



Legal update

December 2020

Weinhold Legal

Contents

Amendment of the Business Corporations Act – amendments to the legal framework of a limited liability company

Appointment of an executive

Accompaniment to the general meeting

Payment of the cash contribution

Legal entity as a member of an elected organ

Decisions taken outside of the general meeting

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Amendment of the Business Corporations Act – amendments to the legal framework of a limited liability company

Act No. 3/2020 Coll., which amends the Act No. 90/2012 Coll., on Commercial Companies and Cooperatives (Business Corporations Act), will become effective on 1 January 2021. This so-called substantial amendment brings several fundamental changes, which affect each of the business corporations.

Below we summarise some of the amendments that modify limited liability companies. The limited liability company is the most frequently used legal form (according to the data of the Ministry of Finance there were about 490,000 limited liability companies at the end of November) and the list of changes that effect the limited liability companies is long, therefore the following listing is not exhaustive.

Appointment of an executive

Besides the appointment of an executive by the general meeting, Section 194a introduces the possibility to link the right to appoint an executive with a member's business share. The number of executives appointed this way is limited and cannot be higher than the number of executives appointed by the general meeting. This so-called appointing right also includes the right to recall the executive.

In case of resignation of an executive appointed in such a way, the executive notifies the organ that he is a member of and his function ends the day that this organ discussed or should have discussed his resignation (Section 58 (1)).

Simultaneously, it is necessary to point out that to issue a share with the appointment right it is necessary to reach an agreement of all members of the corporation as it is considered a substantial intervention into their rights.

The appointment must be done in writing with a certified signature and is effective upon delivery to the company.

Accompaniment to the general meeting

Newly, a member can be accompanied to the general meeting by another person either working as an advisor or even acting as an agent of the member and execute the member's rights. This applies unless provided otherwise in the memorandum of association. Such person is subject to the same obligation of confidentiality as the member.

For the companies that were incorporated before the effective date of the amendment, meaning before 1 January 2021, the effectiveness of this section is postponed to 1 January 2023 so companies may have additional time to amend their memorandums of association.



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Payment of cash contribution

The aims of the amendment to lower administration loads is clearly visible in Section 23 of the Business Corporations Act. Even though the minimum amount of contribution is determined at 1 CZK, it is recommended to deposit a bigger amount. Where cash contributions do not exceed 20 000 CZK, it is possible to pay it in another way than making a deposit on a special bank account. These contributions can be paid, for example, in cash to the contribution administrator.

Legal entity as a member of an elected organ

A member of an elected organ who is a legal entity must empower an individual, who is to act as an agent of the legal entity. This individual has to meet the statutory conditions for the execution of a function of the elected organ's member. If the empowerment does not occur within 3 months from the commencement of the legal entity's function, the function will terminate. The individual in solidarity with the legal entity than has to provide compensation for damage caused by this individual to the company.

Decisions taken outside of the general meeting

Per rollam decisions are still considered decisions of the general meeting, the difference is that the general meeting is not convened and thus the general meeting does not meet. The relevant resolution is sent to the members, who are supposed to state if they agree with the resolution, and deliver this statement to the company.

The amendment tightens the conditions under which it is possible to make decisions about circumstances that require the form of a public instrument. The draft resolution sent by the company, has to be in a form of a public instrument and the members are therefore sent a copy of the public instrument in the draft resolution. On the other hand, the member's signature on the statement has to be officially certified. After the period determined for the statements expires (determined by law as 15 days), if not provided otherwise by the memorandum of association, the company has to make another document in the form of a public instrument.

The information contained in this bulletin is presented to the best of our knowledge and belief at the time of going to press. However, specific information related to the topics covered in this bulletin should be consulted before any decision is made. The information contained in this bulletin should not be construed as an exhaustive description of the relevant issues and any possible consequences, and should not be fully relied on in any decision-making processes or treated as a substitute for specific legal advice, which would be relevant to particular circumstances. Neither Weinhold Legal, v.o.s. advokátní kancelář nor any individual lawyer listed as an author of the information accepts any responsibility for any detriment which may arise from reliance on information published here. Furthermore, it should be noted that there may be various legal opinions on some of the issues raised in this bulletin due to the ambiguity of the relevant provisions and an interpretation other than the one we give us may prevail in the future.

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