

ESTABLISHING A LIMITED LIABILITY COMPANY IN POLAND

A. Basic facts on Polish Spółka z ograniczoną odpowiedzialnością (Limited liability company, further referred to as „Company” or „LLC”)

Minimum share capital	PLN 5,000.
Minimum value of one share	PLN 50.
Number of founders	Minimum one. Please note that a sole-shareholder LLC may not be established by another sole-shareholder LLC only.
Possible contributions	Cash or in-kind contribution.
Moment when the capital must be contributed by the shareholder(s)	Before entering the LLC into the court register.
Requirement to audit the in-kind contribution	None.
Shareholders' liability for LLC's obligations	None. From the economic perspective, the shareholders' risk is limited to the value of shares acquired or subscribed for by them.
Governing bodies of the LLC	Shareholders' Meeting, Management Board (obligatory), Supervisory Board or Audit Commission (optional). The Supervisory Board or Audit Commission is obligatory if the share capital of the LLC exceeds PLN 500,000 <u>and</u> , <u>at the same time</u> , the LLC has more than 25 shareholders. In the case of the sole-shareholder LLC, the sole shareholder acts as the Shareholders' Meeting.

B. Foundation of the LLC – the milestones

- 1) Collecting the documents required for executing the Company Deed of Association.
 - Draft Deed of Association;
 - Document confirming that the person representing the shareholder is authorized to sign the Deed of Association. This may be a copy from the commercial register of the shareholder, provided that the person signing the deed is disclosed in the above document as the shareholder's representative, having necessary powers to establish the LLC. Otherwise, in addition to the excerpt from the commercial register, a power of attorney for the person signing the deed is required. The power of attorney needs to be made in the form of the notary deed;
 - If it is required by the internal regulations of the shareholder or by the law of the country of the shareholder's origin, the appropriate governing body of the shareholder (Board of Directors/Supervisory Board/Shareholders' Meeting) needs to adopt a formal decision on establishing the LLC in Poland;
 - All documents issued abroad must be legalized by the Polish consul (not required in the countries where obtaining an "Apostille" is possible or if specific provisions of law provide otherwise).

- 2) Checking whether any consents or permits are required to incorporate the Company or transfer the in-kind contribution to the company; in particular checking whether the consent of the antimonopoly authorities is required.
- 3) Executing the Deed of Association before a Polish Notary Public.

The deed must be prepared in the Polish language and before a Polish notary. If the person signing the deed does not speak Polish, the presence of a sworn translator is required.
- 4) Appointing the Company Management Board (obligatory) and the Supervisory Board or the Audit Commission (if any).
- 5) Printing specimen signatures of the Members of the Company Management Board.
- 6) Executing the office space lease contract/obtaining other legal title to the office space (obtaining an official address).
- 7) Opening a bank account for the Company.
- 8) Making by the shareholders the contributions for the share capital.
- 9) Signing documents required for Company registration by the Management Board:
 - Declaration that the share capital has been paid in full;
 - List of the shareholders;
 - Application to the registry court;
 - Miscellaneous;
- 10) Filing to the registry court:
 - Application for company registration;
 - Application to the Statistical Office in order to obtain the statistical number for the Company (REGON);
 - Tax-payer identification form, identifying proper tax office, in order to obtain tax identification number (NIP);
 - Notification of the payer to the National Social Insurance Institution (ZUS), in case the company will be social security premiums payer;
- 11) Registration of the Company with the register of entrepreneurs and publication of the announcement on registration in *Monitor Sądowy i Gospodarczy* official journal.
- 12) Notifying the Tax Office on Company registration.
- 13) Notifying the bank on Company registration.
- 14) Further tax registrations for the purpose of VAT, VAT-UE and CIT (Corporate Income Tax) taxation.
- 15) Supplementing the Company entry in the register of entrepreneurs with a Company statistical number (REGON) and tax identification number (NIP).

C. *Timing*

It is our experience that the entire process of LLC registration, as presented in section B above, normally takes up to 10 weeks:

- 1) preparing all required documents for executing the Deed of Association and filing the application for LLC registration in commercial register - up to 3 weeks. This period can be significantly shortened, if the shareholder can obtain without delay the documents as referred to in section B.1, above,
- 2) registration proceedings at the registry court - up to 3 weeks,
- 3) tax registrations - up to 4 weeks.

Under the Polish law, the LLC may undertake business actions (even such significant as purchase of a real estate) promptly after the company Deed of Association is executed. Therefore, if the timing is a crucial factor, LLC may be ready for undertaking business activity within few days after the investor takes the decision on LLC incorporation.

Document downloaded from www.wiewiorski.pl Please refer to our website for an important legal notice.

All information valid as of April 2011.