

Amendments to the Law on Joint Stock Companies

06 July 2015

In brief

The Moldovan Parliament has amended and supplemented the Law on Joint Stock Companies to align it with the latest Capital Market Law developments.

In detail

Securities transactions according to the type of issuing entity

Securities issued by public interest entities (PIEs) are admitted to trading only on a regulated market if the transaction covers at least 1% of all the securities issued of the same class. Other securities issued by PIEs may be admitted to trading outside of a regulated market.

Transactions with securities issued by other joint stock companies have to be conducted as prescribed by the National Commission for Financial Markets.

Majority and minority shareholders

Upon purchase / sale of securities held, the rights of minority and majority shareholders have to be exercised in accordance with the rules on takeover bids under the Capital Market Law.

This rule is not applicable to minority shareholders (or their legal successors) who obtain securities by way of their exchange against privatisation bonds.

New rules applicable to calling and conduct of general meetings of shareholders

The general meeting of shareholders is held on the territory of the Republic of Moldova, unless otherwise provided under the company's articles of incorporation or unanimously decided by the shareholders representing the entire share capital of the company.

The prohibition against holding the annual general meeting by correspondence has been excluded.

Separate requirements on the information regarding the calling and conduct of general meetings of shareholders in PIEs and other entities have been introduced.

The decision on repeated calling of the general meeting of shareholders has to be taken within 10 days following the date initially set. For entities with more than 10,000 shareholders, general meetings of shareholders are deemed to have a quorum if attended by shareholders holding at least 15% of the entity's shares in circulation.

The rules on company board election processes have also been supplemented.

Definition of transactions with conflict of interest

Under the amendments, transaction with conflict of interest means a transaction / several interconnected transactions which meet both the following conditions:

- a) Performed, directly or indirectly, between the company and the interested person and / or its affiliates under the contractual conditions applied by the entity in the course of its business; and
- b) The value of the transaction / interconnected transactions or of the goods that are subject to the transaction / transactions exceeds 1% of the company's assets according to the latest financial report.

Under the conditions above, the following are considered transactions with conflict of interest:

- Purchase, sale, transfer or acceptance in any way by the company of goods, services, rights, financial means, financial instruments and of any other assets;
- Granting or acceptance by the company of loans, collateral, encumbrances, surety or any other receivables;
- Granting or acceptance of goods or rights of usage, lease, rent or leasing;
- Conclusion or assumption of commitments with subsequent execution.

A set of amendments have been introduced, including:

- Redefinition of the "interested person" concept;
- The requirement for PIEs to adopt decisions on transactions based on audit reports. For other entities, such decisions are taken after the inspection by the supervisor committee.

The provisions on transactions with conflict of interests do not apply to the following:

- Transactions of subordinated enterprises concluded according to the mandatory provisions of the dominant enterprise;
- Transactions on sale or purchase of goods for the company through open tenders;

- Transactions in which all the shareholders are interested persons.

Rights and obligations of shareholders

Certain new rights and obligations of shareholders have been added:

- The right of refusal by the majority shareholder to purchase the voting shares of the minority shareholder if they are encumbered;
- Obligation of the shareholder liability, based on a court judgment, for damages caused to the entity or other shareholders of the entity by submitting applications for summons against the entity / other shareholders, referral to the NCFM or other law enforcement authorities in an abusive manner and in bad faith, without just cause;
- The right of shareholder to appeal only against the decisions of the general meetings of shareholders held after the registration in the shareholders' register of the data regarding the purchase of shares by that shareholder.

Other new rules

Joint stock companies have to disclose information about the entity under the provisions of the Capital Market Law.

Joint stock companies are entitled to place bonds with or

without coverage (previously only placement of secured bonds was allowed).

The requirement to obtain authorisation of a registrar has been added for entities that, under the law, are entitled to keep the register of securities holders independently.

An obligation has been introduced for a company's executive body to notify the entity keeping the register of securities holders on preference shareholders' entitlement to vote in the general meeting of shareholders on the grounds of non-payment or incomplete payment of dividends by the company.

The term after which any shareholder of the entity is entitled to request adoption by the annual general meeting of shareholders of certain decisions when the company's net asset value, according to the annual balance sheet, is below the share capital, has been increased from two to three years;

The rules regarding purchase / redemption of shares placed by the entity have also been supplemented.

The term has been reduced from 15 to seven working days for the requirement to publish certain decisions (e.g. payment of dividends, transactions with conflict of interest, high value transaction). In the case of PIEs, such decisions have to be published on the company website within three working days.

[Source: Law no. 106 dated 28 May 2015 amending and

supplementing the Law no. 1134 dated 2 April 1997 on the Joint Stock Companies, Monitorul Oficial no. 150-159 (5192 - 5201) dated 19 June 2015]

The takeaway

Under the amendments, the provisions of the Law on Joint Stock Companies have been aligned with those established by capital market legislation.

In this context, new rules on the protection of shareholders have been established, joint

stock companies have been classified (PIEs and companies that are not PIEs) with establishment of distinct rules depending on their type.

Changes have also been made regarding the organisation, calling and conduct of general meetings of shareholders.

Let's talk

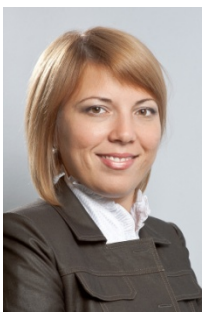
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