

# INTERNATIONAL TRUST LAWS AND ANALYSIS

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Company Laws, Wealth Management,  
& Tax Planning Strategies

**VOLUME 1-10**

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## COMPARATIVE COUNTRY CHARTS

This section summarizes on two facing pages the 29 vital elements that form the basic rules for creating and maintaining an international trust in each of 62 countries, 11 US states, and the Hague Convention.

You can use these uniformly arranged charts to find and compare essential information about each country's trust laws quickly and easily. For example, to determine whether Bermuda provides asset trust protection, simply page to the Bermuda chart on pages BER-a and BER-b. Asset protection can be found at ¶23 on page BER-b in the middle column of the fourth row. Similarly, asset protection is denoted as ¶23 and is located in the same position on all the other country charts.

Each of these 29 vital elements are described in more detail under each country's Analysis section, which precedes that country's trust statutes.

These comparative charts cover the jurisdictions listed below.

Andorra  
Anguilla  
Antigua and Barbuda  
Aruba  
Armenia  
Australia  
Austria  
Bahamas  
Bangladesh  
Barbados  
Belize  
Bermuda  
Brazil  
British Virgin Islands  
Bulgaria  
Cayman Islands  
China  
Cook Islands  
Costa Rica  
Cuba  
Cyprus  
Dominica  
Ethiopia  
Germany  
Gibraltar  
Grenada  
Guernsey  
Hague Convention on Trusts  
(includes Netherlands, Portugal, Italy, France, Belgium, Spain, Luxembourg, etc.)  
Hong Kong  
Hungary  
Ireland  
Isle of Man  
Israel  
Jersey  
Kenya  
Labuan  
Liberia  
Liechtenstein

## COMPARATIVE COUNTRY CHARTS

Macau  
Madeira  
Malaysia  
Malta  
Marshall Islands  
Mauritius  
Mexico  
Monaco  
Montserrat  
Nauru  
Netherlands Antilles  
Nevis  
New Zealand  
Niue  
Northern Ireland (See United Kingdom)  
Panama  
Poland  
Prince Edward Island  
Puerto Rico  
Russian Federation  
St. Kitts  
St. Lucia  
St. Vincent and the Grenadines  
Samoa  
Scotland (See United Kingdom)  
Seychelles  
Singapore  
South Africa  
Switzerland  
Turkey  
Turks and Caicos  
United Kingdom  
(includes Northern Ireland and Scotland)  
United Arab Emirates  
United States  
Alaska  
California  
Colorado  
Delaware  
Hawaii  
Montana  
Nevada  
New York  
Oklahoma  
Rhode Island  
Tennessee  
Utah  
Vanuatu

COMPARATIVE COUNTRY CHARTS

ARMENIA

This chapter is up-to-date as of 1 December 2017

Company Types ¶1	Licensing of Corporate Agents ¶2	Company Name ¶3
<p>Companies can be established in Armenia in following organizational-legal forms:</p> <p>(1) limited liability companies (LLC);</p> <p>(2) open joint stock companies (open JSC);</p> <p>(3) closed joint stock companies (closed JSC);</p> <p>(4) companies with supplementary liability</p> <p>(5) cooperatives.</p> <p>Companies in Armenia can be either private or public.</p>	<p>Any person can apply to register a legal entity in Armenia.</p>	<p>A legal entity shall have its own name (firm name), containing an indication of its organizational-legal form (e.g. limited liability company, open joint stock company, close joint company).</p>
Registration Fees ¶4	Registered Office ¶5	Registration ¶6
<p>No fee is paid for registration of commercial organizations.</p> <p>Fee cost for any further change of registration data (director, the Articles of association, M&amp;A) of commercial organization will cost 10,000 AMD.</p> <p>Fee cost for registration of re-domiciliation is 10,000 AMD.</p> <p>Fee cost for registration of branches and representations is 12,000 AMD.</p>	<p>Every company is required to have an address of registration (legal address) to be defined in their formative documents.</p> <p>Legal address of commercial organization can be different from the actual address of activities.</p> <p>No requirements to appoint registered agent</p>	<p>According to the general rule, the State Register Agency of Legal Entities provides registration of legal entities in Armenia. The named governmental body provides registration of rights for the shares in the LLC as well. As for the registration of rights to the shares in JSC, the responsible body is the Central Depository of Armenia.</p> <p>Companies in Armenia must be registered in accordance with the Law on "State registration of legal entities, separate subdivisions of legal entities, institutions, agencies and on individual entrepreneurs".</p> <p><i>Foreign company registration</i></p> <p>Armenia allows overseas companies to set up their branches and representations in Armenia. Re-domiciliation of a foreign legal entity into Armenia is also permitted.</p> <p><i>Time Requirement</i></p> <p>A company registration shall be provided within 2 working days if all the necessary documents are presented to the abovementioned body.</p> <p><i>Confidentiality.</i></p> <p>Data from the State Register Agency is not confidential, and any person may apply for information thereof unlike the information from the Central Depository which is considered confidential.</p>

COMPARATIVE COUNTRY CHARTS

ARMENIA

Reporting and Recordkeeping ¶7	Formative Documents ¶8	Powers ¶9
<p><i>Annual filing</i></p> <p>Annual financial reports are subject to filing to the tax authorities.</p> <p><i>Company seal</i></p> <p>Armenian companies are entitled to act without having a company seal.</p>	<p><i>Business license</i></p> <p>To act as a company in Armenia, legal entity shall be registered by the State Register Agency of Legal Entities. Necessity of license (permission, authorization, consent or notification) depends of type of business activity of the company.</p> <p><i>Constitution</i></p> <p>Every company is required to have a constitution (charter, the articles of association).</p> <p><i>Alteration of constitution</i></p> <p>A company can amend, modify or approve in a new edition of its Articles of association.</p>	<p>The shareholders are not responsible for obligations of the company and the company is not responsible for obligation of shareholders.</p>
Shareholders ¶10	Single Member Companies ¶11	Share Capital ¶12
<p><i>Registration and reporting</i></p> <p>Both members of LLC and JSC shall register their participation, which shall be provided by the State register Agency of Legal Entities of Armenia and the Central Depository of Armenia respectively.</p> <p><i>Members and nominees</i></p> <p>Armenian legislation allows shareholders of JSC to appoint a nominee to hold their shares. The rights of nominee are subject to registration in the Central Depository of Armenia as well.</p> <p><i>Permitted number of participants/ shareholder</i></p> <p>The maximum number of members in LLC and closed JSC is 49. If the number of participants in LLC or closed JSC exceeds 49 the LLC or closed JSC shall be reorganized into open JSC within a year.</p>	<p>Generally, single member companies are permitted under the Armenian law.</p>	<p><i>Shares</i></p> <p>Shares are treated as the personal property of shareholders.</p> <p><i>Minimum authorized capital</i></p> <p>There is no requirement regarding the minimum amount of share capital for Armenian companies, except those of providing activity in specific areas of activity and subject to separate regulation (e.g. banks, insurance company, funds, credit organizations etc.).</p> <p><i>Transfer of shares</i></p> <p>Shares both in LLC and JSC are transferable.</p> <p><i>Bearer shares</i></p> <p>Issuance, sale, or making an offer of sales or an invite to purchase bearer shares is prohibited</p> <p><i>Stock options</i></p> <p>Armenian companies are not banned to issue stock options.</p> <p><i>Par/no-par value</i></p> <p>Both Par and No-Par Values of shares are allowed and applied under Armenian legislation.</p> <p><i>Redeemable shares and buy-backs</i></p> <p>A company may purchase its own shares merely in the cases explicitly defined in law.</p>

COMPARATIVE COUNTRY CHARTS

ARMENIA

Shareholders ¶10	Single Member Companies ¶11	Share Capital ¶12
		<p><i>Share capital reductions</i></p> <p>The company may reduce its share capital in terms stipulated by law.</p> <p><i>Dividends</i></p> <p>Dividends are paid at the cost of the net profit (retain profit). Dividends for a certain class of preferred shares may be paid at the cost of special JSC funds established for this purpose.</p>
Directors and Officers ¶13	Meetings ¶14	Resolutions ¶15
<p>Any natural person may be appointed as a director.</p> <p><i>Duties and powers</i></p> <p>The director shall act based on the Company's interests, exercising their rights and performing their obligations in regard to the Company in good faith and in a reasonable manner (fiduciary duty).</p> <p><i>Committees</i></p> <p>Exclusive authorities of directors cannot be delegated to the committees.</p> <p><i>Liability and indemnification of directors and officers</i></p> <p>The director of an LLC is responsible for the loss caused to the LLC by its fault.</p> <p>A director of a JSC is liable to the JSC for the damages caused to it by her/his actions (inactions).</p>	<p><i>Annual general meetings (GM)</i> It is mandatory to convene annual GM both for LLC and JSC.</p> <p><i>Board of Directors' (BoDs) meetings</i></p> <p>In case the company has a BoD it shall be convened in the manner and time frame defined the Articles of Association of that company.</p> <p><i>Special meetings</i></p> <p>Extraordinary GMs (special meetings) may be called as well.</p> <p>The executive body of an LLC is the one who is entitled to call as special meeting of the LLC.</p> <p>The special meeting of a JSC may be called on the decision of BoD either at its initiative or at the request of the executive body of the JSC, the internal Audit Commission, the external auditor, or a shareholder of at least 10 percent of voting shares of the JSC.</p>	<p><i>Ordinary resolution</i></p> <p>Ordinary resolutions are allowed.</p> <p><i>Special resolution</i></p> <p>Special resolutions are allowed as well.</p>

COMPARATIVE COUNTRY CHARTS

ARMENIA

<b>General Accounting Practices</b> ¶16	<b>Mergers &amp; Acquisitions</b> ¶17	<b>Liquidation/Dissolution</b> ¶18
<p><i>Accounting reports</i></p> <p>All companies in Armenia are required to maintain accounting records.</p> <p><i>Audit</i></p> <p>An LLC which has 20 and more participants (term is one year), as well as JSC regardless of number of shareholders (term is three years) shall have internal Auditor or Audit Committee.</p> <p><i>Auditors' powers and duties</i></p> <p>A main duty of internal auditor (Audit Committee) of a company is to check financial balance and financial status of the company. All other responsibilities and rights of this authority are related to provision of its main duty.</p>	<p>Merger and acquisition (accession) of a company are the forms of company reorganization in Armenia (the other forms are division, spin-off and transformation).</p>	<p><i>Voluntary dissolution</i></p> <p>Armenian companies may be voluntarily dissolved.</p> <p><i>Dissolution by the court</i></p> <p>A company may be liquidated by a court decision.</p> <p><i>Liquidation</i></p> <p>When deciding to liquidate, the GM shall simultaneously appoint liquidation commission (or liquidator), as well as set forth procedure and periods for liquidation of a company. Once liquidation commission (liquidator) is appointed, the company's management powers shift to the liquidator.</p>
<p><b>Governing Law</b> ¶19</p> <p>Civil Code of Armenia of 1998, Law of Armenia on Limited Liability Companies of 2001, Law of Armenia on Joint Stock Companies of 2001 and the other laws govern company law in Armenia.</p>	<p><b>Forms</b> ¶20</p> <p>Name reservation, registration, and modification processes for companies can be completed online.</p>	



## **ARMENIA**

This chapter is up-to-date as of 1 December 2017

ARMENIA

## ARMENIA

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ARMENIA

## ARMENIA\*

## ANALYSIS OF THE COMPANY LAWS

¶1] **Company Types.** The Civil Code of RA prescribes main general provisions of legal entities. Armenian legal entities are divided into two major groups: organizations seeking to make profit as the basic purpose of their activity (commercial organizations) or not having main purpose of making profit and distributing received profit among their participants (non-commercial organizations).<sup>1</sup> Commercial organizations may be created in the form of business partnerships and companies. There are also specific type of legal entities, such as cooperatives. Depending upon the type of activity, cooperatives may be organizations pursuing the extraction of profit as the basic goal of their activity (commercial organizations) or not having extraction of profit as such a goal (non-commercial organizations).<sup>2</sup> Legal entities that are non-commercial organizations may be created in the form of societal amalgamations, funds, and other forms.

Business partnerships and companies are commercial organizations with charter (or investment) capital broken down into founder's (or participant's) shares. Property created at the expense of the contributions of the founders (or participants) and that produced or obtained by the business partnership or company in the process of its activity shall belong to it by right of ownership.<sup>3</sup>

A limited liability company is a company founded by one or several persons (natural person(s) and/or legal entity(ies)), the charter capital of which is divided into shares of amounts determined by the charter. The participants in a limited liability company (LLC) are not liable for its obligations; they bear the risk of losses connected with the activity of the company within the limits of the value of the investments contributed by them.<sup>4</sup> Specifications of Limited Liability Companies are regulated by the Law of RA on "Limited Liability Companies" and presented below.

A company with supplementary liability is a company founded by one or several persons whose share capital is divided into shares of sizes determined by the charter.<sup>5</sup> The participants in such a company jointly and severally bear subsidiary liability for its obligations with their property in a multiple of the value of their contributions (Article 105 of the Civil Code).

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<sup>1</sup> Civil Code of Armenia, the Article 51, point 1.

<sup>2</sup> Civil Code of Armenia, the Article 51, point 3.

<sup>3</sup> Civil Code of Armenia, the Article 72.

<sup>4</sup> Civil Code of Armenia, the Article 95.

<sup>5</sup> Civil Code of Armenia, the Article 105.

A joint-stock company (JSC) is a company whose share capital is divided into a defined number of stock shares.<sup>6</sup> Only JSCs have the right to issue shares of stock. A joint-stock company may be founded by one person or may consist of one person (Article 106 of the Civil Code). Joint stock companies may be established as either an open (OJSC) or closed joint stock company (CJSC), both of them are regulated by the law on “Joint Stock Companies.”

A cooperative is a voluntary amalgamation of citizens and legal entities on the basis of membership with the purpose of satisfying the material and other needs of the participants, an amalgamation formed by the combining of property share contributions by its members.<sup>7</sup>

There are some non-commercial organizations prescribed by the Civil Code of Armenia, such as Social Amalgamations and Funds.

Herein will be discussed two type of commercial organization which are the most commonly registered organizations in Armenia, i.e. LLC and JSC.

**¶2] Licensing of Corporate Agent.** According to the general rule, any person may apply for registration of the legal entity to the State Register Agency of Legal Entities.

Certain activities by an Armenian commercial legal entity require licensure. There is a list of activities to perform which a legal entity shall be granted special authorization or consents. There are activities which shall be performed by legal entity if the latter prior to that notifies appropriate governmental authorities thereon.

**¶3] Company Names.** A legal entity shall have its own name, containing an indication of its organizational-legal form (i.e. LLC or JSC).<sup>8</sup> The names of a non-commercial organization must contain an indication of the nature of the activity of the legal entity.<sup>9</sup>

A commercial organization shall have a firm name, which has been registered by the procedure established by the law and that the organization has the exclusive right to its use.<sup>10</sup> Obtaining rights and duties under another legal entity’s name is not permitted.

The documents and information provided during the registration of a trade organization shall also include the preferred firm name of the legal entity. The registration of the filed title shall be carried out simultaneously with the registration of the organization through the information system.<sup>11</sup>

*Restrictions on Company names:* It is illegal to have either firm name similar to another company’s name, or one which includes (partially or wholly) firm names of the governmental or municipal authorities of Armenia (use of name of places, municipalities are allowed by consent of the appropriate authorities) or include the firm names of international organizations which are protected by international contracts, and the firm name which contains curses, insulting titles, or any titles incompatible with national or spiritual values, or which contradict the principles of humanity and morality.<sup>12</sup>

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<sup>6</sup> Civil Code of Armenia, the Article 106.

<sup>7</sup> Civil Code of Armenia, the Article 117.

<sup>8</sup> Civil Code of Armenia, the Article 58, the Article 1166.1.

<sup>9</sup> Civil Code of Armenia, the Article 58 point 1, the Article 1166.1.

<sup>10</sup> Civil Code of Armenia, the Article 1167.

<sup>11</sup> Law of Armenia on “State registration of legal entities, separate subdivisions of legal entities, institutions, agencies and individual entrepreneurs”, the Article 32.

<sup>12</sup> Law of Armenia on State registration of legal entities, separate subdivisions of legal entities, institutions, agencies and on individual entrepreneurs, the Article 32, point 6.

*Change of Name:* In the event of a change in the name of the organization or the registration of the reorganization, the legal entity can file an application for the registration of the preferred brand name in advance. If the firm name is considered as permitted it shall be maintained for thirty days for the legal entity. During that period, the legal entity must bring all the required documents for registration otherwise the name can be granted to other person.<sup>13</sup>

**¶4 Fees.** The state registration and other services shall be levied on the state fee in the manner and extent prescribed by the Law of Armenia “On State Fee”.<sup>14</sup> For registration of commercial organizations no fee is required.

Fee cost for any further change of registration data (director, the Articles of association, M&A) of commercial organization will cost 10,000 AMD.

For re-domiciliation of a foreign legal entity into Armenia as well as for re-domiciliation of local legal entity as a foreign entity, 10,000 AMD as the sum of the state fee for registration is required.<sup>15</sup>

For registration of branches and representations, 12,000 AMD as the sum of the state fee for registration is required.<sup>16</sup>

Fees for registration of shares in JSC vary and depend on the share account operator’s service fees.

**¶5 Registered Office and Registered Agent.**

*Registered Office:* Every company is required to have an address of registration (legal address).<sup>17</sup> According to the common practice, the legal address of a commercial organization does not comply with its actual address of activities as far as there is not such a requirement under Armenian legislation to provide either mandatory registration of its actual address of business or compliance between legal and actual addresses of the company (except for a list of companies under special regulation). The requirement to stipulate legal addresses in formative documents (the Articles of Association of the company and application filed to the registration) has a formal context rather than practical.

**¶6 Registration.** The State Register Agency of Legal Entities supervises the registration of companies in the Republic of Armenia, except for the part of financial organizations which are registered by the Central Bank of Armenia (e.g. banks, insurance companies etc.). In order to register a company in Armenia the following documents must be presented:

- (1) Application;
- (2) the founders’ decision on the establishment of a legal entity or the minutes of founding meeting;
- (3) the Articles of Association of a legal entity approved by the founder (founders) or by the founding meeting (congress or other body prescribed by law);
- (4) document certifying the payment of state fee;
- (5) information about the executive body;
- (6) statement on actual beneficiary (if required).<sup>18</sup>

<sup>13</sup> Law of Armenia on State registration of legal entities, separate subdivisions of legal entities, institutions, agencies and on individual entrepreneurs, the Article 32, point 3.

<sup>14</sup> Law of Armenia on State registration of legal entities, separate subdivisions of legal entities, institutions, agencies and on individual entrepreneurs, the article 10.

<sup>15</sup> Law of Armenia on State Fee, the article 16, point 1.10.

<sup>16</sup> Law of Armenia on State Fee, the article 16, point 1` “b”.a.

<sup>17</sup> Civil Code of Armenia, the article 59.

<sup>18</sup> Law of Armenia on “State registration of legal entities, separate subdivisions of legal entities, institutions, agencies and on individual entrepreneurs”, the article 34, point 1.

To complete registration of JSC the right to the shares shall be registered by the Central Depository as well, which is provided via share account operators under the service provider agreement between the latter and JSC/shareholders.

*Electronic registration.* Companies can also be registered via internet by presenting all the required electronic documents.

Refusal of registration on grounds of the inexpediency of creating the legal entity is not permitted. A refusal of state registration and also avoidance of such registration is subject to complaint to a court. A legal entity shall be considered created from the time of its state registration.

*Foreign Company Registration.* A “foreign company” is a company registered and established outside Armenia under foreign laws.<sup>19</sup> Armenia allows overseas companies to set up their branches and representations in Armenia. Re-domiciliation of a foreign legal entity into Armenia or vice-versa is also permitted.<sup>20</sup> In order to establish a branch in Armenia, a foreign company must submit an application to the State Register Agency of Legal Entities. If all the required documents are presented the branch of the commerce company will be registered in three days.

*Time Requirement.* If all the required documents are presented to the State Register, a company registration shall be provided within two working days thereafter.

*Confidentiality.* Data from the State Register Agency of Legal Entities are not confidential and any person may apply for information thereof.

#### **¶7] Reporting and recordkeeping.**

*Annual report.* Annual financial reports are subject to filing to the tax authorities. For lists of specified companies, there is a rule of submission of different types of separate reports in regard to their activities to its regulatory authority as well as to publish them in their websites.

**¶8] Formative Documents.** The list of required formative documents depends on the type of company established.

When establishing a limited liability company (LLC) or a joint stock company (JSC) the following documents shall be produced:<sup>21</sup>

- (1) The decision of a founder or minutes of a meeting of founders on establishment of the company,
- (2) an Articles of Association approved by the founder(s) decision.

A contract on founding may be signed by founders before registration of company. For both LLC and JSC a contract on founding is not considered as formative documents and there is no requirement to include this contract into the package filed to the state registration of the company.

The company may be established with or without time frames. There is no requirement to specify the list of business activities of the company to be established (in general, the company declares that it performs business activities with the aim of gaining profit), but there are types of activities (e.g. banking) performance of which results in the prohibition of conducting other business activities.

*State registration and licenses (permissions).* For a company to be considered established, it shall be registered in the State Register Agency of Legal Entities of Armenia. In addition to the formative documents named above, registration also requires receipt of state duty payment, data on appointed director (passport, number of public services, email, address of registration) and statement on real beneficiary to be filed.

<sup>19</sup> Civil Code of Armenia, the article 1272.

<sup>20</sup> Civil Code of Armenia, the article 59.2.

<sup>21</sup> Law of Armenia on LLC, the Article 8.



According to the general rule, no license or permission is required for business activities; but there are a number of business activities (e.g. telecommunication, TV and radio broadcast, banking, finance and capita, insurance, Lombard, mining etc.) for performance of which a company shall have a proper license and/or a permission thereto.

*The decision of a founder or minutes of a meeting of founders on establishment of a company.*

The decision of a founder or minutes of a meeting of founders to establish an LLC shall include at least the following data: the list of founders, the amount of participation in share capital of LLC per founder, the approval of the Articles of Association, and appointments to the executive body. The decision made by founders shall be unanimous. The meeting minutes shall be signed by all founders.<sup>22</sup> Payment of share capital shall be made within the terms defined in the contract of foundation of LLC, which shall be no later than 1 year after date of state registration of the LLC.<sup>23</sup>

JSC's Founding Meeting of Shareholders (FMS) is assembled within 3 months after share allocation and shareholder payment for shares (in any case before state registration of JSCs).<sup>24</sup>

JSC's FMS shall have legal capacity if three-fourths of both the votes of outstanding shares and shareholders participate in it.

JSC's FMS:

- (a) approves the results of share allocation;
- (b) adopts a decision on founding JSC;
- (c) approves the amount of share capital of JSC;
- (d) approves JSC's Articles of Association;
- (e) elects JSC's Board of directors (BoD);
- (f) elects JSC's Control Committee (the Controller);
- (g) establishes JSC's executive body or appoints acting executive officer;
- (h) hears the report of Founders and/or persons authorized by them.

Decisions on matters stipulated under paragraphs (a), (c), and (h) above shall be made by a three-fourths vote of JSC's FMS participants. Decisions on matters stipulated under paragraphs (b) and (d) above shall be made by a unanimous vote of JSC's FMS participants. Decisions on all the remaining matters shall be made by a simple majority vote of JSC's FMS participants.

If JSC is founded by one person, the written decision of the founder shall contain provisions on the matters stipulated by paragraphs 3a-3g above.

*An Articles of Association*

An Articles of Association of **LLC** shall incorporate:<sup>25</sup>

- (a) the name of the LLC;
- (b) the place of location of the LLC;
- (c) the amount of share capital and amount of participation therein per-founder
- (d) data on founder(s) (participant(s)), which included for a natural person: nationality, name, surname passport data, inhabitation address or registration address, number of public services; for a legal entity: state of origin (establishment), full name (firm name), state registration data, location

<sup>22</sup> Law of Armenia on LLC, the Article 8 (3).

<sup>23</sup> Law of Armenia on LLC, the Article 30.

<sup>24</sup> Law of Armenia on JSC, the Article 12.

<sup>25</sup> Law of Armenia on LLC, the Article 10.

address; for a municipality: full name of municipality; for a state: full name of state and name of authorized body.

An Articles of Association of an LLC may also incorporate the data which is not contradict with law, including:

- (e) the composition and the authorities of the managing bodies of the LLC, including issues representing the exclusive authority of the General Meeting of LLC participants (herein, general meeting);
- (f) the rule of decision making by the managing bodies of the LLC including the questions on which the decisions shall be taken unanimously or by the qualified majority of votes;
- (g) the rights and obligations of the participants of the LLC;
- (h) the rule of exit of a participant of LLC from the LLC;
- (i) the rule of transfer of the share of the Share capital of the LLC to another person.

The Articles of Association of a JSC shall include:<sup>26</sup>

- (a) JSC business name (full and abbreviated);
- (b) JSC place of location;
- (c) amount of JSC's share capital;
- (d) types of shares outstanding by JSC (ordinary, preferred), the quantity, nominal price, and classes of preferred shares;
- (e) types of [declared] shares to be outstanding by JSC (ordinary, preferred), the quantity, nominal price, and classes of preferred shares;
- (f) the rights ascertained by each type and class of shares;
- (g) the rights of shareholders of each type and class of shares;
- (h) the procedure of forming JSC management bodies, their composition and rights, their decision-making procedure, including on matters requiring a unanimous or qualified majority vote;
- (i) the procedure of Meeting preparation; and
- (j) other provisions stipulated by Law of Armenia on JSC (e.g. the data on founders of JSC).

*Alteration of an Articles of Association of the company.* A company may amend, modify or approve in a new edition of its Articles of Association. The amendment, modification, or new edition of the articles of association of the company shall be registered in State Register Agency of Legal Entities of Armenia after its approval of the General meeting (GM) of Company; afterwards it enters into force to the third parties.<sup>27</sup>

**[¶9] Powers.** Both LLC and JSC are the commercial organizations with status of a legal entity, i.e. separate subject of legal relationship. The shareholders thereof are not responsible for obligations of the company and the company is not responsible for obligation of shareholders. The company may have separate property in its ownership, be liable for its obligation with this property, acquire and exercise property and personal non-property rights, bear duties, and be a plaintiff or a defendant in court. The companies have civil rights not prohibited by the law, which are necessary for performing its activities inside and outside of the country.<sup>28</sup> Under Armenian law re-domiciliation is allowed both for Armenian and foreign companies.<sup>29</sup>

<sup>26</sup> Law of Armenia on JSC, the Article 14.

<sup>27</sup> Law of Armenia on LLC, the Article 10, Law of Armenia on JSC, the Article 15.

<sup>28</sup> Law of Armenia on LLC, the Articles 3-5, Law of Armenia on JSC, the Articles 2-3.

<sup>29</sup> Civil Code of Armenia, the Articles 59.1-59.3.

**¶10) Participants/Shareholders.**

*Registration and reporting.* Participation in LLC is subject to registration of the State register Agency of Legal Entities of Armenia, while shares and rights thereto are subject to registration in Central Depository of Armenia (via agents of latter). In both cases the rights of participant/shareholder are arisen since the date of its registration.<sup>30</sup>

*Members and Nominees.* Armenian legislation allows shareholders to appoint a nominee to hold their shares. The rights of nominee is the subject to registration in the Central Depository of Armenia as well.

*Permitted number of participants/shareholder.* If the number of participants in an LLC exceed 49 (permitted number of participants up to 49), LLC shall be subject to reorganization into JSC within one year, and upon expiration of that period, the LLC shall be subject to liquidation by judicial order, if the number of its participants is not reduced to the permitted one.<sup>31</sup>

Permitted number of shareholder in the closed JSC is up to 49. If the number of shareholders exceeds 49, JSC shall either reorganize within one year or reduce the number of its shareholders. Otherwise, the JSC subject to liquidation by court.<sup>32</sup>

**¶11) Single Member Companies.** Single member companies are permitted under the Armenian law. There is a restriction for LLC with one founder (participant) – it is banned to establish or acquire any other business company which one consist of one person (either natural or legal).<sup>33</sup>

**¶12) Share Capital.**

*Shares.* Shares in share capital of LLC and shares in JSC are treated as the property subject to ownership right under Armenian legislation.

*Minimum Authorized Capital.* There is not a requirement regarding the minimum or maximum amount of share capital for Armenian companies, except those of providing activity in specific areas of activity and subject to separate regulation (e.g. banks, insurance company, founds, credit organizations etc.).

*Transfer of Shares.*<sup>34</sup> Shares both in LLC and JSC are subject to alienation in Armenia to the other participant/shareholder of the company or to the third party (an Articles of Association of LLC may ban sell of shares to third parties). Transfer of shares may be subject to prior consent of the State commission of protection (depends on the position of the company in the market and/or amount of shares alienated and figures in financial sheets of the target company and buyer) of economic competition of Armenia as well as the applicable governmental bodies (depends on specific area of activity of the target company).

LLC participants have the priority right to purchase shares proportional to their shares at the price offered to third parties. Prior to the alienation by the third party of its share:

- (1) LLC participant shall notify LLC about alienation in written form mentioning the price and other conditions of the sale;
- (2) LLC shall notify LLC participants about alienation according to the rules defined by the Company Charter;

<sup>30</sup> Law of Armenia on LLC, the Article 11, Law of Armenia on JSC, the Article 51.

<sup>31</sup> Law of Armenia on LLC, the Article 11.

<sup>32</sup> Law of Armenia on JSC, the Article 8.

<sup>33</sup> Law of Armenia on LLC, the Article 11.

<sup>34</sup> Law of Armenia on LLC, the Article 14, Law of Armenia on JSC, the Article 8.

- (3) the Participants do not use the right of priority for purchasing within one month from the date of notice or within any other terms stipulated in LLC's Articles of Association or agreed among LLC's participants;
- (4) LLC does not use its right of priority for purchasing within one month from the date of notice or within any other terms stipulated in LLC's Articles of Association or agreed among LLC's participants, if the other Participants of the Company have not used their priority rights to acquire the share (a part of it) and the right of priority purchase of the LLC is determined in the Articles of Association LLC.

The participant is not entitled to alienate part of its shares to a third party by condition different from and price less than those offered in the mentioned notification.

Share purchase agreements signed by violation of priority right are subject to claim the recognition of the transaction invalid through judicial procedure within six months started from the moment that LLC's participants have been informed or were made aware of the violation.

Transfer of shares in LLC to the inheritors and/or legal successors may be banned under an Articles of Association of LLC.<sup>35</sup>

A closed JSC (CJSC) shareholder is entitled to priority purchase of shares subject to sale by the other shareholders of CJSC as well. If the shareholders waive their priority right, CJSC is entitled to acquire these shares at a price agreed upon with the shareholder. If CJSC waives its right or does not reach agreement on prices with the shareholder, the shares may be alienated to the third party. The procedure and timeframe for exercising the right of priority purchase of shares sold by shareholders of a CJSC are subject to regulation of CJSC Articles of Association. Nonetheless, timeframe for notification shall not be less than 30 or more than 60 days after the shares are offered for sale. Share purchase agreements concluded by violation of right of priority purchase are subject to claim the recognition of the transaction invalid through judicial procedure within general terms of action limitation.

*Bearer Shares.* Issuance, sale, or making an offer of sales or an invite to purchase a bearer shares are prohibited.<sup>36</sup>

*Stock options.* Armenian companies are permitted to issue stock options.

*Par/No-Par Values.* Both Par and No-Par Values of shares are allowed and applied under Armenian legislation.

The amount of share capital of the company, Par and No-Par Values of shares shall be denominated in AMD. The total amount of share capital is equal to the total amount of par values of shares allocated and paid.<sup>37</sup>

All ordinary shares issued by a JSC shall have an identical par value, as far as all the preferred shares of JSC of certain type.<sup>38</sup>

Payment for shares placed by the JSC shall be made at their market price (No-Par Values), but no less than their Par Values, except for establishment of JSC, when payment for share shall be made at the Par Value of shares.<sup>39</sup> A JSC may allocate additional shares at a lower than market value if:

- (a) the allocation is to all the shareholders of ordinary (plain) shares of JSC, when they are exercising their right of priority purchase in relation to shares similar to theirs; and

<sup>35</sup> Law of Armenia on LLC, the Article 16.

<sup>36</sup> Law of Armenia on JSC, the Article 31, Law of Armenia on security market, the Article 7.

<sup>37</sup> Law of Armenia on LLC, the Article 28, Law of Armenia on JSC, the Article 30.

<sup>38</sup> Law of Armenia on JSC, the Article 31.

<sup>39</sup> Law of Armenia on JSC, the Article 44.

- (b) JSC uses a dealer (intermediary) for purposes of share allocation. In this case, the allocation price may be lower than the market value in the amount of the dealer (intermediary) fee, which shall be defined as interest on the price of the placed shares.

*Redeemable shares and buy-back.* An LLC is obliged to acquire its shares (parts of them) if the alienation of the Participant's share (a part of it) to the third parties is not possible, and the other Participants of LLC refuse to purchase it. For example:

- (1) the share is transferred to LLC from the moment of submitting a request of the Participant on its acquisition by LLC; or
- (2) when the court decision on releasing the LLC Participant from LLC comes into legal force; or
- (3) if one of LLC Participants refused to transfer the share to the inheritors (legal successors) of LLC Participant; or
- (4) to allocate it among the Participants of the liquidated legal entity Participant in the Company;
- (5) as well as in the case of paying off the share value (a part of it) by LLC at the request of the creditors of LLC Participants.<sup>40</sup>

Within one year of the shares of the LLC being transferred to the LLC ownership must be distributed among all LLC Participants proportionate to their shares by the unanimous decision of LLC's GM, or to one or several Participants of LLC, or when it is not prohibited by LLC's Articles of Association, to third parties, and must be paid completely. The undistributed part of the share must be repaid through reducing the share capital of LLC.<sup>41</sup>

A JSC may buy back a part its placed shared to reduce the total quantity of JSC shares, if it is allowed by the Articles of Association and decided by the GM on reducing share capital. Each shareholder may sell his/her shares if a decision on the acquisition of the given type or class of shares was adopted, and JSC is obliged to acquire them. If the quantity of shares offered by the shareholders exceeds the quantity of shares to be purchased by JSC, then the shares shall be acquired in proportionate quantities according to the offers.<sup>42</sup>

JSC is prohibited from acquiring its placed ordinary shares if:

- (a) JSC share capital has not been paid-up in full;
- (b) as of the time of acquisition, the condition of JSC is consistent with the insolvency (bankruptcy) criteria stipulated by Armenian law, or the Company will become insolvent (bankrupt) due to the acquisition of shares; or
- (c) as of the time of acquisition, JSC's net assets either are smaller than the sum of share capital, reserve capital, and the total difference between the liquidation and nominal values of preferred shares, or will become smaller as a result of share acquisition.

JSC is prohibited from acquiring its certain classes of its placed preferred shares if:

- (a) JSC share capital has not been paid-up in full;
- (b) as of the time of acquisition, the condition of JSC is consistent with the insolvency (bankruptcy) criteria stipulated by Armenian law, or the Company will become insolvent (bankrupt) due to the acquisition of shares; or
- (c) as of the time of acquisition, JSC's net assets either are smaller than the sum of share capital, reserve capital, and the total difference between the liquidation and nominal values of outstanding preferred shares (the owners of which have a priority right to claim the liquidation value of preferred shares

<sup>40</sup> Law of Armenia on LLC, the Article 18.

<sup>41</sup> Law of Armenia on LLC, the Article 19.

<sup>42</sup> Law of Armenia on JSC, the Article 54.

if compared to the owners of preferred shares subject to acquisition), or will become smaller as a result of share acquisition.<sup>43</sup>

If fraction shares arise due to consolidation, the latter shall be bought back by the Company at the market price enshrined in accordance with the law.<sup>44</sup>

JSC shall buy its shares back at the market price, which will be determined without taking into account the changes emerging out of JSC's actions giving rise to the shareholder's put option, if the owner of voting shares demanding from JSC to buy back all or a part of his/her shares (put option). The shareholder may take the put option if:

- (a) a decision was adopted on JSC reorganization, suspension of the right of first refusal, or conclusion of a major transaction, and if the shareholder in question voted against such decision or did not participate in the vote; or
- (b) the Articles of Association was amended or expanded, or a new edition of the Articles of Association was approved, which limited the rights of the shareholder in question, and if the latter voted against or did not participate in the vote.<sup>45</sup>

*Share capital reduction.*<sup>46</sup> The company may reduce its share capital.

Reduction of share capital of company could be implemented:

- (a) by means of lowering the nominal value of shares, or
- (b) by means of reducing the total quantity of shares, including, by means of buyback and redemption of a part thereof.

Reduction in the share capital of LLC through reduction in the nominal value of the shares of all LLC participants must be only implemented through preserving the amount of the shares of all LLC participants.

If the share capital was not paid in full within one year after the state registration of the LLC, the LLC shall be obliged either to declare reduction in the share capital till the actual paid size of capital and register reduction of share capital in the Articles of Association of LLC, or make a decision on the liquidation of the LLC.

If, at the end of the second or each following financial year, the net asset value of the LLC is less than share capital, the LLC shall declare reduction in its share capital and register it.

Reducing JSC share capital by means of buyback and redemption of shares is permitted only if such reduction is stipulated by the JSC's Articles of Association.

The JSC may acquire shares for the purpose of reducing its share capital only with the consent of the shareholders. In fact, JSC is obliged to acquire the shares put to JSC for such purpose. If the quantity of shares offered to JSC for acquisition exceeds the quantity determined by the relevant decision, then the shares of shareholders shall be purchased commensurately with their offers.

A company shall notify of its share capital reduction in writing, and its new amount to all its creditors (LLC is also obliged to publish notification thereon in [www.azdarar.am](http://www.azdarar.am) (official website of public notifications)) within 30 days after making decision thereon.

The company creditors are entitled to demand on early termination or implementation of obligations of company towards them, as well as compensation for losses within 30 days after receiving the written notice (the creditors of JSC also may demand on provision of additional guarantees that the obligations will be met).

<sup>43</sup> Law of Armenia on JSC, the Article 55.

<sup>44</sup> Law of Armenia on JSC, the Article 56.

<sup>45</sup> Law of Armenia on JSC, the Article 57.

<sup>46</sup> Law of Armenia on LLC, the Article 34, Law of Armenia on JSC, the Article 36.

The registration of amended share capital is conducted after the expiration of 60 days of adopting those amendments, and only if all the claims of creditors are satisfied according to the procedures provided in the first part of this clause.

*Dividends.*<sup>47</sup> The company may distribute (announce the distribution of) its profit among its participants/shareholders (LLC may do it once a year, JSC may provide it quarterly, semi-annual, or annual).

Dividends are paid at the cost of the net profit (retain profit). Dividends for a certain class of preferred shares may be paid at the cost of special JSC funds established for this purpose. Dividends shall be paid in local currency (if it is allowed by the Articles of Association of JSC, the dividends may be paid by other property, including by shares of JSC).

LLC is prohibited to pay distributed dividends or make a decision on distribution of its profit, if

- (a) the share capital of LLC is not paid in full, or
- (b) at the moment of decision making, the net asset value is less than share capital of LLC and reserve fund, or as a result of making such a decision it will become less than those.

JSC may not decide (announce) that it will pay dividends for placed shares if:

- (a) the share capital has not been paid up;
- (b) JSC has not bought back all the shares while the shareholders realize their put option;
- (c) as of the time of adopting a decision on payment of dividends, the condition of JSC is consistent with the insolvency (bankruptcy) criteria stipulated by law, or JSC will become insolvent (bankrupt) due to the payment of dividends; or
- (d) JSC's net assets are smaller than its share capital, or they will become smaller as a result of dividend payment;
- (e) a decision on paying dividends in full has not been adopted for all those classes of preferred shares for which the size of the dividend was defined by the Articles of Association;
- (f) (for placed preferred shares) a decision on paying dividends in full has not been adopted for all those classes of preferred shares, which it prioritizes in relation to the aforementioned preferred shares in terms of receipt of dividends.

**¶13] Directors and Officers.** A company is obliged to form a board of directors ("BoD") as determined by its Charter (e.g. LLC or JSC with shareholders number of which less than 50) or by law (JSC with shareholder number of which is 50 or more). The number of BoD members is subject to GM decision.

In Armenia a company shall have an executive body. The vast majority of companies have a sole executive body, named director, CEO, General director etc. (hereinafter director). JSC may also appoint a collective executive body (director, his/her deputy (deputies), the chief accountant, as well as other Company officials).<sup>48</sup>

A company may enter into an agreement with an outside manager or management organization instead of appointing an executive body.

*Appointment/Registration.* Any natural person may be appointed as a director (there may be limitation conditions for specific areas of activity, such as banks, financial companies etc.).

<sup>47</sup>Law of Armenia on LLC, the Articles 23 and 24, Law of Armenia on JSC, the Articles 49 and 50.

<sup>48</sup>Law of Armenia on JSC, the Articles 82-89, Law of Armenia on LLC, the Articles 35 and 43.

A director is assigned to, and dismissed from, his/ her position by the decision of GM (if a JSC's Articles of Association of JSC has designated this right to the BoD, the named decision is made by BoD).<sup>49</sup>

The appointment of director as well as its dismissal is subject to registration in the State Register Agency of Legal Entities.

*Duties and Powers.* The director shall act on the basis of the Company's interests, exercising their rights and performing their obligations in regard to the Company in good faith and in a reasonable manner (fiduciary duty).<sup>50</sup>

Company Director (exclusive authorities):<sup>51</sup>

- (a) Acts on behalf of the company without letter of authorization, including representation of company's interests;
- (b) issues letters of authorization to the representing the Company, including letter of re-authorization;
- (c) issues orders on appointment, transfer to another post or dismissal of the Company employees, applies incentives and assigns disciplinary penalties;
- (d) manages Company property, including cash, and enters into transactions on behalf of the Company;
- (e) enters into contracts, as designated, including labor contracts; and
- (f) opens Company bank accounts (including foreign currency accounts).

A director of JSS also:

- (a) submits to the Board for approval the internal labor regulation of the Company, the by-laws of separated subdivisions, the organizational structure of the Company, and the staff/payroll lists;
- (b) acquires or buys back shares placed by JSC, if this right is granted to the executive body by a decision of GM or the Articles of Association Charter.

*Committees:* Exclusive authorities of director cannot be delegated to the committees.

*Liability and Indemnification of Directors and officers*<sup>52</sup> A LLC director is responsible for the loss caused to the LLC by its fault. The LLC, or participant of the LLC, is entitled to bring an action and claim to compensate the loss of LLC caused by the director.

A JSC director is liable to the JSC for the damages caused to it by her/his actions (inactions). Resignation, dismissal, or firing a director shall not exempt him from liability for damage caused to JSC. A director shall be exempt of the liability for damage caused to JSC, if he/she acted in good faith and did not or could not know that his/her actions (inaction) would cause damage to JSC. The Company or a shareholder(s) thereof, who (which together) possesses (possess) one or more percent of the placed ordinary shares of JSC may bring an action against the director by claiming compensation for damage caused to JSC.

#### **[¶14] Meetings.**

*General meetings ("GM").* It is mandatory to conduct an annual GM both for LLCs and JSCs no later than June 30th of calendar year subject to approve the company's financials for the previous calendar year (from January 1st to December 31st).<sup>53</sup> It is permitted to hold an extraordinary GM (special meetings) to resolve issues within the scope of the GM's exclusive authority.<sup>54</sup>

<sup>49</sup> *Id.*

<sup>50</sup> Law of Armenia on LLC, the Article 46, Law of Armenia on JSC, the Article 90.

<sup>51</sup> Law of Armenia on LLC, the Article 43, Law of Armenia on JSC, the Article 88.

<sup>52</sup> Law of Armenia on LLC, the Article 46, Law of Armenia on JSC, the Article 90.

<sup>53</sup> Law of Armenia on LLC, the Article 37, Law of Armenia on JSC, the Article 66.

<sup>54</sup> Law of Armenia on LLC, the Article 38, Law of Armenia on JSC, the Article 66.



The executive body of an LLC is the one who is entitled to invoke a special meeting of the LLC's GM as well as the annual GM.<sup>55</sup> There is no regulation regarding the mandating the executive body to hold the GM, or consequences of refusing to call a GM under the law. If a GM is called, the notification (time and place of holding, proposed agenda) on convocation of GM shall be given to the participants no later than 20 days before the meeting date. LLC participants are entitled to propose additions to the agenda of GM no later than 10 days prior to the date of GM.<sup>56</sup> A decision of the LLC's GM may be adopted without holding a meeting (without the joint presence of LLC Participants with the purpose of considering agenda and adopting decisions related to the issues by voting) through a distant voting (by inquiry). Such a voting may be held by exchange of documents through registered mail, telex, facsimile, telephone, electronic or other means of communication, which provide validity and documentary confirmation of exchanged messages.<sup>57</sup>

As for JSC the extraordinary GM may be convened on the decision of the BoD, either on its initiative or at the request of: the JSC's executive body, the internal Audit Commission, the external auditor, or a shareholder holding at least 10 percent of the JSC's voting shares at the time of filing such request. If there is a request (includes agenda of the meeting) to call the extraordinary GM of JSC from one of the mentioned, the BoD shall hold GM within 45 days after the request is made. The JSC's BoD may refuse to hold an extraordinary GM merely if: a) the procedure of submitting a request on holding thereof was violated; b) the requesting shareholder(s) do not own at least 10 percent of voting shares of JSC; c) none of the GM's proposed agenda questions are relevant to the GM's authority; or d) the proposed question is not consistent with the requirements of law and other legal acts. If the BoD does not adopt a decision to hold an extraordinary GM, or refuses to hold it, an extraordinary GM may be held by the person submitting the request. The GM voting may be performed remotely by using the voting ballots approved and provided by the BoD.<sup>58</sup>

A JSC shareholder (shareholders) who owns (own) at least 2 percent of the JSC's voting shares may, within 30 days after the end of the financial year or in a longer period foreseen by the Articles of Association, submit a maximum of two suggestions on the annual GM agenda, as well as propose candidates for members of the BoD and the internal Audit Committee.<sup>59</sup>

A JSC's GM is eligible (has quorum) if, at the time of completing registration of GM participants, the owners (or representatives of owners) of an aggregate of more than 50 percent of the JSC's outstanding voting shares have registered.<sup>60</sup>

*BoD meetings.* The formation of LLC BoD and rules regarding its performance, including its call and hold, are completely subject to the regulation of the Articles of Association of LLC.

Unlike an LLC, there are special rules defined in the law related to the regulation a JSC's BoD. The meeting of JSC's BoD are assembled by the Chairman of the BoD at the initiative of the Chairman of the BoD, at the request of a BoD member, the internal Audit Committee (internal auditor), the JSC's external auditor, the executive body, as well as other persons/entities as specified in the JSC's Articles of Association. The procedure of assembling and carrying out a BoD meeting are subject to agreement in the Articles of Association or in the Board by-laws, as approved by the Meeting. The

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<sup>55</sup> Law of Armenia on LLC, the Article 38.

<sup>56</sup> Law of Armenia on LLC, the Article 39.

<sup>57</sup> Law of Armenia on LLC, the Article 41.

<sup>58</sup> Law of Armenia on JSC. The Article 74.

<sup>59</sup> Law of Armenia on JSC. The Article 72.

<sup>60</sup> Law of Armenia on JSC, the Article 77.

Board may adopt decisions by means of a remote vote unless otherwise stipulated in the Articles of Association. JSC's BoD session quorum shall be defined by the Articles of Association of JSC, but cannot be lower than half of the Board members.<sup>61</sup>

**¶15] Resolutions.**

*Ordinary resolution.* An ordinary resolution stands for a resolution that is approved by a simple majority (more than half) of the votes of all the owners of voting shares participating in GM.

The following issues are subject to ordinary resolution of LLC'S GM:<sup>62</sup>

- (a) determination of the main directions of the LLC's activities, as well as issues relating to founding organizations or their participation;
- (b) formation of executive bodies of the LLC and early termination of their duties, as well as issues relating to assigning the authorities of the executive body of the LLC to a commercial organization or individual entrepreneur (hereinafter manager);
- (c) selection of the supervisory commission (auditor) and early termination of the authorities;
- (d) approval of annual reports and annual balance sheet;
- (e) issuing decision on distribution of the profit among the LLC Participants;
- (f) acceptance (approval) of documents regulating internal activities of the LLC (internal documents of the LLC);
- (g) adoption of decision on issuing securities by the LLC;
- (h) adoption of decision on the auditing of the LLC;
- (i) appointment of the liquidation commission and receipt of the liquidation balance;
- (j) solution of other issues envisaged by the law (conclusion of major transactions etc).

The following issues are subject to ordinary resolution of JSC'S GM:<sup>63</sup>

- (a) determine number of BOD members, select them, and implement early termination of their powers;
- (b) increase JSC share capital by means of increasing the nominal value of shares or allocating additional shares;
- (c) appoint the executive body (director, general director, executive board, management board) and terminate its authorities before the expiration of its term;
- (d) elect the members of the internal Audit Committee (internal Auditor) and terminate their rights before the expiration of the term;
- (e) approve the external auditor of JSC;
- (f) approve the annual reports of the JSC, its accounting reports, profit and loss accounts, and the distribution of profits and losses, as well as decide on the payment and size of annual dividends;
- (g) adopt a decision on waiving the right on JSC's priority purchase of shares from the Company shareholders owning Company shares or other securities convertible to Company shares;
- (h) determine the procedure of operation of the GM;
- (i) appoint an enumeration commission;

<sup>61</sup> Law of Armenia on JSC, the Article 87.

<sup>62</sup> Law of Armenia on LLC, the Articles 36 and 40.

<sup>63</sup> Law of Armenia on JSC, the Articles 67 and 68.

- (j) determine the method the JSC will use to deliver information to shareholders, including the selection of a mass media, if the information is to be presented in the form of a public statement;
- (k) decide on consolidation and fragmentation of shares;
- (l) decide on consummation of transactions with conflict of interests;
- (m) decide that the JSC shall acquire placed shares and buy them back;
- (n) determine the conditions of remuneration for management officials of the JSC (chairman or a member of the board, the director, the general director or the executive board, or a member of the management board);
- (o) decide that the JSC create daughter or dependent companies;
- (p) decide that the Company participate in daughter and dependent companies;
- (q) decide to establish holding companies and other Association of commercial organizations;
- (r) decide to participate in holding companies and other Association of commercial organizations;
- (s) adopt other decisions stipulated by law and its Articles of Association.

Special Resolution. A special resolution stands for a resolution which shall be made by (a) two-thirds of (i) all the votes of all the owners of voting shares, or (ii) voting shares participating in the GM, or (b) three-fourths of (i) all the votes of all the owners of voting shares, or (ii) voting shares participating in the Meeting, or (c) unanimously of (i) all the votes of all the owners of voting shares or (ii) voting shares participating in the Meeting.

The following issues are subject to a special resolution of LLC'S GM:<sup>64</sup>

- (a) changes in the Articles of Association of LLC and in the amount of share capital of LLC;
- (b) adoption of decision on restructuring and liquidation of the LLC;
- (c) the other matters defined in the Articles of Association of LLC as the subject of a special resolution.

The following issues are subject to a special resolution of JSC'S GM:<sup>65</sup>

- (a) approve the Articles of Association, amendments and extensions thereto, and a new edition of the Articles of Association;
- (b) reorganize the JSC;
- (c) liquidate the JSC;
- (d) approve the final, interim, and liquidation balance sheets, and appoint a liquidation commission;
- (e) define the maximum amount of announced shares;
- (f) reduce JSC equity by means of lowering the nominal value of shares, reducing the total number of shares placed by the JSC, or by means of redeeming shares acquired or bought back by the Company;
- (g) decide on consummation of major transactions;
- (h) the other matters defined in the Articles of Association of LLC as the subject to a special resolution (including from the list above presented matters of ordinary resolution).

**¶16] General accounting practices.** *Accounting reports.* All companies are required to maintain accounting records.<sup>66</sup> If the company's gross income is more than 500 million AMD per year the accounting records should be maintained

<sup>64</sup> Law of Armenia on LLC, the Articles 36 and 40.

<sup>65</sup> Law of Armenia on JSC, the Articles 67 and 68.

<sup>66</sup> Law of Armenia on Accounting, the Article 5 point 2.

electronically.<sup>67</sup> Accounting records include all the financial reports. Which means the coordinated and continuously presentation of the entity's financial contacts, operations, events affecting the organization.<sup>68</sup>

The LLC with participants of 20 or more as well as the JSC shall appoint internal audit (internal audit committee).<sup>69</sup>

The head of the executive branch is responsible for organizing accounting in accordance with the laws.<sup>70</sup> The accounting records can be maintained through a structural subdivision, personally by a director, or can be outsourced.<sup>71</sup> Accounting is maintained in the national currency of Armenia.<sup>72</sup>

Each member of the company has the right to be acquainted with the balance sheets and accounting records.<sup>73</sup>

*Audit.* LLCs may have an internal Audit Committee (auditor) elected by LLC's GM for a one year term, if longer term is not determined in the company's Articles of Association. An LLC's Audit Committee consists of 3 members at minimum.<sup>74</sup> The Audit Committee (auditor) has the right, at any time, to conduct audits of the financial and economic activities of the LLC and get acquainted with all the documents related to the LLC's activities.<sup>75</sup> Revision of the annual financial statements of the company may also be made at the request of each of its participants.<sup>76</sup>

In order to monitor the financial and economic activities of the JSC, the meeting elects the internal Audit Committee of JSC (internal auditor-supervisor). The term of this auditor (committee) is three years. The Audit Commission (auditor) checks the annual results of the financial and economic activities of the JSC on its own initiative at any time, and also at the request of the shareholder (s) who has at least 10% of the voting shares of JSC, or by the decision of the meeting or the Board.<sup>77</sup> In order to audit the financial and economic activities of the JSC, the JSC may engage an auditor (an entity or a natural person) who is not related to the JSC's or its shareholders' interests by signing an appropriate contract (service provision contract).<sup>78</sup> Open JSC must use an external auditor (a) who is not related to the JSC's or its shareholders' proprietary interests for the annual report, annual balance sheet, profit and loss accountability review.<sup>79</sup>

*Internal Auditor's Powers and Duties.* An internal auditor (Audit Committee) of LLC is entitled:

- (a) Within reasonable timeframe, to get acquainted with the foundation agreement and the Articles of Association, with the amendments made therein.<sup>80</sup>
- (b) To get acquainted with all documents related to LLC's activities.
- (c) To request necessary explanations (written or oral) from the LLC's BoD or executive officers.<sup>81</sup>

<sup>67</sup> Law of Armenia on Accounting, the Article 5.1.

<sup>68</sup> Law of Armenia on Accounting, the Article 6.

<sup>69</sup> Law of Armenia on LLC, the Article 35, point 6; Law of Armenia on JSC, the Article 91.

<sup>70</sup> Law of Armenia on Accounting, the Article 11, point 1.

<sup>71</sup> Law of Armenia on Accounting, the Article 11, point 2.

<sup>72</sup> Law of Armenia on Accounting, the Article 13, point 1.

<sup>73</sup> Law of Armenia on JSC, the Article 37, point 1, Law on LLC, the Article 39, point 3.

<sup>74</sup> Law of Armenia on LLC, the Article 49 point 1.

<sup>75</sup> Law of Armenia on LLC, the Article 49 point 2, 1<sup>st</sup> paragraph.

<sup>76</sup> Law of Armenia on LLC, the Article 49 point 6.

<sup>77</sup> Law of Armenia on JSC, the Article 91 point 1, 2.

<sup>78</sup> Law of Armenia on JSC, the Article 92 point 1, 1<sup>st</sup> paragraph.

<sup>79</sup> Law of Armenia on JSC, the Article 92 point 1, 2<sup>nd</sup> paragraph.

<sup>80</sup> Law of Armenia on LLC, the Article, the article 10 point 3.

<sup>81</sup> Law of Armenia on LLC, the Article 49 point 2.

The LLC's internal Audit Commission (auditor) shall, in a mandatory manner, verify the LLC's annual reports and balance sheets before its approval by the LLC's GM.

An internal auditor (Audit Committee) of JSC is entitled to:

- (a) participate in JSC's GM;<sup>82</sup>
- (b) fill a requirement to convene an Extraordinary GM;<sup>83</sup>
- (c) Require convening the BoD;<sup>84</sup>
- (d) get acquainted with all documents related to the JSC's activities.

An internal auditor (Audit Committee) of JSC Auditor's conclusion shall include:

- (a) analysis of Financial and Economic Activities of JSC;
- (b) analysis of JSC's Funds and target use thereof;
- (c) confirmation of reliability of the information contained in JSC reports and other financial documents;
- (d) analysis on compliance of accounting, financial and other reporting documents with applicable laws and other legal acts.<sup>85</sup>

**¶17 Mergers and Acquisitions.** Merger and acquisition (accession) of a company are the forms of reorganization of a companion in Armenia (the other forms are division, spin-off and transformation).<sup>86</sup>

In case of the merger of legal entities, the rights and duties of each of them shall pass to the newly arising legal entity in accordance with the transfer document.<sup>87</sup> In case of merger of a JSC, merging companies sign an agreement on the merger. A decision on reorganization in the form of a merger shall be adopted by the GMs of each of the merging companies, which will also approve the merger agreement, the transfer act, the procedure, and terms of the merger, as well as the procedure of converting the shares and other securities of each of the merging companies into shares and/or other securities of the newly created company. The joint GM of Shareholders of the merging companies shall be deemed the Founding Meeting of the newly created company, which will be assembled by the body and in the timeframe mentioned in the merger agreement, and will adopt decisions on the matters which are subject to founding decisions.<sup>88</sup>

In case of acquisition (accession) of a legal entity to another legal entity, the rights and duties of the acceding legal entity shall move to the latter in accordance with the transfer document.<sup>89</sup> In case of acquisition of a JSC, the companies participating in the acquisition must sign an acquisition agreement. A decision on reorganization in the form of acquisition shall be adopted by the GMs of each of the merging companies, which will also approve the acquisition agreement, the transfer act, the procedure and terms of acquisition, as well as the procedure of converting the shares and other securities of each of the acquired companies into shares and/or other securities of the acquiring company. The joint General Meeting of Shareholders of the companies involved in the merger or acquisition shall adopt decisions on making necessary amendments and modifications to the Charter of the acquiring company, approving the acquisition agreement and transfer act, and if necessary, on other issues, as well.<sup>90</sup>

<sup>82</sup> Law of Armenia on JSC, the Article 70, point 1.

<sup>83</sup> Law of Armenia on JSC, the Article 74, point 1.

<sup>84</sup> Law of Armenia on JSC, the Article 87, point 1.

<sup>85</sup> Law of Armenia on JSC, the Article 93, point 1.

<sup>86</sup> Civil Code of Armenia, the Article 63.

<sup>87</sup> Civil Code of Armenia, the Article 64.

<sup>88</sup> Law of Armenia on JSC, the Article 19.

<sup>89</sup> Civil Code of Armenia, the Article 64.

<sup>90</sup> Law of Armenia on JSC, the Article 20.

In case of reorganization of a legal entity in the form of merger, a legal entity shall be considered reorganized, from the time of state registration of the newly arising legal entities.<sup>91</sup>

In case of reorganization of a legal entity by acquiring another legal entity, the first of them shall be considered reorganized as soon as the single state register of legal entities records the termination of the acquired entity.<sup>92</sup>

While merger or accession a company shall set forth the transfer document which shall contain provisions on legal succession for all obligations of the reorganized legal entity with respect to all its creditors and debtors, including also obligations contested by the parties. The transfer document shall be approved by participants/shareholders of the legal entity or by the body of the legal entity empowered thereto by the Articles of Association that has taken the decision to reorganize the legal entity and must be presented together with the Articles of Association for state registration of the newly arising legal entities or for entering changes in the charters of existing legal entities. Failure to present the corresponding transfer document together with the Articles of Association, and also the absence in them of provisions on legal succession to the obligations of the reorganized legal entity or provision on distribution of assets and obligation proportionally shall entail a refusal of state registrations concerning reorganization.<sup>93</sup>

The creditors of a company shall be notified about its reorganization of the company (the law is enshrined the term of notification for JSC: within 30 days since making decision on reorganizations) and afterwards will be entitled to demand on provision of additional warranties on fulfilment of obligations of a legal entity or termination or early performance of legal obligations for which the reorganized legal entity is a debtor and compensation for damages.<sup>94 95</sup> In case of merger or accession of the JSC, the creditors to be entitled to the mentioned demands within 30 days after receipt of the notification.<sup>96</sup>

**¶18] Liquidation/Dissolution.** Liquidation of a legal entity shall entail its termination without transfer of rights and duties by way of legal succession to other persons.

A company may be liquidated:

- (1) by a decision of GM of a company;
- (2) in case of recognition by a court that the registration of a company is invalid in connection with violations of a law or other legal acts committed at its founding;
- (3) by a decision of a court in case of conduct of activity without appropriate permission (or license) or of activity prohibited by a law, or with other multiple or gross violations of a law or other legal acts.
- (4) By the court decision as a result of bankruptcy of a company.<sup>97</sup> The process described below is not the one which is applied in the process of bankruptcy of legal entity as far as the latter is the subject to regulation of the separate rules.

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<sup>91</sup> Civil Code of Armenia, the Article 63.

<sup>92</sup> Civil Code of Armenia, the Article 63.

<sup>93</sup> Civil Code of Armenia, the Article 65.

<sup>94</sup> Law of Armenia on JSC, the Article 18.

<sup>95</sup> Civil Code of Armenia, the Article 66.

<sup>96</sup> Law of Armenia on JSC, the Article 18.

<sup>97</sup> Civil Code of Armenia, the Article 67.

A demand for the liquidation of a company on the ground of violation of a law or other legal acts committed at its founding may be presented in court by a state agency or an agency of local self-government to whom the right for presenting such a demand has been granted by a law.<sup>98</sup> Currently there is no state or municipal authority which is entitled to bring a claim with demand on recognition of registration of legal entity invalid.

If the value of the property of such a liquidated company is insufficient for satisfaction of the claims of creditors, it may be liquidated only as through bankruptcy.<sup>99</sup>

In the event the GM of a company decides to liquidate a company, the State Register Agency of Legal Entities shall be notified thereon immediately in writing. The State Register Agency of Legal Entities shall register information that a company is in the process of liquidation (the information will be publicly available). By making decision on liquidation the GM shall simultaneously appoint liquidation commission (or liquidator), as well as setting forth procedure and periods for liquidation of a company. Once a liquidation commission (liquidator) is appointed, the powers for the management of the affairs of a company shall pass to it.<sup>100</sup>

The liquidation commission shall place, on the website of official notification of Armenia <http://www.azdarar.am> a publication about its liquidation and about the procedure and period for the submission of creditor's claims. This period may not be less than two months after the time of the liquidation's publication, which is deemed as commencement of the company liquidation process. The liquidation commission shall take measures for the discovery of creditors and for the receipt of debtor indebtedness and also shall inform creditors about the liquidation of the legal entity.<sup>101</sup>

After the end of the period for the presentation of creditors' claims, the liquidation commission shall compile an intermediate liquidation balance sheet (consisting of data on the composition of the property of a company, a list of the claims presented by creditors and the results of their consideration) and present it to the approval of GM of a company.<sup>102</sup>

In case the monetary assets available to a liquidated company are insufficient for the satisfaction of the claims of creditors, a liquidation commission shall conduct the sale of the property of the company at a public auction. Payment of monetary sums to creditors of the liquidated company shall be made by the liquidation commission in the following order in accordance with the intermediate liquidation balance sheet, beginning from the day of its approval:

- (a) in the first priority, claims of creditors secured by pledge of property of the liquidated company shall be satisfied;
- (b) in the second priority, claims of citizens to whom the company is liable for causing of harm to life or health shall be satisfied by capitalization of the respective periodic payments;
- (c) in the third priority, settlements shall be made for the payment of severance allowances and payment for employment with persons working under an employment agreement and also for payment of compensation under publishing contracts;

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<sup>98</sup> Civil Code of Armenia, the Article 67.

<sup>99</sup> Civil Code of Armenia, the Article 67.

<sup>100</sup> Civil Code of Armenia, the Article 68.

<sup>101</sup> Civil Code of Armenia, the Article 69.

<sup>102</sup> Civil Code of Armenia, the Article 69.

- (d) in the fourth priority, indebtedness for obligatory payments to the state budget shall be covered;
- (e) in the fifth priority, accounts shall be settled shall be made with other creditors, except for subordinated loans;
- (f) in the sixth priority, accounts shall be settled with subordinated creditor.

The claims of each priority shall be satisfied after the full satisfaction of the claims of the previous priority.<sup>103</sup>

Claims of creditors presented after the period established by the liquidation commission for their presentation shall be satisfied from the property of the legal entity undergoing liquidation that remains after the satisfaction of the claims of creditors presented on time. Claims of creditors of the legal entity undergoing liquidation, that were not recognized by the liquidation commission, or for which the creditor has been refused by a court decision shall be considered cancelled.<sup>104</sup>

After settlement of accounts with creditors, the liquidation commission shall compile a liquidation balance sheet, which shall be approved by the GM of the liquidated company. The liquidation commission shall, in an appropriate manner, send the approved liquidation balance to the State Register Agency of Legal Entities.<sup>105</sup>

Property of the company remaining after the satisfaction of the claims of creditors shall be transferred to its participants/shareholders, unless otherwise provided by law, other legal acts, or the company's Articles of Association.<sup>106</sup>

The liquidation commission of JSC shall distribute the remaining property to the shareholders of JSC in the following sequence:

- (a) First: payment for shares that were put back (in the scope of shareholder's put option under the law);
- (b) Second: payment of accrued dividends for preferred shares;
- (c) Third: payment of liquidation value of preferred shares; and
- (d) Fourth: distribution of the remaining property of the Company amongst holders of ordinary (plain) and all types of preferred shares.<sup>107</sup>

If the property remaining at the JSC's disposal is not sufficient for paying accrued dividends to the shareholders of all the preferred shares, then the property shall be divided among the shareholders commensurate to the quantity of each type of share they own. If the property remaining at the disposal of the JSC is not sufficient for paying the liquidation value to the shareholders of all the preferred shares defined by the Articles of Association, then the property shall be divided among the shareholders commensurate to the quantity of each type of share they own.<sup>108</sup>

The liquidation of the legal entity shall be considered complete and the legal entity shall be considered to have ceased its existence from the date of registration of liquidation with the State Register Agency of Legal Entities.<sup>109</sup>

**[¶19] Governing Law.**

- (i) Civil Code of Armenia, 1998.
- (ii) Law of Armenia on Limited Liability Companies, 2001.
- (iii) Law of Armenia on Joint Stock Companies, 2001.

<sup>103</sup> Civil Code of Armenia, the Articles 69 and 70.

<sup>104</sup> Civil Code of Armenia, the Article 70.

<sup>105</sup> Civil Code of Armenia, the Article 69.

<sup>106</sup> *Id.*

<sup>107</sup> Law of Armenia on JSC, the Article 29.

<sup>108</sup> *Id.*

<sup>109</sup> Civil Code of Armenia, the Article 69.



- (iv) Law of Armenia on State registration of legal entities, separate subdivisions of legal entities, institutions, agencies and individual entrepreneurs, 2001 (in edition of 2012).
- (v) Law of Armenia on security market, 2007.
- (vi) Law of Armenia on State fee, 1997.
- (vii) Law of Armenia on Accounting, 2002.
- (viii) Law of Armenia on protection of economic competition, 2000.

**¶20] Forms.** As mentioned above, registration of a company can be done online as well by filing electronic documents. Forms related to the company registration affairs can be found by using the following links (website and documents are available in Armenian):

Documents related to a LLC	<a href="https://www.e-register.am/am/docs/18">https://www.e-register.am/am/docs/18</a>
Documents related to a OJSC	<a href="https://www.e-register.am/am/docs/78">https://www.e-register.am/am/docs/78</a>
Documents related to a CJSC	<a href="https://www.e-register.am/am/docs/94">https://www.e-register.am/am/docs/94</a>
Documents related to the statements about actual beneficiary	<a href="https://www.e-register.am/am/docs/94">https://www.e-register.am/am/docs/94</a>
Documents related to reorganization of a company	<a href="https://www.e-register.am/am/docs/368">https://www.e-register.am/am/docs/368</a>

