GRATA

INTERNATIONAL

Local Knowledge
for Global Business

Law "On business entities" – new amendments

Amendments to the Law will come into force on April 28, 2021. It contains a number of innovations. We bring some of them to your attention.

Previously, the legislation contained a prohibition on business entity with a single participant to be the only participant in another business entity (LLC, ODO, OJSC, CJSC), but now it has become possible.

The old version of the Law contained a ban on the exemption of a participant in a business entity from the obligation to make a contribution to the statutory fund (payment for shares) by offsetting claims against the business entity. In connection with the changes, such a setoff became possible when making additional contributions to the statutory fund (payment for shares of an additional issue).

Participants are additionally given the right to provide financial and economic support to the organizations created by them by making contributions. For this, an agreement is concluded between the participant and the organization, according to which the contribution becomes the property of the organization, but this does not lead to an increase in the statutory fund or a change in the size of interest (par value of shares).

As part of the amendments, it is stipulated that a decision of the board of directors, which was adopted in violation of the requirements of the law or the charter of a business entity and violates the rights and (or) legitimate interests of a participant (former participant), a member of the board of directors (supervisory board), may be challenged by a participant (former participant) or by a member of the board of directors (supervisory board) in court within 2 months from the day when they learned or should have learned about the adoption of such a decision.

The list of affiliated persons of a business entity has been expanded and now includes an individual who is a deputy (first deputy) director (general director) of this business entity. When making a transaction with such a person, a certain order shall be followed, otherwise such a transaction may be declared invalid by the court.

Previously, when making a major transaction (a transaction the value of which is twenty or more percent of the book value of the assets of the company), the general meeting of participants in the decision on such a transaction should have reflected such provisions as: other persons who are parties of the transaction, the subject of the transaction, its amount (the total amount of interconnected transactions), the terms of the transaction determined by law as essential for transactions of this type, as well as other terms of the transaction. In connection to the amendments, it will also be possible to include in the decision a clause on the transfer of powers to the executive body to change the conditions of the transaction, with the exception of making changes in the parties to the transaction, the subject of the transaction, material conditions and others provided for by the decision.

The quantitative limitation of participants in CJSC is abolished (previously – 50 people maximum). The founders have the right to establish the limitation on their own. Also, the obligatory preemptive right for the purchase of shares by the shareholders of a CJSC, alienated by other shareholders of this company, is abolished. This right can still be established in the charter of the CJSC.

The amendments additionally provide that a joint-stock company has the right to issue shares of an additional issue for the purpose of their subsequent gratuitous transfer or sale, LLC now has the right to transfer or sell shares (parts of shares) free of charge to members of the board of directors (supervisory board), executive body and (or) employees of this company under fulfillment by them of the conditions stipulated by the local regulatory acts, approved by the general meeting of shareholders, and (or) civil (labor) contracts.

Practice areas

CORPORATE AND M&A

Locations

BELARUS