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## BUILDING CROWDFUNDING PLATFORMS IN TURKEY

**Crowdfunding** is funding a project by raising a total of small amounts of money from large numbers of people. It changed how the entrepreneurs funded their projects and also became a tool for building community, marketing, and testing their innovation. Moreover, it is a growing industry.



As of today, **USD 34 billion** have been raised via crowdfunding campaigns globally, and it is expected to reach **USD 300 billion** until 2030. This makes crowdfunding not only a useful tool for entrepreneurs, but also a profitable business for crowdfunding platform owners.



If you consider building one, here is a quick guide.

### 1. Applicable Regulations

There are four main types of **crowdfunding platforms** (CFP): debt-, share-, reward-, and donation-based. The debt- and share-based are the only ones, regulated in Turkey, likewise in Europe and the US.

Debt-based and share-based CFPs conducting activities in Turkey or targeting Turkish residents are subject to **Capital Markets Law** and **Capital Markets Board's Communiqué No. III.-35/A.2 on Crowdfunding** (Communiqué) pursuant to which they should be licensed by the **Capital Markets Board** (CMB).

### 2. The Founders and Shareholders of a CFP

Real or legal persons can be founders or shareholders of a CFP. The Communiqué does not set forth a minimum number of founders or shareholders, therefore, even a single shareholder can establish the CFP.

All the founders, real person shareholders, and “important shareholders” as defined under the Communiqué must have certain qualifications, such as:

- (i) not have been declared bankrupt or not have been rendered of a decision for composition (*konkordato*) or postponement of bankruptcy;
- (ii) not being among responsible persons at institutions whose license has been cancelled by the CMB; and,
- (iii) not have been sentenced for breaching the Capital Markets Law or for certain crimes such as bribery, money laundering, preventing functioning of information systems, deletion, alteration or corrupting of data, etc.

The Communiqué also indicates that the founders must possess “honesty and reputation” necessary for the crowdfunding business. Although there is no specific definition or reference for this requirement, CMB might consider the ethical rules applicable to other capital markets players.

### 3. Conditions for Building a CFP

To be licensed by the CMB, a platform must:

- be established as a joint stock company with a paid-in capital of at least TRY 1,000,000;
- have all of its shares in registered form (*nama yazılı*);
- have a share capital of at least TL 1,000,000 (at least TL 500,000 for first two years after the authorisation);
- have a business name which includes “Crowdfunding Platform” unless it is a development and investment bank or a participation bank or a broadly authorised intermediary institution;
- have internal control and risk management systems, accounting, and other operational departments in place;
- employ adequate number of personnel in charge of documentation, recording-data retention, and accounting operations;
- have policies for prevention of conflict of interest between its customers and employees;
- sign agreements with the **Central Registry Agency (CRA)** and an escrow agent to conduct operations for crowdfunding, and adopt data processing systems and technological infrastructure in compliance with the requirements of these institutions;

- establish information technologies systems required for narrowly authorized intermediary institutions;
- for a debt-based CFP, build an infrastructure to enable CRA's Investor Risk Tackling System exchange information with entrepreneurs and venture capital firms applied to the platform for their campaigns; and,
- build an infrastructure allowing its members to communicate over electronic media with entrepreneur and/or the venture capital firm's and/or the funded company's officers.



#### 4. Statutory Bodies of CFPs

The statutory corporate bodies of a CFP are:

(i) general assembly of shareholders and (ii) board of directors composed of at least 3 directors.

An investment committee composed of at least three members must be established by the board.



Members of the board and the investment committee must have the same qualifications as the founders and certain additional qualifications set forth under the Communiqué.

#### 5. Activities That Can Be Conducted By a CFP

CFPs are allowed to conduct share-based or debt-based crowdfunding activities only. However, development and investment banks, participation banks and broadly authorised intermediary institutions are exempt from this restriction.

The following are considered within the scope of the crowdfunding activities:

- providing consultancy services to entrepreneurs, venture capital companies, and funded companies;

- having shares in portfolio management companies authorized to establish a venture capital fund or accredited individual participation investor networks established as joint stock companies; and,
- providing funds to campaigns up to half of their share capital and 20% of the targeted funds for such campaign.

The crowdfunding activities below are explicitly prohibited by the Communiqué:

- crowdfunding for acquisition of shares in another company or for acquisition of real estate or rights over real estate, or for development of real estate projects;
- crowdfunding for (i) the CFP itself or projects/companies or (ii) companies CFP or CFP's shareholders, board members, or members of the investment committee or their spouses, descendants, or ascendants who own at least 20% of shares or voting rights, or own privileged shares entitling them to appoint a board member in such company;
- crowdfunding from Turkish residents for companies or real persons residing abroad;
- giving investment advice to investors;
- advertising services or products of projects being campaigned for crowdfunding;
- acting as intermediary for secondary sale of shares or debt instruments, unless it is a broadly authorized intermediary institution; and,
- for a share-based CFP: (i) lending activities in return for interest or any other revenue or by taking security interests; and (ii) crowdfunding in return for any capital market instrument other than shares.

## 6. Foreign CFPs' activities in Turkey

Crowdfunding platforms based outside of Turkey can receive funds from Turkish residents without being subject to the Communiqué.

However, opening a workplace or conducting marketing activities in Turkey, or having a website in Turkish are considered by the Communiqué as *"engaging crowdfunding activities targeting Turkish residents"*, and thus, being subject to licensing by the CMB.