

REGULATION FOR IMPLEMENTATION OF FOREIGN DIRECT INVESTMENT LAW

DATE OF OFFICIAL GAZETTE: 20 August, 2003 / 25205

PART I

OBJECTIVE, SCOPE, BASIS AND DEFINITIONS

OBJECTIVE AND SCOPE

Article 1 – The objective of this Regulation is to designate the procedures and principles of the issues that is laid down within Foreign Direct Investment (FDI) Law no. 4875 dated 5 June 2003.

BASIS

Article 2 – This Regulation is prepared as based upon Article 5, Paragraph (b) of FDI Law no. 4875.

DEFINITIONS

Article 3 – (Amended:O.G.7/3/2012-28342)

With regard to the implementation of this Regulation;

Ministry means, the Ministry of Economy,

General Directorate means, the General Directorate of Incentives Implementation and Foreign Investment,

Law means, Foreign Direct Investment (FDI) Law no. 4875, dated 5 June 2003.

PART II

DATA REQUESTS

STATISTICAL DATA TO BE PROVIDED FROM AUTHORITIES AND INSTITUTIONS

Article 4 - The Ministry obtains FDI data through Data Sharing Protocols it will set up primarily with the Central Bank of the Republic of Turkey, Capital Market Board, Ministry of Customs and Commerce, Ministry of Finance, The Union of Chambers and Commodity Exchanges of Turkey, Trade Registry Offices and other relevant public authorities and institutions and public professional organizations and NGOs, or through other procedures.

Within this framework, the relevant Trade Registry Offices shall send to the Ministry;

- a) One copy of the "Company or Branch Office Establishment Declaration Form and Petition" to be filled by the relevant persons, at the phase of company or branch office establishment within the context of Law,
- b) One copy of the amendments in the articles of association of these companies, subject to registration and announcement,
- c) One copy of the "Register of Shareholders" or "Register of Attendants" submitted to the Trade Registry Offices by these companies.

DATA TO BE REQUESTED FROM COMPANIES AND BRANCH OFFICES

Article 5 - a) Companies and branch offices subject to the provisions of the Law shall submit to the General Directorate;

- 1) Information on their capitals and operations, in accordance with the "FDI Operations Data Form" given as Annex I of the Regulation, on annual basis, latest until the end of May every year,
- 2) Information on the payments made to their equity accounts, in accordance with the "FDI Capital Data Form" given as Annex II of the Regulation, within 1 month following the payment,
- 3) Information on share transfers made between current domestic or foreign shareholders or to any domestic or foreign investor outside the company, in accordance with the "FDI Share Transfer Data Form" given as Annex III of the Regulation, and latest within 1 month following the realization of the share transfer.

b) If domestic companies, which are not subject to the provisions of the Law; becomes subject to the provisions of the Law via,

- 1) Participation of a foreign investor in the company, or
- 2) Participation of a foreign investor who is not already a shareholder of the company during the capital increase of the company,

they shall submit the information on the share transfers, in accordance with the "FDI Share Transfer Data Form" given as Annex III of the Regulation, to the General Directorate latest within 1 month following the realization of the share transfer.

PART III

LIAISON OFFICES

ESTABLISHMENT OF LIAISON OFFICES

Article 6 – The Ministry is authorized to grant permits and extend such permits to companies established in accordance with the laws of foreign countries to open liaison offices in Turkey, provided that they do not carry out commercial activities in Turkey.

The Ministry evaluates the liaison office opening permit applications of newly established foreign companies within the context of some elements such as the field of activity, the capital and the number of personnel employed and may stipulate the condition for the company to have been operational for at least one year in order to grant the permit.

Applications for establishment and extension shall be finalized within 15 days following the application, provided that the necessary information / documents are complete and proper.

Applications of foreign companies to establish liaison offices so as to operate in sectors subject to special legislation, such as money and capital markets, insurance, etc., will be assessed by authorities and institutions authorized by the relevant special legislation. Within the context of liaison office applications of foreign companies operating in specific sectors which are required to obtain permits, licence and other authorizations in Turkey, the Ministry, where deemed necessary, may consult with the relevant institutions that are authorized to grant such permits.

APPLICATION DOCUMENTS

Article 7 – The following documents have to be submitted to the Ministry for establishing a liaison office in Turkey:

- a) The Application Form (Annex-6),
- b) The Letter of Commitment indicating the scope of activity of the liaison office and including a statement that the office will not carry out commercial activities (Annex-7) and the authorization document of foreign company official who signed the letter,
- c) The “Certificate of Activity” of the parent company approved by the relevant Turkish Consulate or approved in accordance with the provisions of the Convention Abolishing the Requirement of Legalization for Foreign Public Documents, prepared on the basis of the Hague Conference on Private International Law,
- d) Operational report or balance sheet and income statement of the parent company,
- e) The certificate of authority issued to the name of the person/persons who is/are appointed to carry out the operations of the liaison office,
- f) The power of attorney in case that another person will carry out the establishment transactions of the liaison office.

In case that the application documents and documents related with the operations of the liaison office are submitted to the General Directorate in their original forms, the General Directorate approves the copy and gives the original document back to the applicant.

PROVISIONS REGARDING LIAISON OFFICE OPERATIONS

Article 8 – The following provisions govern the operations of liaison office:

- a) Liaison offices, in their first applications, are granted operation permits of 3 years at most. For extensions, the liaison offices are required to make an application before the expiration of their permissions.
- b) The General Directorate evaluates the extension applications within the framework of the past year activities of the liaison office, the foreign company’s prospective business plans and objectives for Turkey, the current and anticipated amount of expenditures and the number of personnel employed in the office and may conclude the application within the following durations that are determined in

accordance with the nature of activity. The permits obtained for market research or promotion of products or services of the foreign company are not extended.

Field Of Activity	Duration (Years)
Representation and Hosting (Representation of the foreign company at sectoral institutions and relevant organizations, coordination of business contacts of the company officers, meeting the office demands of those officers)	5
Control, Inspection and Provision of Local Suppliers (Provision of local producers and products for the foreign company and inspection of those suppliers in terms of the quality standards of the foreign company)	5
Technical Support (Provision of training and technical support services for distributors, supporting local suppliers for their enhancement of quality standards)	5
Communication and Transfer of Information (Collection and transmission of information to the foreign company having business contacts in Turkey such as the market conditions, consumption trends, sales of competitors and distributors, performance of distributors)	5
Regional Management Headquarter (Particularly oriented to other units of the foreign company in foreign countries; coordination and management of some operations such as formulation of investment and management strategies, planning, promotion, sales, after sales services, brand management, financial management, technical support, R&D, external supply, testing of newly developed products, laboratory services, research and analysis, training of personnel)	10

c) Liaison offices, having received their establishment permit, shall send a copy of the tax office registration and the rental contract to the General Directorate latest within 1 month. Liaison offices shall notify the General Directorate of any change in address, liaison representative/representatives and job title of the foreign company latest within 1 month by attaching the new rental contract, the authorization document of the new representative or the document indicating the job title amendment.

d) Liaison offices shall send the "Data Form for Liaison Office Activities" given as Annex IV of the Regulation and its accompanying documents to the Ministry every year latest until the end of May, so as to inform the Ministry about their activities of the previous year. The extension applications of the liaison offices which do not send this Form and its accompanying documents are not evaluated. Furthermore, operation permits may be cancelled ex officio.

e) The Ministry, on its own or on the written request of relevant institutions or organizations, may carry out inspections on the liaison offices whether their activities are in conformity with relevant legislation and the field of activity determined in their operation permits. Within the framework of the results of this inspection, the Ministry allows for a period of thirty days to the offices determined to have operated outside the scope of their permissions so as to provide them the opportunity to make an application for their actual operations. This period may be extended for thirty days at

most in case of justifiable reasons. The operation permits of the offices which do not make their applications within the given period are cancelled by the Ministry. On the other hand, the Ministry cancels the operation permits of the liaison offices ascertained, as a result of inspection, to have carried out commercial activities and notifies the relevant institutions thereof.

f) In the case that the liaison office terminates its activities, the “termination and examination of business note” to be received from the relevant tax office has to be submitted to the General Directorate. Liaison offices cannot claim any money transfer except the residue arising due to the termination and liquidation.

PART IV

MISCELLANEOUS PROVISIONS

COMPANY TYPES

Article 9 – The companies, which can be established or participated by foreign investors are “companies” designated in the Turkish Commercial Code and “unincorporated partnerships” designated in the Turkish Code of Obligations.

Partnerships established through agreements under names such as ordinary partnerships, consortiums, business partnerships, joint ventures that do not conform to the explicit features of the company types designated in the Turkish Commercial Code are deemed unincorporated partnerships for the implementation of this Law.

TURKISH CITIZENS RESIDING ABROAD

Article 10 – Turkish Citizens certifying that they are residing abroad with the work or residence permits, are regarded as foreign investors with regard to the implementation of the Law.

CHANGES IN DATA FORMS

Article 11 – The General Directorate is authorized to make any changes in the data forms annexed to this Regulation.

Provisional Article 1 –The General Directorate is authorized to deal with the Investment Permit Certificates issued in accordance with the Law Concerning the Encouragement of Foreign Capital No: 6224 and Foreign Capital Framework Decree that was put into effect by Council of Ministers’ Decree No: 95/6990 on 7 June 1995 and the Communique concerning this Decree, until the investments involved are finalized and provided that the acquired rights are uphold.

EFFECTIVENESS

Article 12 – This Regulation will become effective on the date of its publication

ENFORCEMENT

Article 13 – The provisions of this Regulation will be enforced by the Minister of Economy.

