



Consequences of Unlawful Capital Market Activity in Turkey's Crypto Asset Industry

The Most Important Legal Problem To Address With the implementation of the legislation in Turkey governing Crypto Asset Service Providers :Licencing

Undoubtedly, the crypto-asset market has waited a long time for the Grand National Assembly of Turkey to be presented with the draft law on crypto assets ("Draft"). Although there are various speculations and expectations regarding the Draft, it is almost certain that the Capital Markets Board ("CMB") will be responsible for the regulation and supervision of the crypto-asset industry, and that CMB will impose certain conditions on crypto asset service providers before they can obtain a license to continue operations in Turkey. Thus, people and organizations engaging in the crypto-asset business without a CMB license will be liable to a variety of administrative sanctions. In fact, it will be illegal to engage in pr-related activity without a license.

Legal and Criminal Risks of Operating in Turkey's Crypto Asset Industry without a CMB License

The offense of unlawful capital market activity is outlined in the second paragraph of Article 109 of the Capital Markets Law No. 6362 ("CML"), and the CMB has for many years diligently implemented this provision. According to the stipulated provision:



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"Those who engage in unlawful operations on the stock market shall be condemned to jail between two and five years and fined between five thousand and ten thousand days." Individuals who commit this offense concurrently with the criminal described in the first paragraph must be penalized only for the crime described in this paragraph, and the amount shall be doubled."

Upon the filing of a criminal complaint to the relevant Public Prosecutor's Office by the CMB, pursuant to Article 115 of the CML, if the CMB detects unauthorized capital market activity, those who provide services in violation of the applicable laws and regulations will be subject to investigation and prosecution.

"Confiscation of profits" is another significant consequence of this offense for people who perform capital market services as a profession without authorization. According to Article 55 of the Turkish Criminal Code No.5237, headed "Confiscation of Earnings," individuals and entities who engage in capital market operations "as a profession" without a valid license would have their entire earnings confiscated.

Upon the implementation of the Draft, acts such as operating as a crypto asset service provider, offering intermediary services for the sale and purchase of crypto assets, and/or providing crypto asset custody services in Turkey would have legal and criminal risks. Following the enactment of the Draft and the publication of secondary regulations, it will be vitally important to apply to the CMB for individuals and institutions who want to avoid possible criminal prosecution and do not want to potentially lose the Turkish market, which is considered relatively large.

On the other hand, it would not be unheard of for enterprises operating only from overseas – and broadcasting into Turkey – through the internet to be barred in Turkey if they do not receive a license from the CMB. Similar measures have been enforced by the CMB for many years – for example, against institutions established abroad and providing leveraged transactions for Turkey and according to the third paragraph of Article 99 of the CML, access to the internet services of these institutions is prohibited in Turkey. CMB may consider a variety of actions that might be seen as "offering services" to users resident in Turkey, such as maintaining a website in Turkish and doing promotional, advertising, and marketing efforts directed at users in Turkey.

Finally, we can anticipate that the legislator will impose various measures aimed at regular users who trade through unauthorized platforms, as enforcing such a strictly crafted operating permit for service providers can only be accomplished by directing users to legitimate platforms that have received operating permits from the CMB.

If you're looking to engage in the crypto-asset business in Turkey, it's crucial to apply for a CMB license to avoid legal and criminal risks. The Capital Markets Board will be responsible

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for regulating and supervising the industry, and any unauthorized activity will result in administrative sanctions and criminal charges. The consequences of unlawful capital market activity in Turkey's crypto asset industry could lead to imprisonment, fines, and confiscation of earnings. Even enterprises operating only from overseas and broadcasting into Turkey through the internet may be barred without a CMB license. Protect yourself and your business by applying for a license and avoiding unauthorized activity. Contact Bayraktar Attorneys today to get a qualified consultancy or check out [our services](#) in great detail.

