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Legislative Amendment on
Share Transfer of
Pre-License Holder
Companies in the Electricity
Market

November 2024

The “Regulation on the Amendment to the Electricity Market Licensing Regulation” (“**Amendment Regulation**”), published in the Official Gazette dated 17.08.2024 No. 32635, amended Article 57 of the Electricity Market Licensing Regulation (“**Regulation**”) pertaining to the restriction of transfer of shares in pre-license holding legal entities and the exceptions thereto.

Directly or indirectly changing the shareholding structure of pre-license holding legal entities, transferring their shares, or actions or transactions resulting in the transfer of shares (“**Share Transfer**”) is restricted and for all exceptions to this restriction listed under Article 57 of the Regulation, the Energy Market Regulatory Authority (“**EMRA**”) must be notified within six (6) months of the Share Transfer date. In certain exceptional cases, EMRA approval must also be obtained in addition to the said notification requirement.

The Amendment Regulation has narrowed down the scope of shareholding structure changes subject to the EMRA approval mechanism. Only (i) direct shareholding changes and (ii) indirect shareholding changes of 10% or more are now subject to the approval mechanism (as opposed to all Share Transfers).

For ease of reference, the table below lists the Share Transfer exceptions where EMRA approval is required for direct shareholding changes and indirect shareholding changes of 10% or more.

EXCEPTIONS REQUIRING EMRA’S APPROVAL	
1	Indirect changes of 10% or more in the shareholding structure of a pre-license holder due to changes in the shareholding structure of shareholders established abroad.
2	Changes which make indirect shareholders in the pre-license holder direct shareholders without any change to their shareholding ratios; and changes resulting in all direct shareholders becoming indirect shareholders of 10% or more without any change to their shareholding ratios.
3	Direct or indirect (10% or more) share changes that do not constitute a change of control in the pre-license holder’s shareholding structure.
4	Direct or indirect (10% or more) changes arising from capital increase and/or change of shareholders in the shareholding structure of a pre-license holder where more than 50% of the capital is directly or indirectly owned by public institutions and organizations (provided that no new shareholder other than the shareholder having the qualification of public institution and organization is included in the shareholding structure).
5	As per the Turkish Commercial Code numbered 6102, direct or indirect (10% of more) changes in the pre-license holder’s shareholding structure resulting from acquisition of its own shares by the pre-license holder and its direct and indirect shareholders.
6	Direct or indirect (10% or more) acquisition of shares in a pre-license holder using foreign resources by legal entities established abroad (or by legal entities they control) and established pursuant to the Turkish Commercial Code numbered 6102.
7	Direct or indirect (10% or more) changes in the pre-license holder’s shareholding structure resulting from share transfers between spouses and real persons of first-degree blood kinship who own direct or indirect shares.

GenTemizer is a Turkish law firm based in Istanbul, Türkiye. We advise various businesses in relation to their investments, M&A, competition law/antitrust, project financing and construction projects as well as on operational and dispute resolution matters in the context of the Turkish regulatory framework. We have also advised investors in relation to government sponsored privatisation projects.

We are listed in *Legal 500*, *IFLR1000* and *Chambers and Partners* as one of the leading law firms in Türkiye. Each of our partners have also been recognised as one of the leading lawyers in Türkiye. We understand and can meet the demanding requirements and innovative, responsive thinking required for an investment transaction in Türkiye.

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