

Limited Liability Company

1. Definition

A limited liability company is a legal entity with independent legal personality, operating under its own name and with its own capital. It may have one or more owners. In principle, only the company is liable with its assets.

A limited liability company may be set up for any purpose. It must be apparent from the purpose whether or not the limited liability company undertakes a commercial business.

2. Legal Basis and Meaning of the Limited Liability Company

As of 1 January 2017, the law relating to limited liability companies was comprehensively modernised. The key aspects of these amendments were a simplified formation process, a reduction of the minimum capital threshold and greater legal clarity regarding the liability of the shareholders.

Unlike in the other German-speaking countries (Switzerland, Austria, Germany), the practical signi-

ficance of the limited liability company in Liechtenstein is negligible. The government report states that in 2015 there were only 197 limited liability companies registered in the Commercial Register. The main reason for this is the flexibility and attractiveness of the alternative options, namely, the company limited by shares and the establishment.

3. The Formation of the Limited Liability Company

The formation of a limited liability company requires the public certification of the articles, which also must be signed by all owners or their representatives.

The articles must contain the following information:

- the object of the company;
- the amount of the capital;
- the amount of the original contribution payable by each owner to the original capital;
- the name of the company;
- the seat, if necessary, the main seat of the company;

- the duration of the company, if a limitation is foreseen;
- the manner in which representation is exercised, if a deviation from the law is desired; and
- the manner in which the company's announcements are made to the owners and third parties.

Furthermore, the formation of a limited liability company requires registration in the Commercial Register. The application to the Commercial Register must include a certified copy of the constituting agreement of the owners. Additionally, the articles must be attached and all owners must be listed with name and surname, date of birth, nationality and residence or (in the case of a company) the respective company name, registered office, its capital share and managing director,.

In addition to the usual procedure there is the possibility of the formation in a simplified procedure that does not require the public certification of the articles. This simplified procedure is only possible if the prospective company has a maximum of three owners and one managing director. Furthermore, no provisions deviating from the law may be made.

The advantage of the simplified formation lies mainly in the fact that no costs arise for the public certification of the articles. Thus, the formation costs as a whole are less. A possible disadvantage is the limited flexibility regarding the content of the articles.

4. Minimum Capital and Capital Contributions

The minimum capital stock of a limited liability company is CHF/EUR/USD 10'000.00. The minimum capital must be fully paid up at the formation. The capital contribution is the participation of the owners in the capital of the limited liability company. The capital, which cannot be reclaimed, must amount to at least CHF 50.00 for each owner. Besides that, the capital may be different for each

owner, but must be a multiple of CHF 50.00. All owners must fully pay in their capital contributions or cover them with non-cash contributions at the time of the company's formation.

In general, the capital contribution of a owner determines their share allocation. The shares can be sold and inherited. The owners are entitled to the annual net profit of the limited liability company in proportion to their shares.

The capital contributions of the owners are recorded in the owners register (Anteilbuch). The owner register shows the owners full name, date of birth, nationality and residence or (in case of a company) the company name and registered office as well as the amount of the capital share and each transfer of company shares.

Apart from paying in their capital contribution, the owners have no other obligations. This shall not apply if it is expressly stated in the articles or in regulations based on the articles. The articles may stipulate supplementary payment obligations. In order to be valid, such an obligation must be specified as a certain amount.

The purpose of supplementary payment obligations is the compensation of balance sheet losses. In such case, supplementary payments are not considered as new capital contributions and are not subject to the regulations regarding the capital.

5. The Organization of the Limited Liability Company

Unless otherwise provided for in the articles, the supreme body of a limited liability company is the general meeting of owners

Normally, the general meeting of owners is authorized to amend the articles. In the case of

limited liability companies with five or less owners, any resolutions, unless otherwise provided for in the articles, must be unanimously resolved. The powers of the supreme body of the limited liability company are usually the following:

- assessment of the annual balance sheet and distribution of the net profit according to the law and the articles;
- call for payments on the capital, division and seizure of company shares and the demand of additional payments;
- appointment and dismissal of managing directors and representatives as bodies of the company, and the appointment of authorized signatories as well as proxies for the entire management;
- monitoring of the management and issuing of instructions to the managing bodies as well as their discharge;
- raising claims for damages resulting from the formation of the company as well as from the management or the control of the management against the bodies or individual owners; and
- amendment and modification of the articles.

All owners are jointly authorized to manage and represent the company. Within the articles of the company there may be the possibility to assign the management and representation to certain owners. Owners who join the company after its formation are only authorized to manage and represent it if this power is transferred to them.

Moreover, there is the possibility to appoint a third party (non-owner) to manage and represent the limited liability company provided it is stipulated in the articles or in an owners' resolution.

An audit authority must be appointed if no control function was assigned to the non-executive owners. Additionally if the limited liability company undertakes commercial activities, or if the objects laid

down in the articles allow for the engaging in or pursuit of commercial activities, an audit authority must be appointed.

In the case of medium-sized and large limited liability companies pursuant to Article 1064 PGR, an auditor or an auditing company must be appointed as audit authority.

6. Legal Representative

In the event that no national delivery address is indicated, the limited liability company must appoint a legal representative who is either a Liechtenstein national domiciled in Liechtenstein or a national of an EEA-member state domiciled in Liechtenstein. The legal representative must be registered in the Commercial Register.

The legal representative is obliged by law to receive declarations and communications from the Liechtenstein authorities, including service, and to keep company files in safe custody.

7. Liquidation of the Limited Liability Company

A limited liability company may be dissolved at any time by owners' resolution. This resolution requires the consent of at least a majority of three quarters of the owners who own at least three quarters of the capital.

Under certain circumstances, a single owner may also request the dissolution of the limited liability company by way of a court judgement.

8. Legal Sources

Persons and Company Law (Personen und Gesellschaftsrecht) of January 20, 1926, Liechtenstein Law Gazette 1926/4 (PGR), in particular Articles 389 to 427.

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