

CHAPTER 11 VS. TURKISH CONCORDAT: A GUIDE FOR AMERICAN INVESTORS

When businesses face financial distress, legal frameworks provide mechanisms for restructuring and recovery. In the U.S., Chapter 11 bankruptcy is a well-known option, while in Turkey, the Concordat (Konkordato) process serves a similar function. Understanding the key differences between these systems is crucial for American investors with interests in Turkey.

Chapter 11: A Flexible Restructuring Tool

Chapter 11 of the U.S. Bankruptcy Code allows businesses to reorganize under court supervision while maintaining operations. Key features include:

- **Debtor-in-Possession (DIP):** Management usually remains in control.
- **Automatic Stay:** Creditors cannot pursue claims while the process is ongoing.
- **Plan of Reorganization:** The company proposes a plan to restructure debts.
- **Creditor Voting:** Creditors vote on the restructuring plan, which must be court-approved.
- **Financing Options:** Companies may secure new financing through DIP loans.

Turkish Concordat: A Court-Supervised Debt Settlement

The Turkish Concordat, regulated under the Enforcement and Bankruptcy Law, is designed to help businesses restructure debts and avoid bankruptcy. Key aspects include:

- **Temporary Protection:** A court grants a moratorium to prevent creditor actions.
- **Trustee Supervision:** A court-appointed trustee oversees the process.
- **Creditor Approval:** The plan must be accepted by a majority of the creditors and creditors representing a majority of the debt.
- **Judicial Oversight:** The court must approve the final restructuring plan.
- **Limited New Financing:** Unlike Chapter 11, obtaining fresh funding during Concordat is more challenging.

Key Differences for American Investors

- **Management Control:** In Chapter 11, management retains control; in a Concordat, a trustee plays a significant role.
- **Creditor Influence:** U.S. creditors have greater influence through voting rights; Turkish courts play a stronger role in approval.
- **Financing Possibilities:** Chapter 11 allows DIP financing; Concordat offers limited access to new funds.
- **Process Duration:** Chapter 11 can take years, while Concordat typically 15 months but it can last up to 29 months.

Why This Matters for American Investors

For U.S. investors involved in Turkish businesses, understanding the Concordat process is essential. While it provides a structured path to recovery, its stricter court oversight and limited financing options may impact investment strategies. Comparing these frameworks helps investors assess risk and make informed decisions when dealing with distressed assets in Turkey.

Protecting Creditor Rights in Turkish Concordat Cases

Foreign creditors who are owed money by a Turkish company undergoing the Concordat process should actively participate in the legal proceedings to safeguard their interests. Turkish law allows creditors to intervene in the court-supervised restructuring by filing claims, objecting to the proposed repayment plan, and ensuring their rights are represented in creditor meetings. Closely monitoring court proceedings can help foreign businesses maximize their chances of recovering outstanding debts.