

How the New Civil Code Alters Regulation of LTDs From Next March

Especially significant changes will be introduced in respect of limited liability companies by the new Civil Code to take effect as of 15 March, 2014, the expert of Kovács Réti Szegheő Attorneys at Law calls the attention of origo. Dr. Arvid Hauck also points out that the new Civil Code will include the rules on establishment and operation of business associations to be substantially modified at several places in comparison to those of the currently effective Act IV of 2006.

In respect of establishment of a company, pursuant to the most significant and most frequently cited modification, the minimum initial capital of a limited liability company shall be substantially increased.

Under the currently effective regulation the amount of initial capital may not be lower than HUF 500,000.- pursuant to the new provision, the initial capital shall be at least HUF 3 M, that is, six times the current minimum amount of the initial capital, highlights the expert of Kovács Réti Szegheő Attorneys at Law.

The rule, however, that the amount of the individual capital contributions shall not be lower than HUF 100,000.- remains unaltered. The new Civil Code shall not adopt the currently effective provision that at least half of the capital contribution shall be paid until the application for registration has been filed moreover, explicitly permits members to divert from this rule in the articles of association.

New Rules of Dividend Payment

If the articles of association so provides that it be sufficient to pay lower than half of the cash contributions or if such a deadline is set out therein for the provision of cash contribution that is more than one year following the submission of registration of the company, no dividend shall be paid by the company to the members.

The prohibition to pay dividend shall last until the profit – unpaid and settled on the members' cash contribution in accordance with the rules on dividend payment – together with the cash contribution paid by the members reach the value of the initial capital. The members shall be held liable for the debts of the company up to the amount of the still unpaid cash contribution – dr. Arvid Hauck points out.

There remains a possibility to establish a company with non-cash (in-kind) contribution. In case the value of the in-kind contribution reaches or exceeds 50 per cent of the initial capital, the in-kind contribution shall be fully rendered at the disposal of the company until the submission of the application for registration.

Otherwise, it is invariably possible to determine a maximum deadline of three years in the articles of association for submitting the in-kind contribution; any period in excess of that – in respect of its portion exceeding the three-year period shall be null and void.



Transfer of Business Quota

The transfer of business quota to a third party may further be rendered conditional upon the approval of the company and the granting of such approval shall invariably be decided by the members' meeting. Added as a new provision is that the deadline for providing the company's such declaration of approval shall be 30 days and any provision of the articles of association setting out a longer deadline shall be null and void.

The new Civil Code also stipulates the date when the transfer of business quota becomes effective: the change in the members shall take effect, as far as the company is concerned, upon announcement thereof and accordingly the new holder of the business quota, irrespective of the registration shall be entitled to all rights and bound by all liabilities arising out of the membership as of the submission of the application for registration of change.

To be introduced as a new rule, if the heir of the members of a limited liability company requires of the managing director that he be registered in the list of members, the managing director may refuse to do so provided that the person so authorised by the articles of association purchases the business quota.

In case the articles of associations allows the purchase of business quota – the person so authorised may thus declare within 30-day non-appealable deadline and pay the market value of the business quota to the heir – emphasised the expert of Kovács Réti Szegheő Attorneys at Law.

Changes In Connection With Members' Meeting

Contrary to the currently effective provisions, the new Civil Code does not include the obligation to annually convene a members' meeting though the members may incorporate into the articles of association a provision on the frequency of calling a members' meeting.

The members shall be invited to the members' meeting by being given notice thereof and at least 15 days shall pass between giving notice and the day of the members' meeting. A new provision is that the articles of association may not validly determine less than three days to pass between giving notice and the day of the members' meeting.

A resolution on capital increase requires, as opposed to the current simple majority, three-quarters majority furthermore, elaborate regulations are determined as to the content of such resolution, in particular, the amount and composition of capital increase, the object and value of in-kind contribution and the performance deadline etc. are set out.

Single-Member Company

The new Civil Code, as opposed to the currently effective regulation, does not include such specific stipulation that in case of the deed of foundation so stipulates, it is sufficient to pay HUF 100,000 to the company as cash contribution.



For the liability of a single-member company member, the provisions on qualified majority shall be appropriately applicable which means, in respect of liability, the new the single member is considered to have qualified majority under the new law.

No change has been introduced in terms of the regulation of operation pursuant to which an agreement between the company and its members shall incorporated in a public/private document having full force of evidence, a single-member company may not acquire its own business quota furthermore, in the event the company is supplemented by new members, the deed of foundation shall be transformed into a articles of association, concluded the expert of Kovács Réti Szegheő Attorneys at Law.

