

New Regulatory Framework Unfolded for Establishment of Crypto Platforms

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Dear Clients, Colleagues and Friends,

Following the introduction of the law on the regulation of crypto assets and crypto asset service providers in the Capital Markets Law numbered 6362 (“**CML**”) on 2 July 2024, the Capital Markets Board (“**CMB**”) has introduced the first regulation on the establishment, shareholders, managers and share capital of platforms with the resolution published in its bulletin dated 8 August 2024 (“**Resolution**”).

Accordingly, the conditions for the establishment of platforms, the criteria for the founders, shareholders and managers of platforms, and the incorporation procedures have been clarified. In addition to other conditions for the establishment, the minimum share capital has been set at TL 50,000,000, which is lower than expected, and which enables the establishment of a large number of platforms and makes the secondary regulations regarding platforms even more important for the sector.

The main terms and conditions introduced by the Resolution regarding crypto asset platforms are summarized below.

1. The conditions for the establishment of platforms have been clarified.

In addition to the above-mentioned minimum capital amount and the conditions required for the founders, platforms must fulfil the following criteria in order to be authorized by the CMB for their establishment:

- They should be established as a joint-stock company,
- All shares should be issued as registered shares and in return for cash,

- Share capital should be fully paid in cash and its equity is not less than such amount,
- Articles of association should comply with the provisions of the CML and related regulations,
- Articles of association should set out that the field of activity is exclusively crypto asset trading, initial sale or distribution, clearing, settlement, transfer and one or more of the custody transactions required by these transactions,
- The trade name should include the phrase “crypto asset trading platform” to indicate the services they will offer,
- The board of directors should consist of a minimum of three members,
- Transparency and openness of the shareholding structure.

2. Conditions for founders, shareholders and managers have been determined.

2.1. Conditions for founders and shareholders. In parallel with the conditions imposed on the shareholders of crypto asset service providers under Article 35/B-(3)(a) of the CML and the banking and intermediary institutions legislation, certain conditions have been introduced for platform founders and shareholders, such as not having a bankruptcy or concordat decision, not having a conviction for the listed crimes, having the necessary financial strength and the honesty and reputation required by the business. In addition to those listed in the CML, a condition has been set out that “the founders and shareholders must not be among the responsible persons for an event that led to the revocation of an activity permit by the CMB in institutions whose activity permits have been revoked”.

In addition, it is regulated that not only the shareholders of the platforms, but also the qualified or privileged shareholders of the legal entities that are shareholders of the platforms must meet these requirements, and that these requirements will also remain applicable for the changes in the shareholding structure after the establishment of the platform.

2.2. Conditions for managers. Managers are defined as members of the board of directors, general manager, deputy general manager and personnel who, regardless of their titles, are equivalent to the general manager and deputy general manager in terms of their powers and duties or who are authorized to represent the platform.

The Resolution sets forth that the managers within this scope must meet the conditions stipulated for shareholders, except for the financial strength requirement mentioned above, and in addition, the majority of the members of the board of directors must have a bachelor’s degree from a 4-year university.

3. Incorporation procedures and necessary documents have been regulated.

In addition to the articles of association complying with the aforementioned conditions for establishment and the documents evidencing that the conditions for the founders and managers are met, the Resolution also includes a list of required documents for the incorporation application such as the decision of the authorized body, documents related to the company’s custody infrastructure, information systems, risk management processes, and the application form. However, it is also emphasized that this application is only related to the incorporation, and platforms are required to apply to the CMB separately to obtain an operating license.

4. Transitional provisions for platforms currently operating are specified.

In accordance with the CMB's announcement dated 2 July 2024, the "List of Operating Platforms" and the "List of Platforms Declaring Liquidation" were published on the CMB's website. The Resolution reminded that platforms operating as crypto asset service providers are defined as "companies that have customers and/or custody balances of customers as of the date of application to the CMB" and clarified that the applications of companies that have declared that they have started operations within this period but that do not have any customers and/or custody balances of customers as of the date of application are not accepted, considering that their declarations do not meet the conditions required by the CML.

Furthermore, it is regulated that the deficiencies, except for some of the documents and forms specified in the CMB's announcement dated 2 July 2024, can be completed afterwards, and companies can be included in the "List of Operating Platforms" afterwards if the missing documents and information are submitted to the CMB within 15 business days at the latest following the request.

The companies that are included in the "List of Operating Platforms" or that will be included in this list by completing their deficiencies as stated above, must apply to the CMB by the close of business on 8 November 2024 by fulfilling the conditions stipulated in the Resolution.

In conclusion, following the amendment to the CML on crypto assets and the published operation lists, we note that the CMB has regulated the main issues regarding platforms in a short period of time with the Resolution. Given the determination of the aforementioned criteria and establishment procedures in a such short period of time, we believe that the market players for crypto asset platforms in Türkiye will be clarified and grow soon, while the procedures and principles regarding the issuance of capital market instruments as crypto assets will be further clarified through additional secondary regulations in the forthcoming period.

Please do not hesitate to contact us for any further information on this briefing.

Kind regards,



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