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Factsheet concerning the company limited by shares (“AG”) (Art. 261 to Art. 366 of the Liechtenstein Persons and Companies Act (“PGR”))

1. Terminology and legal nature

A company limited by shares is a legal entity with its own name, whose capital (share capital) stipulated in advance is divided into partial sums (shares) and for whose liabilities only the assets of the company are liable.¹

It is mandatory for the company limited by shares to be entered in the Commercial Register.

2. Setting up the company limited by shares

At least two founders are required to set up a company limited by shares,² although immediately after it has been set up all shares may be united in the hands of one person (so-called one-man company). Founders may be natural persons or legal entities, irrespective of their place of residence or registered domicile.

The setting up of a company limited by shares may take the form of simultaneous setting up or successive setting up. In practice, successive setting up plays practically no role at all. For this reason, only simultaneous setting up will be dealt with in the present factsheet.

The founding of a company limited by shares requires a public deed.³

The company limited by shares acquires legal personality once it has been entered in the Commercial Register.

3. Organisation of the company limited by shares

3.1 The shareholders' meeting

The supreme body of the company is the shareholders' meeting. This expresses the will of the company vis-à-vis the shareholders and managing bodies.⁴ It has the following powers:

- The election of the board of directors and the appointment of the audit authority;

¹ Art. 261 Para. 1 PGR

² Art. 281 Para. 2, Art. 288 Para. 1 PGR

³ Art. 281 Para. 1 and Art. 288 Para. 1 PGR

⁴ Art. 338 Para. 1 PGR

- the acceptance of the annual report and the consolidated annual report as well as the determination of the dividends;
- the discharge of the management;
- the passing of resolutions on the acceptance and amendment of the articles and, insofar as the articles do not stipulate otherwise, the setting up of branch offices;
- the passing of resolutions on all matters that are reserved for the shareholders' meeting by law or the articles, or that are presented to it by other management bodies.

3.2 The board of directors

The **board of directors** is responsible for the **management and representation** of the company limited by shares. The members of the board of directors are elected by the shareholders' meeting. The board of directors may consist of one or more members. In the case of companies limited by shares with share capital of at least one million Swiss francs, the board of directors must consist of at least three members.⁵

The board of directors has all powers and duties that are not delegated or reserved for another management body.

In the case of companies limited by shares that do not engage in activities of a commercial nature, a member of the board of directors authorised to manage and represent the company limited by shares must fulfil the requirements pursuant to Art. 180a Para. 1 or 2 of the Liechtenstein Persons and Companies Act ("PGR"). Excluded from this obligation are companies limited by shares that are either required by the Liechtenstein Trade Act ("Gewerbegesetz") or another special statutory provision to have a managing director or that are supervised by the government, a municipality or another public authority.⁶

3.3 The audit authority

An audit authority must be appointed for a company limited by shares, and the audit authority must be recorded in the Commercial Register.⁷ The audit authority is appointed by the shareholders' meeting and must fulfil the statutory requirements.⁸ Under certain conditions, a review and thus the appointment of an audit authority may be waived (for details see Fig. 11 below).

3.4 The supervisory board

If a company limited by shares is organised according to the so-called dual system, a supervisory board must be appointed, which can be assigned the function of permanent supervision of the management and participation in the administration.⁹ The members of the supervisory board must be entered in the Commercial Register.

⁵ Art. 344 Para. 2 PGR

⁶ Art. 180a Para. 3 PGR

⁷ Art. 350 Para. 1 PGR

⁸ Art. 350 Para. 2 and Art. 191a PGR

⁹ Art. 199 PGR

3.5 The custodian

The board of directors of a company limited by shares that has issued bearer shares must appoint a **custodian**, with whom all bearer shares of the company limited by shares are to be deposited.¹⁰ The custodian must be entered in the Commercial Register together with his function.¹¹

3.6 The representative

In addition, a **representative** must also be appointed, insofar as no domestic service address is designated.¹² The representative is authorised to receive declarations, communications and notifications and to represent the legal entity in dealings with public authorities.

4. Articles of the company limited by shares

The articles of the company limited by shares must contain the information and provisions required by law (for further details, see *Guidelines for the New Registration of a Company Limited by Shares – (“Wegleitung zur Neueintragung einer Aktiengesellschaft”)*).¹³

Certain other provisions and information are only valid if they are provided for in the articles.¹⁴ These include, for example, provisions on authorised or conditional capital, restrictions on the transferability of registered shares or restrictions on the voting and representation rights of shareholders.

5. Registered domicile of the company limited by shares

Unless the articles stipulate otherwise, the registered domicile of the company limited by shares shall be at the place where the company limited by shares has the centre of its administrative activities. Provisions concerning registered domiciles within an international context remain reserved.¹⁵

6. Purpose of the company limited by shares

The company limited by shares may pursue any commercial or non-commercial purpose, provided it is legally admissible.

The purpose of the company limited by shares must clearly state, however, whether or not it is engaged in **activities of a commercial nature**.¹⁶ The investment and management of assets or the holding of participations or other rights does not constitute an activity of a commercial nature, unless the nature and size of the enterprise requires commercial operations and orderly accounts.¹⁷

¹⁰ Art. 326b Para. 1 PGR

¹¹ Art. 326b Para. 4 PGR

¹² Art. 239 PGR

¹³ Art. 279 PGR

¹⁴ Art. 280 PGR

¹⁵ Art. 113 Para. 1 PGR, Art. 232 Para. 1 PGR

¹⁶ Art. 3 Persons and Companies Ordinance of 19 December 2000 (Verordnung vom 19. Dezember 2000 zum Personen- und Gesellschaftsrecht); (LGBl. 2000 No. 281)

¹⁷ Art. 107 Para. 3 PGR

7. Capital of the company limited by shares¹⁸

The minimum capital of the company limited by shares is **CHF 50,000.00**. If the capital is registered in euros or US dollars, the minimum capital requirement is either EUR 50,000.00 or USD 50,000.00. The minimum capital must be **fully paid up or contributed** at the time of foundation.

At least 25% of each share must be paid up in cash or covered by the contributions in kind described in more detail in the articles.¹⁹ This rule only applies, however, to share capital of CHF 200,000.00 or more, as the minimum capital of CHF 50,000.00 must always be fully paid up.

The company limited by shares may be founded by means of **cash or contributions in kind**. Contributions in kind must be valued within the context of an expert opinion.²⁰ The capital must be at the free disposal of the company limited by shares once this has been entered in the commercial register.

8. Shares of a company limited by shares

The **shares** may be **registered shares** or **bearer shares**. Both classes may also exist simultaneously in the ratio stipulated by the articles.

Bearer shares must be deposited with the custodian. The custodian must keep a register in which all of the details about the bearer shareholder that are required by law are recorded.²¹ Vis-à-vis the company, only parties who are recorded in the register are considered to be shareholders.²² The transfer of bearer shares must be reported to the custodian; the transfer shall take effect once the acquiring party has been recorded in the register.²³

Unless the articles stipulate otherwise, **registered shares** are also freely transferable by way of blank endorsement and, in case of doubt, are considered to be order instruments. To transfer the registered share, it is sufficient to transfer the endorsed share certificate to the acquiring party.²⁴ The company must maintain a register (share register) of the owners of the registered shares (shareholders) with the information required by law. Vis-à-vis the company, shareholders shall be deemed to be only those persons who are recorded in the share register.²⁵

9. Liability and responsibility

Only the company itself is liable for the liabilities of the company limited by shares with its own assets. The shareholders are not liable for the liabilities of the company.²⁶

The managing bodies of the company limited by shares are liable in accordance with the general liability provisions.²⁷

¹⁸ Art. 122 PGR

¹⁹ Art. 284 Para. 1 PGR

²⁰ Art. 285 et seq. PGR

²¹ Art. 326a Para. 1, Art. 326c Para. 1 PGR

²² Art. 326c Para. 2 PGR

²³ Art. 326h Para. 1 and 3 PGR

²⁴ Art. 327 PGR

²⁵ Art. 328 Para. 2 PGR

²⁶ Art. 261 Para. 2 PGR

²⁷ Art. 218 et seq. PGR

10. Account rendering and disclosure obligations

All companies limited by shares are obliged to keep proper accounts, irrespective of whether or not they engage in activities of a commercial nature.²⁸

The legal representatives of companies limited by shares must submit the duly approved annual financial statements and the audit report to the **Office of Justice** before the end of the twelfth month following the balance sheet reporting date.²⁹

11. Audit and review obligations³⁰

The annual accounts and consolidated annual accounts of companies limited by shares, with the exception of companies limited by shares that are classified as small or micro-companies, must be audited by an auditor or an auditing firm.³¹

In the case of companies limited by shares that are classified as small or micro-companies, the audit authority must conduct a review.³²

Companies limited by shares that engage in activities of a commercial nature and are classified as micro-companies may waive the audit review³³ (for further details, see Guidelines for the New Registration of a Company Limited by Shares). The disclosure obligation (for details, see Fig. 10 below) remains in force, however (for further details, see *Guidelines for the New Registration of a Company Limited by Shares*).

12. Legal principles

- *Persons and Companies Act (Personen- und Gesellschaftsrecht – “PGR”) of 20 January 1926 (Liechtenstein Law Gazette (“LGBI”) (1926 Nr. 4))*
- *Commercial Register Ordinance (Handelsregisterverordnung – “HRV”) of 11 February 2003 (LGBI. 2003 No. 66)*
- *Persons and Companies Ordinance of 19 December 2000 (Verordnung vom 19. Dezember 2000 zum Personen- und Gesellschaftsrecht); (LGBI. 2000 No. 281)*
- *Ordinance of 11 February 2003 concerning Land Register and Commercial Register Fees (Verordnung vom 11. Februar 2003 über die Grundbuch- und Handelsregistergebühren) (LGBI. 2003 No. 67)*

²⁸ Art. 1045 Para. 2 PGR

²⁹ Art. 1122 Para. 1 PGR

³⁰ Art. 1058 PGR

³¹ Art. 1058 Para. 1 PGR

³² Art. 1058 Para. 2 PGR

³³ Art. 1058a PGR