

## Crowdfunding in Turkey

---

### Introduction

1 Crowdfunding is a contemporary method for funding an array of new ventures, allowing individual founders to actualize for-profit, cultural, or social projects by way of collecting funding from many individuals. Crowdfunding projects can vary in terms of their target and magnitude; they range from small artistic projects to traditional venture capital investments. Technically, crowdfunding uses web technologies and existing online payment systems to enable transactions between the project owners and funders. Crowdfunding websites provide opportunities for anyone with internet access to present an idea to their social network and beyond and to collect funding to actualize their project. As traditional funding methods may incur tiresome procedures, crowdfunding attracts people's attention as an alternative method of funding.

Within an amendment made in the Capital Markets Law (the "Law"), which has been put into force on December 5<sup>th</sup>, 2017, crowdfunding has been incorporated into the Law as a financing tool. In this article, the main features of crowdfunding and its legal position in Turkey is analyzed.

### Definition and Background of Crowdfunding

Crowdfunding is defined as an open call, mostly through the internet, for the provision of financial resources either in form of

donations, or in exchange for some form of reward and/or voting rights. The concept of crowdfunding originates from the broader concept of crowdsourcing that refers to benefiting the crowd to create ideas, feedback, and solutions to generate corporate activities.

In the case of crowdfunding, the target is to collect money for investments, generally by using online platforms specifically developed for this purpose. Put it differently, instead of collecting money from a small group of investors, crowdfunding helps project owners obtain money from a big number of people, in which each person provides a very small amount of money. Such investments may manifest as equity purchase, loan, pre-ordering of the product, or donation.

Although the use of internet to present an idea may be efficient for crowdsourcing in general, it can lead to problematic scenarios in case of crowdfunding, especially if it involves the offering of equity to the crowd. In this regard, many countries limit how many private investors a company can have. Naturally, this begets paramount limitations to crowdfunding initiatives, whereas the input of the crowd is capital and not an idea or time. Consequently, most initiatives do not offer shares to the funders but provide other kinds of rewards, such as a premium membership or a product.

2

### Types of Crowdfunding

As crowdfunding platforms connect funders and project owners with each other acting as an intermediary, accordingly, three parties engender an integral crowdfunding transaction; namely, crowdfunding platforms (websites), funders, and project owners.

Depending on the content of crowdfunding, the activities in this regard can be ramified as equity crowdfunding and donation crowdfunding.

Equity crowdfunding is the method adopted for sourcing money for a company by asking a large number of funders to invest a small amount of money. Funders of the relevant company receive equity shares thereof in return. Erstwhile, only venture capitalists, wealthy individuals and business angels could invest in startup companies.

Today, with the help of equity crowdfunding, investment opportunities can easily be enjoyed by a large pool of investors.

In the case of donation crowdfunding, funders do not obtain an equity share as a result of the investment; but rather, they may receive rewards, products or membership of the related project. However, in many cases, donators do not receive anything in return other than the satisfaction of having contributed to something they feel is worthwhile.

### Turkish Regulation

As mentioned above, crowdfunding has been incorporated into the Law with an amendment made recently. By the said amendment, the envisaged target is to keep crowdfunding platforms in a free market while establishing a protection mechanism for this method.

The Law defines crowdfunding as the collection of funds from people by means of crowdfunding platforms for the purpose of providing funds required for a project or a venture company, without being subject to the provisions of the Law regarding investor compensation, in accordance with the principles to be determined by the Capital Markets Board ("CMB").

Crowdfunding platforms are defined as institutions mediating crowdfunding and providing service in an electronic environment. As per the Law, CMB's permit must be obtained for the establishment of a crowdfunding platform and for the operation thereof. CMB is authorized to determine the principles pertaining to the establishment of the crowdfunding platforms, their shareholders, share transfers, employees, the highest limit of the amount of money that can be provided by a funder, the highest limit of the amount of money that can be collected by venture capital companies, the inspection and control of the use of the money collected through crowdfunding as well as the principles that must be abided by venture capital companies, which collect fund through crowdfunding, during their operation of business. Furthermore, CMB is also authorized to limit the scope of the business, and/or to suspend the business, and/or to permanently or temporarily inhibit the business of crowdfunding platforms that engaged/engage in illegal activities and transactions. As can be

seen in the provisions brought with the amendment, CMB is given very extensive authority to inspect and control the crowdfunding activities in the market.

The Law explicitly indicates that crowdfunding transactions and crowdfunding platforms are not subject to the stipulations of the Law pertaining to the stock exchanges, market operators and other organized marketplaces. Regardless of the number of the investors, project owners collecting money by means of crowdfunding shall not be deemed publicly held, and accordingly, they shall not be subject to the rigid requirements applying to the publicly held companies. In addition to this, crowdfunding is not listed as an investment activity or ancillary investment service in the standard sense of the term within the framework of the Capital Markets Code and Communiqué Principles Regarding Investment Services, Activities and Ancillary Services numbered III-37.1.

Obtaining CMB's permit is the most essential phase of establishing a crowdfunding platform. Where CMB detects that a crowdfunding platform is collecting funds from people without a prior permission of CMB, upon CMB's request, the Information Technologies and Communications Authority denies the access to the said crowdfunding website.

4

With the introduction of crowdfunding to the Law, and accordingly to Turkish capital market, the only field that has been regulated is crowdfunding platforms. As mentioned above, CMB has been given a wide authority to determine the principles to be applying to the crowdfunding platform and activities. Nevertheless, preparation of prospectus and issuance certificate shall not be required, because crowdfunding is not regarded as a public offering of shares.

### Conclusion

Crowdfunding is a financing method that emerged as a state-of-the-art product of the developing technology in 21<sup>st</sup> century. Although it may be regarded as a relatively recent financing model adopted in Turkey, as the number of startup projects increase dramatically day by day, it can be expected that crowdfunding will be enjoyed greatly in Turkish market. Nevertheless, despite being an innovative system of financing, crowdfunding carries the risk of

## GURULKAN ÇAKIR

leading to intellectual property breaches and money laundering as well. Therefore, in future, it may be expected from the legislature to expand the regulation relating to the matter.

## GURULKAN ÇAKIR AVUKATLIK ORTAKLIĞI

Polat İş Merkezi, Offices 28-29  
Mecidiyeköy 34387  
Istanbul, TURKEY

T +90 212 215 30 00

M info@gurulkan.com

W www.gurulkan.com



---

Gurulkan Çakır Avukatlık Ortaklığı ("Gurulkan Çakır") is an attorney partnership registered at Istanbul Bar Association with a license number 105 and at the Union of Turkish Bar Associations with a license number 206.

This publication provides general information only and should not be relied upon in making any decision. It is not intended to provide legal or other advice. Gurulkan Çakır and its partners will not be liable for any loss or damage arising from reliance being placed on any of the information contained in this publication.

Before acting on any information, readers should consider the appropriateness of the information provided herein, having regard to their legal and financial status, objectives and needs. In particular, readers should seek independent professional advice prior to making any decision.

This publication may not be reproduced, in part or whole, by any process without prior written consent of Gurulkan Çakır.

---