholders enter into an agreement (eg, a voting agreement) that leads to joint control even if there is no change in the shareholding structure of the publicly held company.

Anti-takeover defences are not specifically regulated in Turkish law. In voluntary tender offers, the board of directors of the target company issues a report reflecting its opinions on the takeover bid, including its opinion on the strategic plans of the person making the takeover bid, and probable impacts of these plans on the target company and its employees. This report can be used to convince the shareholders against accepting the offer. The board can also apply to the Capital Markets Board to request additional time to convene a shareholders' meeting to assess the offer and competing offers, if any.

Antitrust concerns can also be used as a potential defence.

FOREIGN ISSUERS

Special requirements

- 14 | What are the main considerations for foreign issuers looking to list in your jurisdiction? Are there special requirements for foreign issuer IPOs?

The Communiqué on Foreign Capital Market Instruments and Depositary Receipts and Foreign Investment Funds (VII-128.4) regulates issuances by foreign issuers. Foreign issuers are normally subject to the same IPO rules as domestic issuers. That said, foreign issuers are required to appoint either fully authorised intermediary institutions or development and investment banks, resident in Turkey, as their representatives. There is no requirement for a foreign issuer to be already listed in its country of domicile in order to be listed in Turkey.

However, the Capital Markets Board (CMB) is authorised to impose pre-conditions to issuances by foreign companies in addition to those listed in the Communiqué on Foreign Capital Market Instruments and Depositary Receipts and Foreign Investment Funds in order to protect the investors and the market.

Foreign issuers must apply to Borsa Istanbul with the information and documents indicated in the Listing Directive for the listing of their securities. To incentivise foreign listings, Borsa Istanbul waives 50 per cent of the fees on applications for start of trading of the float and maintenance fees for all IPOs (whether through an initial or dual listing) for foreign issuers.

Selling foreign issues to domestic investors

- 15 | Where a foreign issuer is conducting an IPO outside your jurisdiction but not conducting a public offering within your jurisdiction, are there exemptions available to permit sales to investors within your jurisdiction?

As a general rule, foreign issuers are obliged to obtain CMB approval for their IPO prospectus, if the offering is intended to take place in Turkey, regardless of the origin of the issuer. This requires the translation of the prospectus into Turkish, and fulfilling the applicable disclosure requirements of the CMB.

That said, it is possible for a Turkish investor or investor based in Turkey to participate in a foreign IPO by a foreign issuer without having the IPO approved by the CMB, if the marketing to such investor is carried out while the investor is outside of Turkey (subject to compliance with the laws of the jurisdiction where the investor is in at the relevant time) and any subscription documents are signed outside of Turkey, so that the offer and subscription are deemed to be effected outside of Turkey.

Alternatively, an investor of any kind, including an institutional investor or an individual, may participate in an IPO not approved by the CMB, provided that (1) the investor contacts the entity conducting the offering on its own initiative without any solicitation by such entity and (2) the entity conducting the offering is established and located outside of Turkey. Investors can also use, on their own initiative, Turkish intermediaries to invest in foreign securities through such intermediaries' international networks.

Any unsolicited act of marketing in any of the situations described above would amount to an 'offering' under the Communiqué on the Foreign Capital Market Instruments and Depositary Receipts and Foreign Investment Funds (VII-128.4) and trigger the obligation to have the IPO approved by the CMB. Therefore, any unsolicited marketing, whether in the form of a call, email, or any other means, to an investor in Turkey is prohibited. Additionally, no investment advice should be given to an investor in Turkey in the context of the response to an unsolicited request. Such responses to unsolicited requests by Turkish investors should provide only factual information about the IPO and not any advice on the merits of investing in the securities being offered in the IPO.

TAX

Tax issues

- 16 | Are there any unique tax issues that are relevant to IPOs in your jurisdiction?

With a recent amendment to the Turkish Corporate Tax Law, the corporate tax rate applicable to companies going public for the first time will be discounted by 2 per cent for five fiscal years, including the year during which the company goes public, on the condition of the initial and subsequent free float of the company not fall below 20 per cent of its issued share capital.

As for investors, the earnings arising from the sale of the shares traded on Borsa Istanbul, excluding shares in investment trust companies (*menkul kıymet yatırım ortaklığı*), which may be subject to withholding depending on the investor and the holding period, are exempt from withholding tax. These earnings are also exempt from the income tax of individual investors.

INVESTOR CLAIMS

Fora

- 17 | In which fora can IPO investors seek redress? Is non-judicial resolution of complaints a possibility?

Investors seeking redress will normally bring their claims before Turkish courts unless the parties are able to resolve the dispute out of court through available alternative dispute resolution methods, such as arbitration and mediation.

Under the Capital Markets Law, Borsa Istanbul is also authorised to settle disputes arising from or relating to the transactions taking place on the exchange (exchange transactions). The term exchange transaction encompasses the entire life cycle of any trade on Borsa Istanbul, from the initial order through settlement.

Investors can also submit a complaint to the Capital Markets Board if they believe the issuer or any other person involved in the IPO has violated any applicable capital markets legislation.

Class actions

18 | Are class actions possible in IPO-related claims?

Although the Turkish Civil Procedure Code allows a type of class action by associations or other entities on behalf of their members or groups whose interests they represent, in practice, class actions are not common for IPO-related claims, or in general at all, in Turkey.

Claims, defendants and remedies

19 | What are the causes of action? Whom can investors sue? And what remedies may investors seek?

Issuers are normally the main responsible party of any losses incurred by investors due to inaccurate, misleading or missing information in the prospectus. If investors are not able to have their losses compensated by the issuers, they may be able to resort to selling shareholders, the leader intermediary institution and the guarantor, if any. Board members of the issuer are also responsible to the extent of any fault and the wrongdoing that can be attributed to them according to the circumstances of the situation.

Furthermore, experts such as independent auditors, lawyers, rating agencies and appraisal firms whose reports have been included in the prospectus may also be liable for any inaccurate, misleading or missing information in their reports.

UPDATE AND TRENDS

Key developments

20 | Are there any other current developments or emerging trends that should be noted?

2021 was a record-breaking year for IPOs in Turkey. A total of 32 companies raised approximately 14.6 billion liras through IPOs, and approximately 200,000 new retail investors started trading on the equity markets for the first time. This created a certain momentum in the market and in 2022, as at the end of April, 15 companies' IPO applications had been approved by the Capital Markets Board (CMB).

As part of a recent reform initiative, the government announced in March 2021 that legislation regarding IPO rules and procedures is to be revised. According to the announced calendar, the steps to be implemented under the supervision of the CMB, amendments to strengthen the capital structure of companies, and steps to be taken to facilitate the public offering processes are to be finalised by the end of 2021.

In February 2021, the Listing Directive of Borsa Istanbul was amended. With the amendments, the minimum capitalisation requirement for the actual free float of shares was increased to 300 million liras from 200 million liras for BIST Stars market, to 75 million liras from 50 million liras for BIST Main Market, and to 40 million liras from 20 million liras for BIST SubMarket.

Additionally, with an amendment in November 2020 to the Turkish Corporate Tax Law, the corporate tax rate applicable to companies going public for the first time will be discounted by 2 per cent for five fiscal years including the year during which the company goes public, on the condition of initial and subsequent free float of the company not fall below 20 per cent of its issued share capital.

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