

The Law of Ukraine *On Limited and Additional Liability Companies* provides participants with wide discretion in establishing the rules on LLC corporate governance and transfer of participatory interests. Since an LLC is the most commonly used type of company in Ukraine, many businesses will benefit from the Law.



BOOST YOUR CORPORATE GOVERNANCE



Amend the charter

- benefit from the flexibility allowed by the Law and align charter with current business needs
- improve corporate governance
- avoid deadlocks and manage conflicts between participants



Establish a board of directors (supervisory board)

- appoint independent directors
- vest the board with authority to control and supervise the LLC's management



Adopt new rules on holding participants' meetings

- comply with new majority vote requirements (including unanimous vote of all participants)
- conduct meetings through video conference
- benefit from enhanced protection against raider attacks
- adopt resolutions by written polling
- adopt decisions by written resolutions in wholly owned subsidiaries



Dissolve the redundant audit commission



Beware of increased liability and new duties of corporate officers, including

- duty to declare conflict of interest
- duty of confidentiality
- non-compete obligation



Vest directors with joint or several signature rights



ENHANCE PARTICIPATORY INTEREST TRANSFER PROVISIONS



Modify or disapply right of pre-emption



Attract new partners and investors through enhanced and simplified procedure of charter capital increase and admitting new participants



Benefit from anti-dilution protection



Benefit from higher liquidity of participatory interest, including enhanced enforcement procedure for pledged participatory interest



Restrict disposal or pledge of participatory interest



Improve procedure of exit and expulsion of participants



PROTECT SUCCESSOR'S (HEIR'S) RIGHTS



Successors (heirs) may join LLC within one year



Successors (heirs) register as new participants themselves without a decision of the general meeting of participants



ESTABLISH RULES FOR SIGNIFICANT AND INTERESTED PARTY TRANSACTIONS



Modify approval process for significant transactions



Introduce approval process for interested party transactions



CONCLUDE CORPORATE AGREEMENT



Determine rules for exercising participants' voting rights



Introduce transfer instruments customary in other jurisdictions: call option, put option, drag along, tag along



Issue an irrevocable power of attorney for implementing transfer instruments



OTHER IMPORTANT CHANGES



Anti-chaining rules have been abolished



New restrictions on dividend payment



Unlimited number of LLC participants



Management must monitor LLC's net assets



Debt for equity swap is not restricted



Change of charter capital increase procedure

Frequently Asked Questions:

1. Are LLCs required to align their charters with the provisions of the Law?

No, it is not mandatory to amend the LLC charter. Current provisions of the LLC charter will remain effective until the earlier of 17 June 2019 or the date when any amendments to a charter are introduced by the participants. After such date, the provisions of the Law will override the conflicting provisions of the LLC charter.

2. What additional protections of a minority participant have been introduced?

A number of safeguards have been introduced by the Law to protect minority participants, including: (i) prohibition against expelling a participant from the LLC on the subjective ground of systematical non-performance of obligations; (ii) possibility of protecting a pro rata share of minority participant in the LLC charter capital by introducing an anti-dilution mechanism; (iii) extensive list of matters requiring unanimous vote of all participants; (iv) participants owning 10% or more (previously more than 20%) of participatory interests in the charter capital may demand convocation of a general meeting of participants.

3. Has the quorum of general meeting of participants been abolished?

Yes, the number of participants that must be present at a general meeting of participants and vote in favor of the decision will now depend on the type of majority required by the charter and/or the Law for making such decision: a simple majority of all participants, three-quarters of all participants or all participants of the LLC.

4. Is establishment of the board of directors (supervisory board) permitted?

Yes, the board of directors may be established and foreigners may be appointed as its members without the need to obtain work permits. The board of directors' main role is to control and supervise management of the LLC. The general meeting of participants may delegate other powers to the board of directors, except for the exclusive competence of the general meeting of participants.

5. How will wholly owned subsidiaries benefit from the Law?

Due to the abolishment of the anti-chaining rule, wholly owned subsidiaries are no longer required to have an additional minority participant in its structure. In addition, the LLC's sole participant may decide on matters within the competence of the general meeting of participants by its written decision without holding a meeting.

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