

THE NEW LAW ON UKRAINIAN LIMITED LIABILITY COMPANIES IS ADOPTED

On 6 February 2018 the Ukrainian Parliament adopted a long-awaited Law "On Limited Liability Companies and Additional Liability Companies" No. 4666 (the "**Law**"). The law will supersede the legislation currently regulating the most popular type of Ukrainian companies – limited liability companies ("**LLC**").

The newly adopted Law will significantly improve and modernize the legal framework regulating LLCs. Once signed by the President of Ukraine, which is expected, the Law (except for its certain provisions on succession of a participation share) will take effect three months after its publication.

The following are among the most important novelties which will be introduced by the Law:

- Enforceability of shareholders' agreements. LLC shareholders will be able to enter into binding and enforceable shareholders' agreements, similar in their subject matter to shareholders' agreements under English, Dutch and other foreign laws. Under the current legal framework, the subject matter of the shareholders' agreements is quite limited and makes them very unpractical compared to the possibilities available under the laws of many other jurisdictions;
- Sole shareholder limitation is cancelled. Currently, an LLC may not have a sole shareholder, which, in its turn, is also owned by the sole shareholder. Cancellation of this restriction will help streamline corporate structures of group of companies with LLCs as operational or asset holding entities;
- Cancellation of the limitation on the number of shareholders. The Law removes a cap on the number of shareholders that an LLC may have - this limitation precluded transformation of Ukrainian joint stock companies with over 100 shareholders into a more flexible LLC form;
- Supervisory Boards in LLCs. Under the current legislation, the question of whether an LLC can have a Supervisory Board remains open. The Law explicitly addresses this question and introduces the Supervisory Board as one of LLC's governing bodies;

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- No need to have an Audit Commission. Under the Law, it will not be required anymore for LLCs to have an Audit Commission as one of the management bodies - the requirement that has not always been fulfilled anyway;
- Increased liability and duties for LLCs' executives. Among other requirements, LLCs' executives will have to report on their affiliations with other companies. Failure to do so may be a reason for the termination of a contract with an executive. The executives will be liable for losses incurred by the LLC as a result of the executives' misconduct;
- Significant and interested party transactions. The definitions of significant and interested party transactions are introduced together with a mechanism of the approval of such transactions;
- Shareholders' pre-emptive rights. The Law contains a much more detailed regulation of the procedure for exercising the pre-emptive right to purchase a participation share in case of its disposal. At the same time, the Law provides for the right of shareholders of an LLC to amend such procedure. For example, shareholders may stipulate in the Charter of the LLC that they waive their pre-emptive rights.

The LLCs will need to update their Charters in order to comply with the requirements of the Law within one year after its entry into force.

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