



Updates on key changes to corporate secretarial law

On 1 January 2021, the new amendment to the Act on Business Corporations will come into effect. Czech companies are obliged to put their articles of association in line with the amendment until the end of 2021.

Until 30 June 2021 (unless stated otherwise) the companies must file new mandatory documents into the Collection of Deeds of the Czech Commercial Register.

Please see our summary of the most fundamental changes.

- **Simplified establishment of “low-cap” companies**
Founding of a limited liability company with registered capital of not more than CZK 20,000 will be more simple. It will no longer be necessary to open a bank account for paying the contributions into the registered capital. Newly, cash contributions of less than CZK 20,000 can be made in cash directly to the contribution administrator.
- **Profit and equity distribution and payments**
The rules for profit and equity distribution are unified. The stricter rules regulating profit distribution will also apply to the distribution of other financial resources (e.g. capital funds, equity contributions outside of registered capital), setting out an obligation to carry out balance tests and an insolvency test before the pay-out. Distribution can be done based on the latest financial statements approved by the General Meeting, and is permitted to be paid out until the end of the next accounting period. Non-cash distribution in LLCs will only be allowed if explicitly stated in the company's articles of association. More precise rules related to the advance payment are also implemented.
- **Legal entity as a member of a statutory body**
Each legal entity which is a member of a statutory body of a company must authorize a single natural person to act on its behalf in the statutory body. If the natural person is not appointed within 3 months, the entity's term of office will expire automatically by law. Legal entities already being statutory bodies of companies must authorize a natural person and register such person in the Commercial Register before 1 April 2021.
- **Approval of agreements on discharge of office**
Agreements on discharge of the office of Executive Directors or of other company's bodies must be approved by the General Meeting. Otherwise, the agreement on discharge of office cannot become effective and thus is null and void.



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- **Due care & liability of a manager**
Each manager or person in the same position as the Executive Director (even the person who is not officially appointed as the Executive Director) is always liable for breach of due care and the loss caused by this breach.
- **Remuneration of members of a company's body and of their relatives**
Based on the amendment, the agreements on determination as well as other remuneration in favor of an employee who is, at the same time, a member of company's body or a person closely related to him/her no longer require the approval of the General Meeting of the company.
- **New liability of members of statutory body in case of insolvency**
The amendment toughens up a duty to act with due care towards statutory bodies' members. Based on the lawsuit against a member of a statutory body who breached his duty of due care and who contributed to the insolvency of the company, the insolvency court will be able to decide if such person will be obliged to provide compensation up to the difference between debts and company assets.
- **Shareholders' rights**
The amendment newly distinguishes special types of shares which can be incorporated in the articles of association, such as shares without voting rights, shares with the so-called appointing right (i.e. the right to appoint a member of a statutory body). It is however not possible to deprive a shareholder through his share from all his shareholder's rights at once.
- **Instructions regarding strategic management**
Strategic and business management usually falls within the competence of a company's statutory body. Intrusions of a General Meeting into the management of a statutory body led to lengthy discussions. The amendment concludes that the General Meeting can give strategic instructions to the statutory body, i.e. instructions regarding important and significant questions of company management.
- **Report on relations**
Newly, information comprising business secret can be published in a very simplified form. The report on relations must always be verified by auditor if the annual report must be audited. Also there are further minor changes regarding the information which has to be stated in the report on relations.



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To conclude, as the new law brings in some simplifications and substantially changes some rules, it is highly recommended to review the current articles of association of Czech entities and put them in compliance with the amendment within the above-mentioned deadlines. Furthermore, the amendment lays down many more changes than outlined above (also in relation to joint-stock companies and other forms of legal entities).

Also, with regard to the current uneasy pandemic situation when all larger gatherings of people are restricted, it is also advisable to review whether the articles of association enable the company's General Meeting to adopt a decision *per rollam* (outside of the General Meeting) and to decide with the use of technical means and of correspondence voting.

From the corporate point of view, we can also expect in the near future a new Act on Ultimate Beneficial Owners, which aims to transpose new requirements of European AML directives. The law proposal is currently being discussed by the Czech Senate.

For further details please do not hesitate to contact us.