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Overview of Amendments to the Companies Act

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The amendments to the Companies Act came into effect on 2 November 2023, except for certain provisions that will come into effect on 1 January 2024. The amendments harmonize the Croatian legislation with European legislation, in particular the Commission Implementing Regulation (EU) 2018/12 laying down minimum requirements implementing the provisions of Directive 2007/36/EC as regards shareholder identification, the transmission of information and the facilitation of the exercise of shareholders rights. As a result, they primarily impact joint-stock companies. Special attention is given to provisions regulating the consequences for membership and positions in the company's bodies for individuals who have been convicted of money laundering, financing terrorism, or individuals with outstanding debts related to taxes, contributions, and net wages to employees.

Individuals with unsettled debts cannot incorporate a company or be appointed to positions in a company.[1]

Legal and natural persons cannot incorporate a company if they, or a limited liability company in which they are a shareholder, and in which they hold a minimum of 25% share in the share capital, a joint-stock company of which they are the sole stockholder, a partnership in which they are a member and are personally liable for its obligations, **(i) have unsettled debts based on public contributions, (ii) are listed on the registry of taxpayers/employers who fail to pay salaries**, and **(iii)** in the year preceding the application for the incorporation of a company, were a shareholder of a company that was part of the ownership structure of a company **deleted in bankruptcy proceedings with unsettled debts based on public or tax contributions.**

Natural persons who meet specified conditions also cannot be appointed as members of the management board or executive directors in the company.

Additionally, changes to the Court Registry Act have been introduced, ending the obligation to submit a statement of the absence of unsettled debts when incorporating a company. Instead, the statement is replaced by a confirmation of the debt status, which will be exchanged automatically between the court registry and the Ministry of Finance (Tax Administration). As a result of the change, shareholders will not need to submit a statement of the absence of debts when incorporating a company.

Rectification of Joint and Several Liability Rules for Corporate Spin-Offs

The legislator promptly acknowledged an error introduced by the 2022 amendments to the Companies Act, wherein unlimited joint and several liability was imposed on all companies involved in a corporate spin off for the obligations of the company being separated.

These amendments corrected this mistake, restoring Article 550.o of the Company Law to its original form, as it existed before the 2022 amendments. Companies participating in the division now assume limited joint and several liability for all obligations of the company being divided, up to the value of the assets transferred to each of them as per the division plan. This liability is reduced by subtracting the obligations assigned to each company in accordance with the division plan.

New consequences of restriction of property disposal measures and convictions for criminal offenses in a joint-stock company

If a shareholder has been imposed with international measures which restrict disposition with a property

[1] Amendment comes into force on 1.1.2024.

or legal consequences of a final conviction for criminal offenses such as **financing terrorism and/or money laundering are imposed on him**, he is obliged to promptly inform the company about these circumstances, and, on the company's request, deliver without delay a statement on existence of these circumstances.

During measures and legal consequences of conviction, the **rights of that shareholder from the shares are suspended by law**, regardless of whether the company knew about the circumstances.

Also, due to mentioned circumstances, natural person will cease to be a member of the **management or supervisory board by law**. This person is obliged to report circumstances to the court registry, and court registry must also delete that person from the court registry *ex officio* if it learned about the circumstances from other sources.

The founders are not obliged to provide a statement on non-conviction.

For some time, it was questionable whether founders should provide a statement of non-conviction. Now, it is explicitly prescribed that **founders are not obliged to do so**.

New form of security for payment of fair compensation to minority stockholders

In addition to the bank statement in which the bank solidarily guarantees for the obligation of the main shareholder to pay fair compensation to minority stockholders, a new form of security for payment of fair compensation has been introduced – a certificate from the central depository with seat in Croatia, confirming that the main stockholder deposited necessary funds (increased by interest) for payment of fair compensation to the central depository account.

The money is held in a special-purpose account and does not enter the liquidation or bankruptcy estate of the central depository, and enforcement proceedings cannot be initiated over funds (except for claims related to the payment of fair compensation and interest or claims for the return of deposited funds to the main stockholder).

Updates in determining executive compensation policies

The general assembly, upon the request of minority stockholders, can decide to reduce the maximum amount of remuneration for a company whose stocks are listed on a regulated market for trading.

If a company whose stocks are listed on a regulated market for trading decides to allocate a portion of remuneration in the form of stocks, it will be necessary to specify the deadlines and conditions for holding the stocks after acquisition. Additionally, clarification on how this part of remuneration contributes to the business strategy and the long-term development of the company should be provided.

The company is required to publish the decision of the general assembly and the remuneration policy, so that it is free and publicly available for a period of at least ten years.

Publication of transactions with related parties

Due to the demand for business transparency, companies whose stocks are listed on a regulated market are required to **promptly disclose transactions with related parties** that require the

approval of the Board of Directors. The notification (disclosure) should be of such nature that it enables easy access to information, containing essential details necessary for assessing whether the transaction is appropriate from the company's perspective and for shareholders who are not related parties. This should include information about the nature of the relationship with the related party, names of related parties, transaction dates, and values. The disclosure on the company's website should be available for at least five years.

New grounds for nullity and voidability of decisions of the supervisory board

Decisions are considered null and void if their content is contrary to the Constitution of the Republic of Croatia, mandatory regulations, societal moral, or mandatory provisions of the articles of association. They are also null and void if serious procedural violations occurred during their adoption and/or if a decisive vote was given under duress when making the decision. The court considers these grounds *ex officio*, and any interested party can invoke them.

Decisions are voidable if, during their adoption, a minor procedural violation occurred that the supervisory board could rectify or that can be resolved over time. They are also voidable if, despite the demonstrated diligence of a supervisory board member, the violation significantly influenced the decision-making, or if a decisive vote for the decision was given due to justified fear caused by an impermissible threat, substantial error, misunderstanding about the legal nature of the decision or one of its essential elements, or fraud.

Every member of the supervisory board has the right to submit a written objection to the chairman of the supervisory board within 8 days from the conclusion of the meeting. In the objection, the member must state the reasons why they believe the decision is voidable and request that the supervisory board withdraws it.

If the objection is not considered at the next supervisory board meeting or if the request is rejected during that meeting, the supervisory board member who raised the objection can submit a claim for annulment within 30 days after the conclusion of the meeting. The same deadlines and conditions apply to the management board, which, if it has a legal interest, can also submit objection and request withdrawal of the decision or submit claim for annulment.

Further elaborated procedure for granting power of attorney

Until now, the Companies Act only stipulated that the power of attorney (prokura) could be granted in the manner specified in the company's founding statement or by the company's articles of association/statute. With the amendments, it is explicitly provided that if the power of attorney is granted by the articles of association, statute, or the founding statement, there will be no need to amend these acts when changing procura.

Exception from Share Capital Conversion Procedure (*Usklađenje*).

For limited liability companies, an exception has been established regarding the obligation to convert the share capital to euro. Specifically, no conversion procedure is required for the transfer or other disposition of shares.

Cross-border mergers and acquisitions.

In order to promote the freedom of establishment and better functioning of the internal market of the EU, amendments to the Companies Act have been introduced, modifying the rules regarding cross-border transformations, mergers, and divisions. Considering that these amendments are elaborate, we will introduce them in the second part of this Legal Alert on amendments to the Companies Act.

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