

From Ministry of State:

Regulation for Implementation of Foreign Direct Investment Law

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 – With regard to the implementation of this Regulation;

Undersecretariat : means, the Undersecretariat of Treasury,
General Directorate : means, the General Directorate of 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 Undersecretariat provides FDI data through Data Sharing Protocols it will set up primarily with Central Bank of Turkey, Capital Market Board, Ministry of Industry and Commerce, Ministry of Finance, Union of Chambers of Commerce and Commodity Exchanges, Trade Registry Offices and other related public authorities and institutions and occupational organizations and NGOs deemed as public institutions, or through other procedures.

Within this framework, the related Trade Registry Offices shall send to the Undersecretariat;

- a) One copy of the “Company or Branch Office Establishment Declaration Form and Petition” to be filled by the related persons, at the phase of company or branch office establishment within the Law,

- b) One copy of the amendments in 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 or 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 every year, latest until the end of May,
- 2) Information on the payments made to their share 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, latest within 1 month following the realization of the share transfer.

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

- 1) A foreign investor participates to the company, or
- 2) A foreign investor outside the company participates to the company during the capital increase of the company,

shall submit 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 Undersecretariat is authorized to grant permits and extend such permits to companies established in accordance with laws of foreign countries to open liaison offices in Turkey, provided that they do not carry out commercial activities in Turkey.

* Please find these forms in Treasury Web Site- www.hazine.gov.tr.

Applications for establishment and extension shall be finalized within 5 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 related special legislation.

Application Documents

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

- a) The original copy of “Certificate of Activity” approved by the related Turkish Consulate or approved in accordance with the provisions of the Convention on the Abolishing the Requirement of Legalization for Foreign Official Documents Approval Obligation, prepared on the basis of the Hague Conference on International Private Law,
- b) Operational report or balance sheet and income statement of the main company,
- c) The original copy of power of authority issued to the name of the person who is appointed to carry out the operations of the liaison office,
- d) The original copy of power of attorney in case that another person will carry out the establishment transactions of the liaison office.

Provisions Regarding Liaison Office Operations

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

- a) Liaison offices, having received their establishment permit, shall send a copy of the tax office registration document to the General Directorate latest within 1 month. Liaison offices shall notify the General Directorate of any change of address latest within 1 month.
- b) Liaison offices shall send the “Data Form for Liaison Office Activities” given as Annex IV of the Directive, to the Undersecretariat every year latest until end of May, so as to inform the Undersecretariat about their activities of previous years. Documents certifying that the previous year’s expenses of the office have been covered by foreign currency transferred from abroad, have to be enclosed as well.
- c) Liaison offices are granted operation permits of 3 years at most. For extensions, successive extensions of maximum 3 years each may be granted by taking into consideration the activities of previous years and plans and objectives for the future.
- d) In the case that the liaison office terminates its activities, the “termination and examination of business note” to be received from the related tax office has to be submitted to the General Directorate. Liaison offices cannot claim any money transfer except the residue arising due to termination or liquidation.

- e) The Undersecretariat might cancel the permits of liaison offices ascertained to have violated the legislation and shall notify related authorities thereof.

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 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 Foreign Investment Encouragement Law No: 6224 and Foreign Investment Framework Decree that was put into effect by Council of Ministers’ Decree No: 95/6990 on 7 June 1995 and the Communiqué 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 Ministry of State to which the Undersecretariat of Treasury is associated.

