

**NATIONAL ASSEMBLY**

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No. 59/2020/QH14

**SOCIALIST REPUBLIC OF VIETNAM**

**Independence - Freedom - Happiness**

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*Hanoi, June 17, 2020*

## **LAW**

### **ON ENTERPRISES**

*Pursuant to the Constitution of the Socialist Republic of Vietnam;*

*The National Assembly promulgates the Law on Enterprises.*

#### **Chapter I**

### **GENERAL PROVISIONS**

#### **Article 1. Scope**

This Law provides for establishment, management, reorganization, dissolution and relevant activities of enterprises, including limited liability companies, joint stock companies, partnerships and sole proprietorships; groups of companies.

#### **Article 2. Regulated entities**

1. Enterprises.
2. Organizations and individuals relevant to establishment, management, reorganization, dissolution and relevant activities of enterprises.

#### **Article 3. Application of the Law on Enterprises and other laws**

In case there are other laws that provide for establishment, management, reorganization, dissolution and relevant activities of special enterprises, regulations of these laws shall apply.

#### **Article 4. Definitions**

For the purpose of this document, the terms below are construed as follows:

1. “copy” means a copy extracted from master register or a copy that has been certified by a competent organization or compared to the original document.
2. “foreigner” means a person who has a foreign nationality according to his/her documents.

3. “shareholder” means the individual or organization that holds at least a share of a joint stock company.
4. “founding shareholder” means a shareholder that holds at least an ordinary share and has his/her signature in the list of shareholders that are also founder of the joint stock company.
5. “dividend” means a net profit on each share in cash or other assets.
6. A “company” can be a limited liability company, joint stock company or partnership.
7. A “limited liability company” can be a single-member limited liability company or multiple-member limited liability company.
8. “National Enterprise Registration Portal” means a web portal used for enterprise registration and access and publishing of enterprise registration.
9. “national enterprise registration database” means the collection of nationwide enterprise registration data.
10. “enterprise” means an organization that has a proper name, assets, premises, is established or registered in accordance with law for business purposes.
11. A “state-owned enterprise” means an enterprise more than 50% charter capital or voting shares of which is held by the State as prescribed in Article 88 of this Law.
12. A “Vietnamese enterprise” means an enterprise that is registered in accordance with Vietnam’s law and has its headquarters located within Vietnam.
13. “mailing address” means the address registered as the headquarters of an organization; the permanent residence, working place or another address of an individual that is registered as mailing address with an enterprise.
14. “market value” of a stake or share means the price at which the stake or share is traded on the market at the nearest time, the price agreed on by the buyer and the seller, or the price determined by a valuation organization.
15. “Certificate of Enterprise Registration” means a physical or electronic document bearing enterprise registration information provided for the enterprise by a business registration authority.
16. “legal documents” of an individual include the ID card (old or new format), passport and other legal personal identification documents.
17. “legal documents” of an enterprise include the Establishment Decision, Certificate of Enterprise Registration and equivalent documents.

18. “capital contribution” means the contribution of capital as charter capital to establish a new company or contribution of additional capital to an existing company.

19. “National Enterprise Registration Information System” includes the National Enterprise Registration Portal, national enterprise registration database, relevant databases and technical infrastructure.

20. “valid application” means an application that contains adequate documents specified in this Law and all the documents are completed as prescribed by law.

21. “business” or “business operation” means continuous execution of one, some or all stages including investment, manufacturing, sale or provision of services on the market for profit.

22. “relatives” of a person include: the spouse, biological parents, adoptive parents, parents-in-laws, biological children, adopted children, children-in-law, biological siblings, siblings-in-law and biological siblings of the spouse.

23. “related person” means any individual or organization that has a direct or indirect relationship with an enterprise in the following cases:

a) The parent company, its executive and legal representative, and the person who has the power to designate the executive officer of the parent company;

b) The subsidiary company, its executive and legal representative;

c) Any individual, organization or group of individuals or organizations that can influence the enterprise’s operation through ownership, acquisition of shares/stakes or making corporal decisions;

d) The enterprise’s executive, legal representative, controllers;

dd) Spouses, biological parents, adoptive parents, parents-in-laws, biological children, adopted children, children-in-law, biological siblings, siblings-in-law and biological siblings of spouses of the executive officer, legal representative, controllers, members/partners and shareholders holding the controlling stakes/shares;

e) Any individual that is the authorized representative of the companies or organizations mentioned in Point a, b and c of this Clause;

g) Any enterprise in which an individual, company or organization mentioned in Points a, b, c, d, dd and e of this Clause has the controlling interest.

24. “executive of an enterprise means the owner of a sole proprietorship, a general partner of a partnership, chairperson or member of the Member/Partner Assembly, President of a company, President or member of the Board of Directors, Director/General Director, or holder of another managerial position prescribed in the company’s charter.

25. “founder” means the individual or organization that establishes or contributes capital to establish an enterprise.
26. “foreign investor” means an individual or organization as defined by the Law on Investment.
27. “stake” means the total value of assets that a member/partner has contributed or promises to contribute to a limited liability company/partnership. “holding” means the ratio of a member/partner’s stake to the charter capital of the limited liability company/partnership.
28. “public products and services” are essential products and services of a country, area or community, thus have to be maintained by the State for assurance of common interests or defense and security, and the costs of provision of which under market mechanism are hardly recoverable.
29. “member” or “partner” means the individual or organization that holds part or all of charter capital of a limited liability company or partnership.
30. A “partner” of a partnership can be a general partner or limited partner.
31. “reorganization” of an enterprise means the full division, partial division, consolidation, acquisition or conversion of an enterprise.
32. “foreign organization” means an organization established overseas under the foreign country’s laws.
33. “voting capital” means the stake or share that endows the holder the right to vote on the issues within the jurisdiction of the Board of Members or General Meeting of Shareholders.
34. “charter capital” means the total value of assets that have been contributed or promised by the members/partners/owners when the limited liability company or partnership is established; or the total of nominal values of the sold or subscribed shares when a joint stock company is established.

## **Article 5. Protection of enterprises and their owners by the State**

1. The State recognizes the long-term existence and development of the types of enterprises prescribed in this Law; ensures equality of enterprises before the law regardless of their types of business and economic sector; recognizes lawful profitability of business operation.
2. The State recognizes and protects the rights to ownership of assets, capital, income, other lawful rights and interests of enterprises and their owners.
3. Lawful assets and capital of enterprises and their owners shall not be nationalized or administratively confiscated. Unless strictly necessary, the State may purchase or requisition assets of enterprises, in which case these enterprises shall be paid or reimbursed for in

accordance with regulations of law on purchase and requisitioning of assets and in a manner that ensures the enterprises' interests and non-discrimination among the types of business.

#### **Article 6. Internal political organizations, socio-political organizations and employee representative organizations of enterprises**

1. The internal political organization, socio-political organization and employee representative organization of an enterprise shall operate in accordance with the Constitution, the law and the enterprise's charter.

2. Enterprises shall respect and not obstruct the establishment of internal political organizations, socio-political organizations and employee representative organizations; must not obstruct participation of their employees in such organizations.

#### **Article 7. Rights of enterprises**

Every enterprise has the right to:

1. Freely engage in any business line that is not banned by law.
2. Freely run the business and choose a type of business organization; choose business lines, area of operation and type of operation; change the scale of business and business lines.
3. Choose the method of mobilizing, distributing and using capital.
4. Freely find markets, customers and enter into contracts.
5. Export and import.
6. Hire employees in accordance with employment laws.
7. Apply technological advances to improve business efficiency; have intellectual property rights protected in accordance with intellectual property laws.
8. Acquire, use, dispose of their assets.
9. Reject unlawful requests for provision of resources from other organizations and individuals.
10. File complaints and participate in proceedings as prescribed by law.
11. Other rights prescribed by law.

#### **Article 8. Obligations of enterprises**

1. Maintain the fulfillment of conditions for conducting restricted business lines and business lines restricted to foreign investors (hereinafter referred to as “restricted business lines”) prescribed by law throughout the course of business operation.
2. Apply for enterprise registration; register changes to enterprise registration information; publish information about the establishment and operation of the enterprise; submit reports and fulfill other obligations prescribed by this Law.
3. Take responsibility for the accuracy of information in the enterprise registration application and reports; promptly rectify incorrect information if found.
4. Organize accounting works; pay taxes and fulfill other financial obligations prescribed by law.
5. Protect lawful rights and interests of employees as prescribed by law; do not discriminate against or insult employees; do not mistreat or force employees to work; do not employ minors against the law; enable employees to improve their vocational skills through training; buy social insurance, unemployment insurance, health insurance and other insurance for employees as prescribed by law.
6. Other obligations prescribed by law.

#### **Article 9. Rights and obligations of enterprises providing public products and services**

An enterprise providing public products and services shall:

1. Have the rights and obligations specified in Article 7, Article 8 and relevant regulations of this Law.
2. Be reimbursed in accordance with bidding laws or collect payments as prescribed by competent authorities.
3. Have appropriate time to provide products/services to recoup investment and make reasonable profit.
4. Provide products/services with adequate quantity, good quality and on schedule at the prices imposed by competent authorities.
5. Ensure fairness and convenience for customers.
6. Take legal responsibility for the quantity, quality, supply conditions and prices for their products/services.

#### **Article 10. Criteria, rights and obligations of social enterprises**

1. A social enterprise shall:

- a) Be registered in accordance with this Law;
- b) Operate for the purposes of resolving social and environmental issues for public interests;
- c) Use at least 51% of the annual post-tax profit for re-investment to achieved registered targets.

2. In addition to the rights and obligations of an enterprise prescribed in this Law, a social enterprise also has the following rights and obligations:

- a) The owner or executive of a social enterprise shall be enabled to obtain relevant licenses and certificates prescribed by law;
- b) A social enterprise may raise and receive donations from individuals, enterprises, non-governmental organizations and other Vietnamese and foreign organizations to cover its administrative expenses and operating costs;
- c) Adhere to the objectives and fulfill the conditions specified in Point b and Point c Clause 1 of this Article throughout its course of operation;
- b) Do not use donations for purposes other than covering administrative expenses and operating costs and resolving the social and environmental issues registered by the enterprise;
- dd) When receiving donations and aids, submit annual reports on the enterprise's operation to a competent authority;

3. Inform the competent authority when an social or environmental objective is terminated or profit is not used for re-investment in accordance with Point b and Point c Clause 1 of this Article.

4. The State shall adopt policies to encourage and assist in development of social enterprises.

5. The Government shall elaborate this Article.

#### **Article 11. Document retention**

1. An enterprise, depending on its type of business, shall retain the following documents:

- a) The charter, internal rules and regulations; the member/partner/shareholder register;
- b) The certificate of Industrial property rights; the certificate of registration of product/service quality; other licenses and certificates;
- c) Documents proving the enterprise's ownership of its assets;
- d) Votes, vote counting records, minutes of meetings of the Board of Members/Partners, General Meeting of Shareholders, Board of Directors; the enterprise's decisions;

- dd) The prospectus for offering or listing securities;
- e) Reports of the Board of Controllers, verdicts of inspecting authorities and audit organizations;
- g) Accounting books, accounting records and annual financial statements.

2. The documents mentioned in Clause 1 of this Article shall be retained at the enterprise's headquarters or another location specified in the enterprise's charter for a period of time prescribed by law.

## **Article 12. The enterprise's legal representative**

1. The enterprise's legal representative is the person that, on behalf of the enterprise, exercises and performs the rights and obligations derived from the enterprise's transactions, acts as the plaintiff, defendant or person with relevant interests and duties before in court, arbitration, and performs other rights and obligations prescribed by law.

2. A limited liability company or joint stock company may have one or more than one legal representative. The enterprise's charter shall specify the quantity, position, rights and obligations of its legal representatives. In case there are more than one legal representative, the charter shall specify the rights and obligations of each of them. Otherwise, each of the legal representatives shall fully representative the enterprise and take joint responsibility for any damage to the enterprise as prescribed by civil laws and relevant laws.

3. An enterprise shall have at least one legal representative residing in Vietnam. Whenever this representative leaves Vietnam, he/she has to authorize another Vietnamese resident, in writing, to act as the legal representative, in which case the authorizing person is still responsible for the authorized person's performance.

4. In case the authorizing person has not returned to Vietnam when the letter of authorization mentioned in (3) expires and does not have any further actions:

a) In case the enterprise is a sole proprietorship, the authorized person shall continue acting as the enterprise's legal representative until the authorizing person returns;

b) In case the enterprise is a limited liability company, joint stock company or partnership, the authorized person shall continue acting as the enterprise's legal representative until the authorizing person returns or until the enterprise's owner, Board of Members/Partners or Board of Directors designates another legal representative.

5. In case the only legal representative of an enterprise she is not present in Vietnam for more than 30 days without authorizing another person to act as the enterprise's legal representative, or is dead, missing, facing criminal prosecution, kept in temporary detention, serving an imprisonment sentence, serving an administrative penalty in a correctional institution or rehabilitation center, has limited legal capacity or is incapacitated, has difficulty controlling his/her own behaviors, is banned by the court from holding certain positions or doing certain



works, the enterprise's owner, Board of Members/Partners or Board of Directors shall appoint another legal representative, except for the cases specified in Clause 6 of this Article.

6. In a two-member limited liability company, if the member who is the company's legal representative is dead, missing, facing criminal prosecution, kept in temporary detention, serving an imprisonment sentence, serving an administrative penalty in a correctional institution or rehabilitation center, making getaway; has limited legal capacity or is incapacitated, has difficulty controlling his/her own behaviors, is banned by the court from holding certain positions or doing certain works, the other member shall obviously assume the position of the company's legal representative until the Board of Members issues a new decision on the company's legal representative.

7. The court and other proceeding authorities are entitled to appoint the legal representative who participates in proceedings as prescribed by law.

### **Article 13. Responsibilities of the enterprise's legal representative**

1. An enterprise's legal representative shall:

a) Exercise and perform his/her rights and obligations in an honest and prudent manner to protect the enterprise's lawful interests;

b) Be loyal to the enterprise's interests; not abuse his/her power and position or use the enterprise's information, secrets, business opportunities and assets for personal gain or serve any other organization's or individual's interests;

c) Promptly and fully provide the enterprise with information about the enterprises that he/she or his/her related person owns or has shares/stakes in as prescribed in this Law.

2. The enterprise's representative shall be personally responsible for any damage to the enterprise within the limits of responsibilities specified in Clause 1 of this Article.

### **Article 14. Authorized representatives of the owner/members/partners/shareholders that are organizations**

1. Authorized representatives of the owner/members/partners/shareholders that are organizations shall be authorized in writing by the owner/members/partners/shareholders in accordance with this Law.

2. Unless otherwise prescribed by the charter, the designation of the authorized representative shall comply with the following regulations:

a) An organization that is a member of a multiple-member limited liability company and holds at least 35% of charter capital may designate up to 03 authorized representatives;

b) An organization that is a shareholder of a joint stock company and holds at least 10% of ordinary shares may designate up to 03 authorized representatives.

3. In case the owner/members/partners/shareholders designate more than one authorized representative, the holding represented by each of them shall be specified. Otherwise, the total holding shall be equally divided among the authorized representatives.

4. The document designating the authorized representative shall be informed to the company, be effective on the date it is received by the company and contain the following information:

a) Names, enterprise identification (EID) numbers, headquarters addresses of the owner/members/partners/shareholders;

b) Quantity of authorized representatives and their holdings;

c) Full name, mailing address, nationality, legal document number of each authorized representative;

d) The beginning date and duration of authorization of each authorized representative;

dd) Full names and signatures of the legal representatives of the owner/members/partners/shareholders and of the authorized representatives.

5. An authorized representative shall satisfy the following requirements:

a) The authorized representative is not an entity specified in Clause 2 Article 17 of this Law;

b) Members/partners/shareholders of state-owned enterprises prescribed in Point b Clause 1 Article 88 of this Law must not designate a relative of the executive and the person having the power to designate the executive as representative of another company;

c) Other requirements specified in the company's charter.

### **Article 15. Responsibilities of authorized representatives of the owner/members/partners/shareholders that are organizations**

1. Authorized representatives of the owner/members/partners/shareholders shall exercise and perform their rights and obligations in accordance with this Law. All limits imposed by the owner/members/partners/shareholders to the authorized representatives' performance at the Board of Members/Partners or General Meeting of Shareholders shall not apply to any third party.

2. Authorized representatives have the responsibility to attend all meetings of the Board of Members/Partners or General Meeting of Shareholders; exercise and perform the authorized rights and obligations in an honest and prudent manner to protect lawful interest of the owner/members/partners/shareholders that designated them.

3. Authorized representatives shall be responsible to the owner, members/partners/shareholders for fulfillment of the responsibilities specified in this Article. The owner, members/partners/shareholders that designate these authorized representatives shall be responsible to third parties for performance of these authorized representative.

#### **Article 16. Prohibited actions**

1. Issuing or refusing to issue the Certificate of Enterprise registration against regulations of this Law; requesting the founder to submit additional documents against regulations of this Law; delaying, obstructing, harassing enterprise founders and business operation of enterprises.

2. Obstructing the enterprise's owner, members/partners/shareholders from performing their rights and obligations prescribed in this Law and the enterprise's charter.

3. Doing business as an enterprise without applying for enterprise registration; carrying on business operation after the Certificate of Enterprise Registration has been revoked or while the enterprise is being suspended.

4. Providing dishonest or incorrect information in the enterprise registration application or application for changes to enterprise registration information.

5. Declaring false charter capital; failure to contribute adequate charter capital as registered; deliberate contribution of assets with false value.

6. Engaging in banned business lines or business lines from which foreign investors are banned; engaging in restricted business lines without fulfillment of conditions or failure to maintain fulfillment of conditions during operation in restricted business lines.

7. Frauds, money laundering, terrorism financing.

## **Chapter II**

### **ENTERPRISE ESTABLISHMENT**

#### **Article 17. The rights to establish, contribute capital, buy shares/stakes and manage enterprises**

1. Organizations and individuals have the right to establish and manage enterprises in Vietnam in accordance with this Law, except for the cases specified in Clause 2 of this Article.

2. The following organizations and individuals do not have the right to establish and manage enterprises in Vietnam:

a) State authorities, People's armed forces using state-owned assets to establish enterprises to serve their own interests;

b) Officials and public employees defined by the Law on Officials and the Law on Public Employees;

c) Commissioned officers, non-commissioned officers, career military personnel, military workers and public employees in agencies and units of Vietnam People's Army; commissioned officers, non-commissioned officers and police workers in police authorities and units, except for those designated and authorized representatives to manage state-owned stakes in enterprises or to manage state-owned enterprises;

d) Executive officers and managers of state-owned enterprises prescribed in Point a Clause 1 Article 88 of this Law, except those who are designated as authorized representatives to manage state-owned stakes in other enterprises;

dd) Minors; people with limited legal capacity; incapacitated people; people having difficulties controlling their behaviors; organizations that are not juridical persons;

e) People who are facing criminal prosecution, kept in temporary detention, serving an imprisonment sentence, serving an administrative penalty in a correctional institution or rehabilitation center, has limited legal capacity or is incapacitated, is not able to control his/her own behaviors, is banned by the court from holding certain positions or doing certain works; other cases prescribed by the Law on Bankruptcy and the Anti-corruption Law.

If requested by the business registration authority, the applicant shall submit the judicial records;

g) Juridical persons that are banned from business operation or banned from certain fields as prescribed by the Criminal Code.

3. Organizations and individuals have the right to contribute capital, buy shares and stakes of joint stock companies, limited liability companies and partnerships in accordance with this Law, except:

a) State authorities, People's armed forces contributing state-owned assets to enterprises to serve their own interests;

b) The entities that are not allowed to contribute capital to enterprises prescribed by the Law on Officials, the Law on Public Employees, and Anti-corruption Law.

4. The act of serving one's own interests mentioned in Point a Clause 2 and Point a Clause 3 of this Article means the use of incomes from business operation, capital contribution, acquisition of shares/stakes for any of the following purposes:

a) Any kind of distribution to some or all of the persons specified in Point b and Point c Clause 2 of this Article;

b) Inclusion in the operating budget of the organization/unit against state budget laws;

c) Establishment or contribution to an internal fund of the organization/unit.

### **Article 18. Pre-registration contracts**

1. The enterprise's founder may sign contracts serving the establishment and operation of the enterprise before and during the process of enterprise registration.

2. When the Certificate of Enterprise Registration is granted, the enterprise shall continue exercising and performing the rights and obligations under the concluded contracts mentioned in Clause 1 of this Article, and the parties shall transfer the rights and obligations in accordance with the Civil Code, unless prescribed by the contracts.

3. IN case the Certificate of Enterprise Registration is not granted, the persons who conclude the contracts mentioned in Clause 1 of this Article are responsible for their execution. Any other participant in the establishment of the enterprise is also responsible for the execution of these contracts.

### **Article 19. Application for registration of a sole proprietorship**

1. The enterprise registration application form.

2. Copies of legal documents of the sole proprietorship's owner.

### **Article 20. Application for registration of a partnership**

1. The enterprise registration application form.

2. The company's charter.

3. The list of partners.

4. Copies of legal documents of the partners.

5. Copies of the Certificate of Investment Registration of foreign investors as prescribed by the Law on Investment.

### **Article 21. Application for registration of a limited liability company**

1. The enterprise registration application form.

2. The company's charter.

3. The list of members.

4. Copies of:

- a) Legal documents of members who are individuals and legal representatives;
- b) Legal documents of members that are organizations, documents about designation of authorized representatives and their legal documents.

Legalized copies of legal documents of the members that are foreign organizations.

- c) The Certificate of Investment Registration of foreign investors as prescribed by the Law on Investment.

## **Article 22. Application for registration of a joint stock company**

1. The enterprise registration application form.
2. The company's charter.
3. The list of founding shareholders; the list of shareholders that are foreign investors.
4. Copies of:
  - a) Legal documents of founding shareholders and shareholders that are foreign investors who are individuals and legal representatives;
  - b) Legal documents of shareholders that are organizations, documents about designation of authorized representatives; legal documents of authorized representatives of founding shareholders and shareholders that are foreign organizations.

Legalized copies of legal documents of the members that are foreign organizations.

- c) The Certificate of Investment Registration of foreign investors as prescribed by the Law on Investment.

## **Article 23. Content of the enterprise registration application form**

The following information shall be provided in the enterprise registration application form:

1. The enterprise's name;
2. The enterprise's headquarters, phone number, fax number, email address (if any);
3. The enterprise's business lines;
4. The charter capital (or investment capital if the enterprise is a sole proprietorship);
5. Types of shares, face value of each type and total authorized shares of each type if the enterprise is a joint stock company;

6. Tax registration information;
7. Expected quantity of employees;
8. Full name, signature, mailing address, nationality and legal documents of each partner (for partnerships) or the owner (for sole proprietorships);
9. Full name, signature, mailing address, nationality and legal documents of the legal representative (for limited liability companies and joint stock companies).

**Article 24. The company's charter.**

1. The company's charter includes the initial charter submitted upon enterprise registration and revisions made during the operation.
2. Primary contents of the company's charter:
  - a) The company's name, addresses of the headquarters, branches and representative offices (if any);
  - b) The company's business lines;
  - c) The charter capital; total quantity of shares, types of shares and face value of each type (for joint stock companies);
  - d) Full name, mailing address, nationality of each partner (for partnerships), the owner and each member (for limited liability companies) or the founding shareholders (for joint stock companies). Stakes held by each member or partner (for limited liability companies and partnerships) and values thereof. Quantity of shares, types of shares and value of each type held by founding shareholders (for joint stock companies);
  - dd) Rights and obligations of the members or partners (for limited liability companies and partnerships) or shareholders (for joint stock companies);
  - e) The organizational structure;
  - g) Quantity, titles, rights and obligations of each of the enterprise's legal representatives;
  - h) Method for ratifying the company's decisions; rules for settlement of internal disputes;
  - i) Basis and method for determination of salaries and bonuses of the executives and controllers;
  - k) Cases in which members/shareholders may request the company to repurchase their stakes/shares (For limited liability companies/joint stock companies);
  - l) Rules for distribution of post-tax profits and settlement of business losses;

- m) Cases of dissolution; procedures for dissolution and liquidation of the company's assets;
- m) Procedures for revising the company's charter.

3. The initial company's charter shall contain the full names and signatures of:

- a) For partnerships, the partners;
- b) For single-member limited liability companies, the owner that is an individual or the legal representative of the owner that is an organization;
- c) For multi-member limited liability companies, the members that are individuals or authorized representatives of members that are organizations;
- d) For joint stock companies, founding shareholders that are individuals and legal representatives or authorized representatives of founding shareholders that are organizations.

4. The revised company's charter shall contain the full names and signatures of:

- a) For partnerships: the President of the Partner Assembly;
- b) For single-member limited liability companies: the owner, the legal representative of the owner, or the legal representative;
- c) For multi-member limited liability companies and joint stock companies: the legal representative.

**Article 25. List of members/partners of a limited liability company/partnership; list of founding shareholders and foreign shareholders of a joint stock company**

The List of members/partners of a limited liability company/partnership; the list of founding shareholders and foreign shareholders of a joint stock company shall contain:

1. Full names, signatures, nationalities, mailing addresses of members/partners/founding shareholders/foreign shareholders that are individuals;
2. Names, EID numbers, addresses of headquarters of members/partners/founding shareholders/foreign shareholders that are organizations;
3. Full names, signatures, nationalities, mailing addresses or legal representatives or authorized representatives of members/partners/founding shareholders/foreign shareholders that are organizations;
4. Stakes and values thereof, holdings, types, quantities and values of assets contributed as capital, capital contribution time of each member/partner (for limited liability companies and partnerships); types and quantities of shares, holdings, types, quantities and values of assets



contributed as capital, capital contribution period of each founding shareholder and foreign shareholder (for joint stock companies).

## **Article 26. Enterprise registration procedures**

1. The enterprise's founder or the authorized person shall apply for enterprise registration at the business registration authority as follows:

- a) Direct application at the business registration authority;
- b) Submission of the application by post;
- c) Online enterprise registration.

2. Online enterprise registration means the enterprise's founder submitting the electronic enterprise registration application to the National Enterprise Registration Portal. An electronic enterprise registration application shall contain the information prescribed in this Law and has the same legal value as a physical one.

3. Applicants may choose between digital signatures and business registration accounts for online enterprise registration.

4. A business registration account means an account created by the National Enterprise Registration Information System for an individual to apply for online enterprise registration. The account holder is legally responsible for the obtainment and use of the account for online enterprise registration.

5. Within 03 working days from the receipt of the application, the business registration authority shall consider the validity of the application and decide whether to issue enterprise registration. The business registration authority shall inform the applicant of necessary supplementation in writing if the application is invalid or inform the applicant and provide explanation if the application is rejected.

6. The Government shall provide detailed regulations on documentation and interconnected procedures for enterprise registration.

## **Article 27. Issuance of the Certificate of Enterprise Registration**

1. An enterprise will be granted the Certificate of Enterprise Registration when the following conditions are fully satisfied:

- a) The registered business lines are not banned;
- b) The enterprise's name is conformable with regulations of Articles 37, 38, 39 and 41 of this Law;

- c) The enterprise registration application is valid;
  - d) The enterprise registration fees are fully paid in accordance with regulations of law on fees and charges.
2. In case a Certificate of Enterprise Registration is lost or damaged, it will be reissued at a fee prescribed by law.

### **Article 28. Content of the Certificate of Enterprise Registration**

A Certificate of Enterprise Registration shall contain the following information:

1. The enterprise's name and EID number;
2. The enterprise's headquarters address;
3. Full name, signature, mailing address, nationality and legal document number of the legal representative (for limited liability companies and joint stock companies), each partner (for partnerships), the owner (for sole proprietorships). Full name, mailing address, nationality and legal document number of each member that is an individual; name, EID number and headquarters address of each member that is an organization (for limited liability companies);
4. The charter capital (or investment capital if the enterprise is a sole proprietorship).

### **Article 29. Enterprise identification (EID) number**

1. EID number is a serial number generated by the National Enterprise Registration Information System, issued to the enterprise when it is created and written on the Certificate of Enterprise Registration. Each enterprise shall have a sole EID number, which must not be issued to any other enterprise.
2. The EID number shall be used for paying taxes, following administrative procedures, exercising and performing other rights and obligations.

### **Article 30. Registering revisions to the Certificate of Enterprise Registration**

1. Revisions to any of the information specified in Article 28 of this Law on the Certificate of Enterprise Registration shall be registered by the enterprise with the business registration authority.
2. An application for revision shall be submitted within 10 days from day on which the change occurs.
3. Within 03 working days from the receipt of the application for revision, the business registration authority shall consider the validity of the application and decide whether to issue a new Certificate of Enterprise Registration. The business registration authority shall inform the

applicant of necessary supplementation in writing if the application is invalid or inform the applicant and provide explanation if the application is rejected.

4. Procedures for registering revisions to the Certificate of Enterprise Registration under a court decision or arbitration award:

a) The applicant shall submit the application for revision to the competent business registration authority within 15 days from the effective date of the court decision or arbitration award. The application shall include copies of the effective court decision or arbitration award;

b) Within 03 working days from the receipt of the application, the business registration authority shall consider issuing a new Certificate of Enterprise Registration in accordance with the effective court decision or arbitration award. The business registration authority shall inform the applicant of necessary supplementation in writing if the application is invalid or inform the applicant and provide explanation if the application is rejected.

5. The Government shall provide for documentation and procedures for registering revisions to the Certificate of Enterprise Registration.

### **Article 31. Notification of changes to enterprise registration information**

1. The enterprise shall notify the business registration authority of any change to:

a) The enterprise's business lines;

b) The founding shareholders and foreign shareholders (for joint stock companies, except listed companies);

c) Other content of the enterprise registration application.

2. The enterprise shall notify a change to enterprise registration information within 10 days from its occurrence.

3. A joint stock company shall send a written notification to the business registration authority in charge of the area where the company is headquartered within 10 days from the occurrence of the change to foreign shareholders registered in the company's shareholder register. Such a notification shall contain:

a) The company's name, EID number, headquarter address;

b) For foreign shareholders who transfer their shares: Names and headquarter addresses of shareholders that are organizations; full names, nationalities, mailing addresses of shareholders that are individuals; quantities and types of shares they are holding; quantities and types of shares being transferred;

c) For foreign shareholders who receive shares: Names and headquarter addresses of shareholders that are organizations; full names, nationalities, mailing addresses of shareholders that are individuals; quantities and types of shares being received; their holdings;

d) Full names and signatures of the company's legal representatives.

4. Within 03 working days from the receipt of the notification, the business registration authority shall consider its validity and decide whether to accept the change. The business registration authority shall inform the enterprise of necessary supplementation in writing if the application is invalid or inform the applicant and provide explanation if the change is not acceptable.

5. Procedures for notifying changes to enterprise registration information under a court decision or arbitration award:

a) The organization or individual that requests to make the change (the requester) shall send a notification to the competent business registration authority within 10 days from the effective date of the court decision or arbitration award. The notification shall include copies of the effective court decision or arbitration award;

b) Within 03 working days from the receipt of the notification, the business registration authority shall consider accepting the change in accordance with the effective court decision or arbitration award. The business registration authority shall inform the applicant of necessary supplementation in writing if the notification is invalid or inform the applicant and provide explanation if the change is not acceptable.

### **Article 32. Publishing of enterprise registration information**

1. After an enterprise is granted the Certificate of Enterprise Registration, it shall announce it on the National Enterprise Registration Portal and pay the fee as prescribed by law. The announcement shall include the content of the Certificate of Enterprise Registration and:

a) The enterprise's business lines;

b) The list of founding shareholders and foreign shareholders (for joint stock companies).

2. Any change to enterprise registration information shall be announced on the National Enterprise Registration Portal.

3. The information mentioned in Clause 1 and Clause 2 of this Article shall be published for 30 days.

### **Article 33. Provision of enterprise registration information**

1. Organizations and individuals are entitled to request business registration authorities to provide information on the National Enterprise Registration Information System and pay fees.

2. Business registration authorities shall fully and promptly provide information in accordance with Clause 1 of this Article.

3. The Government shall elaborate this Article.

#### **Article 34. Contributed assets**

1. Contributed assets include VND, convertible foreign currencies, gold, land use right (LUR), intellectual property rights, technologies, technical secrets, other assets that can be converted into VND.

2. Only the individual or organization that has the lawful right to ownership or right to use the asset mentioned in Clause 1 of this Article may contribute it as capital as prescribed by law.

#### **Article 35. Transfer of ownership of contributed assets**

1. Transfer of contributed assets by members of a limited liability company, partners of a partnership, shareholders of a joint stock company shall comply with the following regulations:

a) For assets whose ownership have been registered and LURs, the capital contributor shall follow procedures for transfer the ownership of such assets or the LUR to the company as prescribed by law. This transfer is exempt from registration fee;

b) Contribution of assets whose ownership is not registered shall be recorded in writing unless the contribution is made by wire transfer.

2. The record on transfer of contributed assets shall contain the following information:

a) The company's name and headquarters address;

b) Full name, mailing address, legal document number of the contributor that is an individual; legal document number of the contributor that is an organization;

c) Types and quantities of contributed assets; total value of contributed assets and the ratio of this value to the company's charter capital;

d) Date of transfer; signatures of the contributor or the contributor's authorized representative and the company's legal representative.

3. The contribution is considered complete once the lawful ownership of the assets has been transferred to the company.

4. Procedures for ownership transfer are exempt for assets serving business operation of the sole proprietorship's owner.

5. Payment for transfer of shares/stakes, receipt of dividends or remittance of profits by foreign investors shall be carried out through accounts in accordance with foreign exchange laws, except for payment in assets and cashless payment.

### **Article 36. Valuation of contributed assets**

1. Contributed assets that are not VND, convertible foreign currencies or gold shall be valued by members/partners/shareholders or a valuation organization and expressed as VND.

2. Assets contributed upon establishment of an enterprise shall be valued by members/partners/founding shareholders by consensus or by a valuation organization. In the latter case, the value of contributed assets must be accepted by more than 50% of the members/partners/founding shareholders.

In case a contributed asset is valued at a value higher than its actual value at contribution time (overvalued), the members/partners/founding shareholders shall jointly contribute an amount equal to the difference and are jointly responsible for the damage caused by the overvaluation.

3. Assets contributed during the operation shall be valued by the owner or the Board of Members/Partners (for limited liability companies and partnerships) or the Board of Directors (for joint stock companies) and the contributor or by a valuation organization. In the latter case, the value shall be accepted by the contributor and the owner, the Board of Members/Partners/Directors.

In case a contributed asset is overvalued, the contributor, the owner and members of the Board of Members/Partners/Director shall jointly contribute an amount equal to the difference and are jointly responsible for the damage caused by the overvaluation.

### **Article 37. Names of enterprises**

1. The Vietnamese name of an enterprise shall contain two elements in order:

a) The type of enterprise;

b) The proper name.

2. The type of enterprise shall be “công ty trách nhiệm hữu hạn” or “công ty TNHH” for limited liability companies; “công ty cổ phần” or “công ty CP” for joint stock companies; “công ty hợp danh” or “công ty HD” for partnerships; “doanh nghiệp tư nhân”, “DNTN” or “doanh nghiệp TN” for sole proprietorships.

3. The proper name shall consist of letters in the Vietnamese alphabet, the letters F, J, Z, W, numbers and symbols.

4. The enterprise's name shall be displayed at the headquarters, branches, representative offices and business locations of the enterprise and printed or written on transaction documents, records and printed materials published by the enterprise.

5. Pursuant to regulations of this Article, Articles 38, 39 and 41 of this Law, the business registration authority is entitled to refuse to register enterprise's name.

#### **Article 38. Prohibited acts of naming enterprises**

1. Use of any name that is identical or confusingly similar to another enterprise's name that is registered in accordance with Article 41 of this Article.

2. Use of the name of a state authority, the People's military unit, political organization, socio-political organization, socio-political-professional organization, social organization, social-professional organization as part or all of an enterprise's name, unless it is accepted by that authority, unit or organization.

3. Use of words or symbols that against the country's history, culture, ethical values and good traditions.

#### **Article 39. Enterprise's name in foreign language and abbreviated name**

1. The enterprise's name in a foreign language is the name translated from the Vietnamese name into one of the Latin-based languages. The proper name of the enterprise's may be kept unchanged or translated into the foreign language.

2. In case an enterprise's name is in a foreign language, the text size of the foreign name shall be smaller than the Vietnamese name displayed at the enterprise's headquarters, branches, representative offices and business locations and on the enterprise's transaction documents, records and materials published by the enterprise.

3. The abbreviated name of an enterprise may be abbreviation of its Vietnamese name or foreign language name.

#### **Article 40. Names of branches, representative offices and business locations**

1. The name of a branch, representative office or business location shall consist of letters in the Vietnamese alphabet, the letters F, J, Z, W, numbers and symbols.

2. The name of a branch, representative office or business location shall consist the enterprise's name and the phrase "Chi nhánh", "Văn phòng đại diện" or "Địa điểm kinh doanh" respectively.

3. The name of a branch, representative office or business location shall be displayed at the branch, representative office or business location. The name of an enterprise's branch or representative office be smaller than the Vietnamese name of the enterprise on the transaction documents, records and printed materials issued by the branch or representative office.

## **Article 41. Identical and confusingly similar names**

1. Identical name means a Vietnamese name that is chosen by the applying enterprise and is identical to the Vietnamese name of a registered enterprise.

2. A name is considered identical to a registered enterprise's name in the following cases:

a) The Vietnamese name of the applying enterprise is pronounced similarly to a registered enterprise's name;

b) The abbreviated name of the applying enterprise is identical to the abbreviated name of a registered enterprise;

c) The foreign language name of the applying enterprise is identical to the foreign language name of a registered enterprise;

d) The proper name of the applying enterprise is only different from the proper name of a registered enterprise by a natural number or a letter in the Vietnamese alphabet or any of the letters F, J, Z, W that is written right after the proper name with or without a space;

dd) The proper name of the applying enterprise is only different from the proper name of an registered enterprise of the same type by the word "và" ("and") or the symbol "&", ":", ":", ":", ":", "+", "-", "\_";

e) The proper name of the applying enterprise is only different from the proper name of an registered enterprise of the same type by the word "tân" or "mới" ("new") that is written right before or after the proper name;

g) The proper name of the applying enterprise is only different from the proper name of an registered enterprise of one of the phrases "miền Bắc" ("north"), "miền Nam" ("south"), "miền Trung" ("central"), "miền Tây" ("west"), "miền Đông" ("east");

h) The proper name of the applying enterprise is identical to that of a registered enterprise.

3. The cases specified in Points d, dd, e, g, h Clause 2 of this Article do not apply to subsidiary companies of the registered company.

## **Article 42. The enterprise's headquarters**

The enterprise's headquarters shall be located within Vietnam's territory, is the enterprise's mailing address, has phone number, fax number and email address (if any).

## **Article 43. The enterprise's seals**

1. The enterprise's seals can be physical or digital as prescribed by e-transaction laws.



2. The enterprise shall decide the type, quantity, design and content of its seal and the seals of its branches, representative offices and other units.

3. The management and storage of seals shall comply with the company's charter or regulations of the enterprise, branch, representative office or unit that owns the seal. Seals shall be used by enterprises in transactions as prescribed by law.

#### **Article 44. Branches, representative offices and business locations of an enterprise**

1. A branch of an enterprise is its dependent unit which has some or all functions of the enterprise, including authorized representative. The business lines of a branch shall match those of the enterprise.

2. A representative office of an enterprise is its dependent unit which acts as the enterprise's authorized representative, represents and protect the enterprise's interests. A representative office shall not do business.

3. A business location of an enterprise is the place at which specific business operations are carried out.

#### **Article 45. Registration of branches and representative offices; notification of business location**

1. An enterprise may establish branches and representative offices in Vietnam and other countries. An enterprise may have more than one branch and representative office in an administrative division.

2. When establishing a domestic branch/representative office, the enterprise shall submit an application for branch/representative office registration to the business registration authority in charge of the area where the branch/representative office is established. Such an application shall consist of:

a) The notice of establishment of the branch/representative office;

b) Copies of the Establishment Decision and minutes of the meeting on the establishment of the enterprise's branch/representative office, legal documents of the head of the branch/representative office.

3. Within 03 working days from the receipt of the application, the business registration authority shall consider the validity of the application and decide whether to issue a Certificate of Branch/Representative Office Registration. The business registration authority shall inform the applicant of necessary supplementation in writing if the application is not satisfactory or inform the applicant and provide explanation if the application is rejected.

4. The enterprise shall apply for revision of the Certificate of Branch/Representative Office Registration 10 days from the day on which a change occurs.

5. Within 10 days from the day on which the business location is decided, the enterprise shall send a notice of business location establishment to the business registration authority.

6. The Government shall elaborate this Article.

### **Chapter III**

## **LIMITED LIABILITY COMPANIES**

### **Section 1. MULTI-MEMBER LIMITED LIABILITY COMPANIES**

#### **Article 46. Multi-member limited liability companies**

1. A multiple-member limited liability company means an enterprise that has 02 – 50 members that are organizations or individuals. A member's liability for the enterprise's debts and other liabilities shall be equal to the amount of capital that member contributed to the enterprise, except for the cases specified in Clause 4 Article 47 of this Law. The member's stake (contributed capital) may only be transferred in accordance with Articles 51, 52 and 53 of this Law.

2. A multiple-member limited liability company has the status of a juridical person from the day on which the Certificate of Enterprise Registration is issued.

3. Multiple-member limited liability companies must not issue shares except for equitization.

4. Multiple-member limited liability companies may issue bonds in accordance with this Law and relevant laws; private placement of bonds shall comply with Article 128 and Article 129 of this Law.

#### **Article 47. Capital contribution to establish the company and issuance of the certificate of capital contribution**

1. The initially registered charter capital of a multiple-member limited liability company is the total capital contributed or promised by the members and shall be written in company's charter.

2. The members shall contribute sufficient and correct assets as promised when applying for enterprise registration within 90 days from the issuance date of the Certificate of Enterprise Registration, excluding the time needed to transport or import the contributed assets and for completing ownership transfer procedures. During this period, the members shall have rights and obligations that are proportional to their promised contribution. The members may only contribute assets that are different from the promised ones if the change is approved by more than 50% of the remaining members.

3. In case a member fails to contribute or fully contribute capital as promised by the expiration of the period mentioned in Clause 2 of this Article:

- a) The member that has not contributed capital at all is obviously no longer a member of the company;
- b) The member that has not fully contributed capital will have the rights that are proportional to the contributed capital;
- c) The right to contribute the missing capital will be sold under a resolution or decision of the Board of Members.

4. In the cases mentioned in Clause 3 of this Article, the company shall register the change in charter capital and the members' holdings within 30 days from the deadline for contributing capital specified in Clause 2 of this Article. The members who fail to contribute or fully contribute capital shall be responsible for the financial obligations incurred by the company during the period before the company registers the change in charter capital and the members' holdings in proportion to their promised contributions.

5. In the cases specified in Clause 2 of this Article, the capital contributor will become the company's member from the day on which capital is fully contributed and information about the capital contributor prescribed Points b, c, dd Clause 2 Article 48 of this Law has been fully recorded in the member register. On that day, the company shall issue the capital contribution certificate to the member.

6. The capital contribution certificate shall contain the following information:

- a) The company's name, EID number, headquarter address;
- b) The company's charter capital;
- c) Full name, signature, mailing address, nationality and legal document number if the member is an individual; EID number or legal document number, headquarters address if the member is an organization;
- d) The capital contributed and the member's holding;
- dd) The number and date of issuance of the certificate of capital contribution;
- e) Full names and signatures of the company's legal representatives.

7. In case the capital contribution certificate is lost or damaged, the member will be reissued with another certificate following the procedures specified in the company's charter.

#### **Article 48. Member register**

1. The company shall make a member register upon issuance of the Certificate of Enterprise Registration. The member register can be physical or electronic and shall contain information about the members' holdings.

2. A member register shall contain the following information:

- a) The company's name, EID number, headquarter address;
  - b) Full name, signature, mailing address, nationality and legal document numbers of members that are individuals; names, EID numbers or legal document numbers and headquarters addresses of members that are organizations;
  - c) Stakes, holdings, contribution time, types of contributed assets, quantity and value of each type of contributed assets of each member;
  - d) Signatures of members that are individuals and of legal representatives of members that are organizations;
  - dd) The number and date of issuance of the certificate of capital contribution of each member.
3. The company shall update changes to members in the member register as requested by relevant members in accordance with company's charter.
4. The member register shall be retained at the company's headquarters.

#### **Article 49. Rights of members of the Board of Members**

1. A member of the Board of Members has the rights to:

- a) Participate in meetings of the Board of Members; discuss, propose, vote on the issues within the jurisdiction of the Board of Members;
- b) Have a number of votes that are proportional to the member's holding, except for the cases specified in Clause 2 Article 47 of this Law;
- c) Receive profit in proportion to the member's holding after the company has fully paid taxes and fulfilled other financial obligations prescribed by law;
- d) Receive part of the remaining assets in proportion to the member's holding when the company is dissolved or goes bankrupt;
- dd) Be given priority to contribute more capital when the company increases its charter capital;
- e) Transfer, give away or otherwise dispose of the member's own stake in accordance with regulations of law and the company's charter;
- g) File lawsuits in their own name or in the company's name against the President of the Board of Members, the Director/General Director, other executives, legal representatives in accordance with Article 72 of this Law;

h) Other rights prescribed by this Law and the company's charter.

2. In addition to the rights specified in Clause 1 of this Article, a group of members that hold at least 10% of the charter capital (or a smaller ratio prescribed by the company's charter or in the cases specified in Clause 3 of this Article) also has the rights to:

a) Demand meetings of the Board of Members be convened to resolve issues within its jurisdiction;

b) Inspect, access logbooks and monitor transactions, accounting books and annual financial statements;

c) Inspect, access, make photocopies of the member register, meeting minutes, resolutions Decree decisions of the Board of Members and other documents of the company;

d) Request the Court to invalidate the resolution or decision of the Board of Members within 90 days from the end of its meeting if the meeting procedures or contents of the resolution or decision are not fully followed or contradict regulations of this Law and the company's charter.

3. In case a member holds more than 90% of the charter capital and the company's charter does not provide for any smaller ratio as prescribed in Clause 2 of this Article, the group of remaining members obviously have the rights specified in Clause 2 of this Article.

#### **Article 50. Obligations of members of the Board of Members**

1. Fully and punctually contribute capital as promised; take on a liability for the company's debts and liabilities which is equal to the contributed capital, except for the cases specified in Clause 2 and Clause 4 Article 47 of this Law.

2. Do not withdraw capital from the company in any shape or form; except for the cases specified in Articles 51, 52, 53 and 68 of this Law.

3. Comply with the company's charter.

4. Implement the resolutions and decisions of the Board of Members.

5. Take personal responsibility when performing the following actions in the name of the company:

a) Violations of law;

b) Business operations or transactions that do not serve the company's interests and cause damage to others;

c) Pay debts before they are due while the company is facing financial risks.

6. Other obligations prescribed by law.

### **Article 51. Repurchase of stakes**

1. A member is entitled to request the company to repurchase that member's stake if that member has voted against a resolution or decision of the Board of Members on the following issues:

a) Amendments to regulations of the company's charter on rights and obligations of members and the Board of Members;

b) Reorganization of the company;

c) Other issues prescribed by the company's charter.

2. A written request for stake repurchase shall be sent to the company within 15 days from the day on which the resolution or decision mentioned in Clause 1 of this Article is ratified.

3. Within 15 days from the day on which the request mentioned in Clause 1 of this Article is received, the company shall repurchase that member's stake at market value or at a value determined in accordance with the company's charter, unless another value is agreed upon by both parties. The payment shall only be made if the company is still able to pay its debts and other liabilities afterwards.

4. In case the company is not able to pay for the repurchase of the stake as requested, the member is entitled to sell the stake to another member or a non-member.

### **Article 52. Transfer of stakes**

1. Except for the cases specified in Clause 4 Article 51, Clause 6 and Clause 7 Article 53 of this Law, a member of a multiple-member limited liability company is entitled to transfer part or all of their stake to another person as follows:

a) Offer the stake to other members in proportion to their holdings under the same conditions;

b) Transfer the stake under the same conditions as those applied to other members mentioned in Point a of this Clause to a non-member if the other members do not purchase or fully purchase the stake within 30 days from the first day of offering.

2. The transferor still has the rights and obligations to the company in proportion to the stake until information about the buyer mentioned in Point b, c and dd Clause 2 Article 48 of this Law is fully recorded in the member register.

3. In case only one member remains after transfer or change of the members' stakes, the company shall be converted into a single-member limited liability company and apply for change

of enterprise registration information within 15 days from the day on which the transfer is complete.

### **Article 53. Settlement of stakes in some special cases**

1. In case of the death of a member that is an individual, his/her heir at law or designated by a will shall become a member of the company.
2. In case a member that is an individual is declared missing by the Court, his/her rights and obligations shall be performed through his/her asset manager as prescribed by civil laws.
3. In case a member that is an individual is incapacitated, has limited legal capacity or has difficulty controlling his/her behaviors, his/her rights and obligations shall be performed through his/her representative.
4. A member's stake shall be transferred or repurchased by the company in accordance with Article 51 and Article 52 of this Law in the following cases:
  - a) The member's heir does not wish to become a member;
  - b) The beneficiary mentioned in Clause 6 of this Article is not accepted as a member by the Board of Members;
  - c) The member that is an organization is dissolved or goes bankrupt.
5. In case a member that is an individual dies without an heir or the heir refuses the inheritance or is disinherited, the stake shall be settled in accordance with civil laws.
6. In case a member gives away part or all of his/her stake to another person, the beneficiary will become a member of the company in the following cases:
  - a) If the beneficiary is a lawful heir as prescribed by the Civil Code, he/she is obviously a member of the company;
  - b) If the beneficiary is not a lawful heir mentioned in Point a of this Clause, he/she will only become a member if it is accepted by the Board of Members.
7. In case a member uses that member's stake to pay debt, the beneficiary may:
  - b) become a member of the company if it is accepted by the Board of Members;
  - b) Offer and sell the stake in accordance with Article 52 of this Law.
8. In case a member that is an individual is being kept in temporary detention, serving an imprisonment sentence, serving an administrative penalty in a correctional institution or

rehabilitation center, he/she shall authorize another person to perform some or all of his/her rights and obligations to the company.

9. A member that is an individual and is banned by the court to do certain jobs must not do those jobs at the company; A member that is a juridical person and is banned by the court from certain business lines must suspend or stop business operation in those business lines.

#### **Article 54. Organizational structure**

1. A multiple-member limited liability company shall have a Board of Members, President of the Board of Members, Director/General Director.

2. A state-owned multiple-member limited liability company prescribed in Point b Clause 1 Article 88 of this Law and each subsidiary company of a state-owned enterprise prescribed in Clause 1 Article 88 of this Law shall have a Board of Controllers. The establishment of the Board of Controllers in other companies shall be decided by themselves.

3. A company shall have at least one legal representative who holds the title of President of the Board of Members, Director/General Director. Unless otherwise prescribed by the company's charter, the President of the Board of Members shall be the company's legal representative.

#### **Article 55. The Board of Members**

1. The Board of Members is the supreme governing body of the company, consists of all members that are individuals and authorized representatives of members that are organizations. The company's charter shall specify the frequency of meetings of the Board of Members but at least one meeting shall be held per year.

2. The Board of Members has the following rights and obligations:

a) Decide the company's annual business plan and development strategy;

b) Decide increase or decrease in charter capital, time and method for raising more capital; issuance of bonds;

c) Decide investments in the company's development projects; solutions for market development, marketing and technology transfer;

d) Approve contracts for borrowing, lending, sale of assets and other contracts prescribed by the company's charter whose value are at least 50% of the total assets written in the latest financial statement (or a smaller ratio or value specified in the company's charter);

dd) Elect, dismiss the President of the Board of Members; designate, dismiss, sign and terminate contracts with the Director/General Director, chief accountant, controllers and other executives specified in the company's charter;



- e) Decide the salaries, remunerations, bonuses and other benefits of the President of the Board of Members, Director/General Director, chief accountant, controllers and other executives specified in the company's charter;
- g) Ratify annual financial statements, plans for use and distribution of profits or settlement of losses;
- h) Decide the company's organizational structure;
- i) Decide establishment of subsidiary companies, branches and representative offices;
- k) Revise the company's charter;
- l) Decide reorganization of the company;
- m) Decide dissolution or file bankruptcy of the company;
- n) Other rights and obligations prescribed by Law and the company's charter.

#### **Article 56. President of the Board of Members**

1. The Board of Members shall elect a member as the President, who may concurrently hold the position of Director/General Director of the company.
2. The President of the Board of Members has the following rights and obligations:
  - a) Plan the activities of the Board of Members;
  - b) Draw up agenda and prepare documents for meetings or surveys of the Board of Members;
  - c) Convene and chair meetings of the Board of Members or organize surveys of the Board of Members;
  - d) Supervise or organize supervision of the implementation of resolutions and decisions of the Board of Members;
  - dd) Sign resolutions and decisions of the Board of Members on its behalf;
  - e) Other rights and obligations prescribed by Law and the company's charter.
3. The term of office of the President of the Board of Members shall be specified in the company's charter but must not exceed 05 years and has no term limit.
4. In case the President of the Board of Members is not present or not able to perform his tasks, he/she shall authorize another member in writing to perform the rights and obligations of the President of the Board of Members in accordance with the company's charter. In case no member

is authorized or the President is dead, missing, detained, serving an imprisonment sentence, serving an administrative penalty in a correctional institution or rehabilitation center, making a getaway; has limited legal capacity or is incapacitated, has difficulty controlling his/her behavior, is prohibited by the court from holding certain positions or doing certain works, one of the Board of Members shall convene a meeting with the remaining members to elect one of them as the interim President under the majority rule until a new decision is issued by the Board of Members.

#### **Article 57. Convening meetings of the Board of Members**

1. Meetings of the Board of Members shall be convened by the President of the Board of Members or at the request of the member or group of members prescribed in Clause 2 and Clause 3 Article 49 of this Law. In case the President of the Board of Members does not convene a meeting as requested by the aforementioned member or group of members within 15 days from the day on which the request is received, the member or group of members may convene the meeting themselves. Reasonable costs of convening and conducting meetings of the Board of Members shall be reimbursed by the company.

2. The President of the Board of Members or the person that convenes the meeting shall draw up the meeting agenda and prepare meeting document; convene and chair the meeting. Members are entitled to propose additional contents to the meeting agenda in writing. Such a written proposal shall contain the following information:

- a) Full name, signature, mailing address, nationality and legal document number if the member is an individual; EID number or legal document number and headquarters address if the member is an organization; full name and signature of the proposing member or the proposing member's authorized representative;
- b) The member's holding, number and date of issuance of the certificate of capital contribution;
- c) The proposed contents;
- d) Reasons for proposal.

3. The President of the Board of Members or the person that convenes the meeting shall accept a proposal that contains adequate information as prescribed in Clause 2 of this Article and is sent to the company's headquarters at least 01 working day before the meeting date. In case a proposal is put forward right before the beginning of the meeting, it may be accepted if it is accepted the majority of the participants.

4. Invitations to a meeting of the Board of Members can be sent physically, by phone, fax, electronically or by other methods prescribed by the company's charter to each member of the Board of Members. The invitation shall specify the time, location and agenda of the meeting.

5. The meeting agenda and documents shall be sent to members before the meeting date. Documents about revisions of the company's charter, ratification of the company's development

strategy, annual financial statements, reorganization or dissolution shall be sent to the members at least 07 working days before the meeting date. The deadlines for sending other documents shall be specified in the company's charter.

6. Unless otherwise prescribed by the company's charter, a request to convene a meeting of the Board of Members mentioned in Clause 1 of this Article shall be made in writing and contain the following information:

- a) Full name, signature, mailing address, nationality and legal document numbers of members that are individuals; names, EID numbers or legal document numbers and headquarters addresses of members that are organizations; each member's holding, number and issuance date of each member's capital contribution certificate;
- b) Reasons for convening the meeting and issues that need resolving;
- c) The draft agenda;
- d) Full names and signatures of the requesting members or their authorized representatives.

7. In case the request does not contain adequate information as prescribed in Clause 6 of this Article, the President of the Board of Members shall send a written rejection to the requesting member(s) within 07 working days from the day on which the request is received. If the request is valid, the President of the Board of Members shall convene the meeting within 15 days from the day on which the request is received.

8. In case the President of the Board of Members fails to convene the meeting as prescribed in Clause 7 of this Article, he/she shall be personally responsible for the damage incurred by the company and relevant members.

#### **Article 58. Conditions and procedures for conducting meetings of the Board of Members**

1. The meeting shall be conducted when it is participated by a number of members that hold at least 65% of charter capital; a specific ratio shall be specified in the company's charter.

2. In case the conditions for conducting a meeting specified in Clause 1 of this Article are not fulfilled and the company's charter does not provide for this situation otherwise:

- a) The invitation to the second meeting shall be sent within 15 days from the first meeting date. The second meeting shall be when it is participated by a number of shareholders that hold at least 50% of charter capital;
- b) In case the conditions for conducting the second meeting prescribed in Point a of this Clause are not fulfilled, the invitation to the third meeting shall be sent within 10 days from the second meeting date. The third meeting shall be conducted regardless of the number of charter capital held by the participants.

3. Members and their authorized representatives shall participate in and vote at meetings of the Board of Members. The procedures for conducting meetings of the Board of Members and voting methods shall be specified in the company's charter.

4. In case the duration of a meeting is longer than expected, it may be extended but must not exceed 30 days from its opening date.

#### **Article 59. Resolutions and decisions of the Board of Members**

1. The Board of Members shall ratify its resolution and decisions by voting at the meeting, questionnaire survey or another method specified in the company's charter.

2. Unless otherwise prescribed by the company's charter, a decision on one of the following issues shall be voted on at the meeting:

a) Revisions to the company's charter;

b) Orientation for development of the company;

c) Election, dismissal of the President of the Board of Members; designation, dismissal of the Director/General Director;

d) Ratification of the annual financial statement;

dd) Reorganization or dissolution of the company.

3. Unless otherwise prescribed by the company's charter, a resolution or decision of the Board of Members will be ratified at the meeting if:

a) It is voted for by a number of participants that hold at least 65% of the total stakes of all participants, except the case in Point b of this Clause;

b) It is a resolution or decision to sell assets whose value is at least 50% of the total assets written in the latest financial statement (or a smaller ratio or value specified in the company's charter), a resolution or decision on revisions to the company's charter, reorganization or dissolution of the company, and is voted for by a number of participants that hold at least 75% of the total stakes of all participants.

4. It will be considered that a member participates in and votes at the meeting of the Board of Members in the following cases:

a) The member directly participates in and votes at the meeting;

b) The member authorizes another person to participate in and vote at the meeting;

c) The member participates and votes online or through other electronic methods;

d) The member sends the votes to the meeting by post, fax or email.

5. In case of questionnaire survey, a resolution or decision will be ratified when it is voted for by a number of members that hold at least 65% of charter capital (a specific ratio shall be specified in the company's charter).

### **Article 60. Minutes of meetings of the Board of Members**

1. Minutes of every meeting the Board of Members shall be taken. Audio recording or electronic forms are optional.

2. The minutes shall be ratified right before the meeting ends and contain the following information:

a) Time, location, purposes and agenda of the meeting;

b) Full names, holdings, numbers and dates of issues of capital contribution certificates of participating members and their authorized representatives; full name, stakes, numbers and dates of issues of capital contribution certificates of non-participating members and their authorized representatives;

c) The issues that are discussed and voted on; summaries of the members' comments on each issue;

d) Quantities of valid votes, invalid votes, affirmative votes, negative votes and abstentions on each issue;

dd) Ratified decisions and corresponding ratio of affirmative votes;

e) Full names, signatures and comments of participants who disagree with the ratification of the minutes (if any);

g) Full names, signatures of the minute taker and the chair of the meeting, except the case in Clause 3 of this Article.

3. In case the chair and the minute taker refuse to sign the minutes, they will be effective if they are signed by the other members of the Board of Members and contain all information prescribed in Points a, b, c, d, dd and e Clause 2 of this Article. The minutes shall clearly state the reasons why the chair and the minute taker refuse to sign them. The persons who sign the minutes are jointly responsible for the accuracy and truthfulness of the minutes.

### **Article 61. Procedures for ratification of resolutions and decisions of the Board of Members by questionnaire survey**

Unless otherwise prescribed by the company's charter, a questionnaire survey on ratification of resolutions or decisions of the Board of Members shall be carried out as follows:

1. The President of the Board of Members shall decide to carry out a questionnaire survey on ratification of resolutions and decisions within its jurisdiction;

2. The President of the Board of Members organize the drafting and sending of reports on the issues, the resolution or decision and questionnaires to members of the Board of Members;

3. A questionnaire shall contain:

a) The company's name, EID number, headquarter address;

b) Full name, signature, mailing address, nationality and legal document numbers of individuals; the members' holdings;

c) The issue that needs voting, options including affirmative, negative and abstentions;

d) The deadline for submission of the answered questionnaire;

dd) Full name and signature of the President of the Board of Members;

4. An answered questionnaire that contains adequate information, bears the member's signature and sent to the company by the deadline is considered valid. The President of the Board of Members organize the vote counting, preparation of a report and notification of the vote counting result to the members within 07 working days from the deadline for submission of answered questionnaires. The report on vote counting result has the same value as the minutes the meeting of the Board of Members and shall contain the following information:

a) The survey issue and purposes;

b) Full names, holdings, numbers and dates of issue of capital contribution certificates of members that submitted their answered questionnaires; and their authorized representatives; Full names, holdings, numbers and dates of issue of capital contribution certificates of members whose questionnaires are not submitted or invalid;

c) The issues that are voted on; summaries of the members' comments on each issue (if any);

d) The numbers of valid, invalid, unsubmitted questionnaires; numbers of valid questionnaires that contain affirmative votes negative votes and abstentions on each issue;

dd) The ratified resolutions and/or decisions and corresponding ratio of affirmative votes;

e) Full names and signatures of the vote counters and the President of the Board of Members, who are jointly responsible for the legitimacy, accuracy and truthfulness of the vote counting report.

## **Article 62. Effect of resolutions and decisions of the Board of Members**

1. Unless otherwise prescribed by the company's charter, a resolution or decision of the Board of Members shall take effect from the day on which it is ratified on one the effective date specified therein.

2. A resolution or decision that is ratified with 100% of total charter capital shall be lawful and effective even if the procedures for ratification of such resolution or decision are not followed.

3. In case a member or group of members requests the court or an arbitral tribunal to invalidate a ratified resolution or decision, it will remain effective as prescribed in Clause 1 of this Article until the court or an arbitral tribunal issues a decision to invalidate it, except for the cases in which temporary emergency measures have to be implemented under decision of a competent authority.

### **Article 63. The Director/General Director**

1. The Director/General Director is the person who manages the company's everyday business operation and is responsible to the Board of Members for his/her performance.

2. The Director/General Director has the following rights and obligations:

a) Organize the implementation of resolutions and decisions of the Board of Members;

b) Decide everyday operating issues of the company;

c) Organize implementation of the company's business plans and investment plans;

d) Issue the company's rules and regulations unless otherwise prescribed by the company's charter;

dd) Designate, dismiss the company's executives, except those within jurisdiction of the Board of Members;

e) Enter into contracts on behalf of the company, except those within jurisdiction of the President of the Board of Members;

g) Propose the company's organizational structure;

g) Submit annual financial statements to the Board of Members;

i) Propose plans for use and distribution of profits or settlement of business losses;

k) Recruit employees;

l) Other rights and obligations specified in the company's charter, resolution and decisions of the Board of Members, and his/her employment contract.

#### **Article 64. Requirements for holding the position of Director/General Director**

A person may hold the position of Director/General Director if he/she:

1. Is not in one of the persons specified in Clause 2 Article 17 of this Law.
2. Has professional qualifications and experience of business administration and satisfies other conditions specified in the company's charter.
3. If the company is a state-owned enterprise prescribed in Point b Clause 1 Article 88 of this Law or a subsidiary company of a state-owned enterprise prescribed in Clause 1 Article 88 of this Law, is not a relative of the executives and controllers of the company and the parent company, of the representative of enterprise's investment or state investment in the company and the parent company.

#### **Article 65. Controllers and the Board of Controllers**

1. The Board of Controllers shall have 1 – 5 Controllers. The term of office of a controller shall not exceed 05 years and without term limit. In case the Board of Controllers only has 01 controller, he/she shall be the Chief Controller and shall satisfy corresponding conditions.
2. The Chief Controller and Controllers shall satisfy the requirements specified in Clause 2 Article 168 and Article 169 of this Law.
3. Rights, obligations, responsibilities, dismissal and works of Controllers and the Board of Controllers are specified in Articles 106, 170, 171, 172, 173 and 174 of this Law.
4. The Government shall elaborate this Article.

#### **Article 66. Salaries, remunerations, bonuses and other benefits of the President of the Board of Members, Director/General Director and other executives**

1. The company shall pay salaries, remunerations, bonuses and provide other benefits for the President of the Board of Members, the Director/General Director and other executives according to the company's business performance.
2. Salaries, remunerations, bonuses and other benefits for the President of the Board of Members, the Director/General Director and other executives shall be recorded as operating costs in accordance with regulations of law on corporate income tax and relevant laws and placed in a separate section in the company's annual financial statements.

#### **Article 67. Contracts and transactions subject to approval by the Board of Members**

1. Contracts and transactions between the company and the following entities are subject to approval by the Board of Members:



- a) Members and their authorized representatives, the Director/General Director, the company's legal representative;
- b) Related persons of the persons mentioned in Point a of this Clause;
- c) Executives of the parent company and the person having the power to designate them;
- d) Related persons of the persons mentioned in Point c of this Clause.

2. The person who concludes a contract or carries on a transaction on behalf of the company shall send a notification to members of the Board of Members and the Controllers of the related entities and interests of such contract or transaction together with the draft contract or description of the transaction. Unless otherwise prescribed by company's charter, the Board of Members shall decide whether to approve or disapprove the contract or transaction within 15 days from the day on which the notification is received and follow the instructions in Clause 3 Article 59 of this Law. Members of the Board of Members who are related to the parties to the contract or transaction must not vote.

3. A contract or transaction shall be invalidated under a court decision and handled as prescribed by law when it is concluded or carried out against regulations of Clause 1 and Clause 2 of this Article. The person who concludes the contract or carries out the transaction, related members and their related persons shall pay compensation for any damage caused and return the benefits generated by such contract or transaction to the company.

#### **Article 68. Increasing, decreasing charter capital**

1. A company may increase its charter capital in the following cases:

- a) Increase in the members' capital contribution;
- b) Receipt of capital contribution from new members.

2. In case of increase in the members' capital contribution, the increase will be distributed among the members in proportion to their holdings in the company. Members may transfer their right to contribute capital to other persons in accordance with Article 52 of this Law. In case a member does not contribute or fully contribute that member's share of additional capital as distributed, the remainder shall be divided among other members in proportion to their holdings in the company unless otherwise agreed by the members.

3. A company may decrease its charter capital in the following cases:

- a) The company returns part of the contributed capital to the members in proportion to their holdings in the company after the company has operated for at least 02 consecutive years from the enterprise registration date and the company is able to fully pay its debts and other liabilities after the return of capital;

- b) The company repurchases the members' stakes as prescribed in Article 51 of this Law;
- c) Charter capital is not fully and punctually contributed by the members as prescribed in Article 47 of this Law.

4. In the case specified in Point c Clause 3 of this Article, within 10 days from the day on which the increase or decrease in charter capital is complete, the company shall send a written notification to the business registration authority. Such a notification shall contain the following information:

- a) The company's name, EID number, headquarter address;
- b) The charter capital, the increase or decrease;
- c) Time and method of increase or decrease;
- d) Full names and signatures of the company's legal representatives.

5. The notification mentioned in Clause 4 of this Article shall be enclosed with the resolution or decision and the minutes of the meeting of the Board of Members and, in case of charter capital decrease specified in Point a and Point b Clause 3 of this Article, the latest financial statement.

6. The business registration authority shall update information about the increase or decrease in charter capital within 03 working days from the day on which the notification is received.

#### **Article 69. Conditions for profit distribution**

A company's profit may only be distributed to its members after its tax liabilities and other financial obligations have been fulfilled as prescribed by law and it is able to fully pay its due debts and other liabilities after profit is distributed.

#### **Article 70. Recovery of returned capital or distributed profit**

In case part of contributed capital is returned against the regulations of Clause 3 Article 68 of this Law or profit is distributed to members against regulations of Article 69 of this Law, the members shall return the money or assets they received from the company and are jointly responsible for the company's debts and liabilities in proportion to the amount or assets that have not been returned until they are fully returned.

#### **Article 71. Responsibilities of the President of the Board of Members, the Director/General Director, other executives, legal representatives and Controllers**

1. The President of the Board of Members, the Director/General Director, other executives, legal representatives and Controllers have the following responsibilities:

- a) Exercise and perform their rights and obligations in an honest and prudent manner to protect the enterprise's lawful interests;
- b) Be loyal to the enterprise's interests; do not abuse their power and position or use the enterprise's information, secrets, business opportunities and assets for personal gain or serve any other organization's or individual's interests;
- c) Promptly and fully notify the company of the enterprises that they own or have shares/stakes or that their related persons own, jointly own or have separate controlling shares/stakes.
- d) Other responsibilities prescribed by law.

2. The Director/General Director shall not have a pay rise or bonus when the company is not able to pay its due debts.

3. The notification mentioned in Point c Clause 1 of this Article shall be made in writing and contain the following information:

- a) Names, EID numbers, headquarters addresses of the enterprises they own or have shares/stakes in; the holdings and time of owning or holding the shares/stakes;
- b) Names, EID numbers, headquarters addresses of the enterprises their related persons own, jointly own or have separate controlling shares/stakes.

4. The notification mentioned in Clause 3 of this Article shall be sent within 05 working days from the day on which the event or change occurs. The company shall compile a list of the entities mentioned in Clause 3 of this Article, their contracts and transactions with the company. This list shall be kept at the company's headquarters. Members, executives, Controllers and their authorized representatives are entitled to see, copy part or all of the information specified in Clause 3 of this Article during office hours following the procedures specified in the company's charter.

## **Article 72. Filing lawsuits against executives**

1. Members may, in their own names or in the company's name, file lawsuits against the President of the Board of Members, Director/General Director, legal representatives and other executives in the following cases:

- a) They violate regulations of Article 71 of this Law;
- b) They fail to comply with or fully and punctually perform their rights and obligations as prescribed by law, the company's charter, resolution or decision of the Board of Members;
- c) Other cases prescribed by law and the company's charter.

2. Lawsuits shall be filed in accordance with civil proceedings laws.

3. Proceedings costs in case the lawsuit is filed on behalf of the company shall be recorded as the company's expense unless the lawsuit is rejected.

### **Article 73. Disclosure of information**

State-owned multiple-member limited liability companies prescribed in Point b Clause 1 Article 88 of this Law shall disclose information in accordance with Points a, d, dd, g Clause 1 Article 109 and Article 110 of this Law.

## **Section 2. SINGLE -MEMBER LIMITED LIABILITY COMPANIES**

### **Article 74. SINGLE -MEMBER LIMITED LIABILITY COMPANIES**

1. A single-member limited liability company is an enterprise owned by a single organization or individual ((hereinafter referred to as "owner"). The owner's liability for the company's debts and other liabilities shall be equal to the company's charter capital.
2. A single-member limited liability company has the status of a juridical person from the day on which the Certificate of Enterprise Registration is issued.
3. A single-member limited liability company must not issue shares except for equitization.
4. Single-member limited liability companies may issue bonds in accordance with this Law and relevant laws; private placement of bonds shall comply with Article 128 and Article 129 of this Law.

### **Article 75. Contributing capital to establish the company**

1. The initially registered charter capital of a single-member limited liability company is the total assets promised by the owner and shall be written in company's charter.
2. The owner shall contribute adequate and correct assets as promised when applying for enterprise registration within 90 days from the issuance date of the Certificate of Enterprise Registration. The time needed to transport or import the contributed assets and for completing ownership transfer procedures will be added to this 90-day period. During this period, the owner shall have rights and obligations that are proportional to the promised capital.
3. In the charter capital is not fully contributed by the deadline specified in Clause 2 of this Article, the owner shall register the contributed capital as charter capital within 30 days from the deadline, in which case the owner shall be responsible for the financial obligations incurred by the company during the period before the change in charter capital is registered in proportion to the promised capital.
4. The owner's liability for the company's financial obligations and the damage caused by the failure to contribute or to fully and punctually contribute charter capital prescribed by this Article shall be equal to all of the owner's assets.

## **Article 76. Rights of the owner**

1. The owner that is an organization has the rights to:

- a) Draw up and revise the company's charter;
- b) Decide the company's annual business plan and development strategy;
- c) Decide the company's organizational structure; designate, dismiss the company's executives and controllers;
- d) Decide the company's investment projects?
- dd) Decide solutions for market development, marketing and technology;
- e) Approve contracts for borrowing, lending, sale of assets and other contracts prescribed by the company's charter whose value are at least 50% of the total assets written in the latest financial statement (or a smaller ratio or value specified in the company's charter);
- g) Ratify the company's annual financial statements;
- h) Decide increase or decrease in the company's charter capital, transfer part or all of the company's charter capital to another organization or individual; decide issuance of bonds;
- i) Decide establishment of subsidiary companies and contribution of capital to other companies;
- k) Organize the supervision and assessment of the company's performance;
- l) Decide the use of profits after the company's tax liabilities and other financial obligations have been fulfilled;
- m) Decide the company's reorganization, dissolution or file bankruptcy;
- n) Recover all assets of the company after the dissolution or bankruptcy process is complete;
- o) Other rights prescribed by this Law and the company's charter.

2. The owner that is an individual has the rights specified in Points a, h, l, m, n and o Clause 1 of this Article; the right to decide investment, business operation and the company's administration, unless otherwise prescribed by the company's charter.

## **Article 77. Obligations of the owner**

1. Contribute charter capital fully and punctually.
2. Comply with the company's charter.

3. Separate the company's assets and the owner's assets. The owner that is an individual shall separate expenses of himself/herself and his/her family and those of the company's President, or General Director.

4. Comply with regulations of law on contracts and relevant laws while making purchases, sales, borrowing, lending, leasing, entering into contracts and conducting other transactions between the company and the company's owner.

5. The company's owner may only withdraw capital by transfer part or all of the charter capital to another organization or individual. If the capital is withdrawn otherwise, the owner and relevant organizations and individuals shall be jointly responsible for the company's debts and other liabilities.

6. The owner must not withdraw profit when the company is unable to fully pay its debts and liabilities when they are due.

7. Other obligations prescribed by Law and the company's charter.

#### **Article 78. Exercising the owner's rights in special cases**

1. In case the owner transfers or gives away part of the charter capital to one or some organizations and individuals or the company admits a new member, the company shall be converted accordingly and register the change in enterprise registration information within 10 days from the date of completion of the transfer or giveaway or admission of the new member.

2. In case the owner that is an individual is being kept in temporary detention, serving an imprisonment sentence, serving an administrative penalty in a correctional institution or rehabilitation center, he/she shall authorize another person to perform some or all of the owner's rights and obligations.

3. In case the owner dies, his/her legal heir or designated heir shall be the owner or member of the company. The company shall be converted accordingly and register the change of enterprise registration information within 10 days from the day on which the inheritance is settled. In case there is no heir or the heir rejects the inheritance or is disinherited, the owner's stake shall be handled in accordance with civil laws.

4. In case the owner is missing, his/her stake shall be handled in accordance with civil laws.

5. In case owner is incapacitated, has limited legal capacity or has difficulty controlling his/her behaviors, his/her rights and obligations shall be performed through his/her representative.

6. In case the owner is an organization and is dissolved or goes bankrupt, the person that receives the owner's stake shall become the owner or member of the company. The company shall be converted accordingly and apply for change in enterprise registration information within 10 days from the day on which the transfer is complete.

7. In case the owner is an individual and is banned by the court to do certain jobs, or the owner is a commercial juridical person and is banned by the court to do business in the same business lines as those of the enterprise, the owner must stop doing the job or suspend business in these business lines under the court decision.

### **Article 79. Organizational structure of a single-member limited liability company owned by an organization**

1. A single-member limited liability company owned by an organization shall apply one of the two models below:

a) A company with a President and the Director/General Director;

b) A company with a Board of Members and the Director/General Director.

2. In case the company's owner is a state-owned enterprise prescribed in Clause 1 Article 88 of this Law, a Board of Controllers shall be established. The establishment of a Board of Controllers in other cases shall be decided by the company. The organizational structure, working regulations, standards, requirements, dismissal, rights, duties and responsibilities of the Board of Controllers and Controllers are specified in Article 65 of this Article.

3. The company shall have at least one legal representative who holds the title of President of the Board of Members, the company's President or Director/General Director. Unless otherwise prescribed by the company's charter, the President of the company or President of the Board of Members shall be the company's legal representative.

4. Unless otherwise prescribed by the company's charter, organizational structure, functions, rights and duties of the Board of Members, the company's President, the Director/General Director shall comply with this Law.

### **Article 80. The Board of Members**

1. The Board of Members shall have 03 – 07 members. The members shall be designated and dismissed by the owner with a 5-year term of office. The Board of Members shall perform the owner's rights and obligations in the owner's name; perform the company's rights and obligations in the company's name, except the rights and obligations of the Director/General Director; take responsibility to the law and the owner for their performance as prescribed by the company's charter, this Law and relevant laws.

2. Rights, obligations and working regulations of the Board of Members shall comply with the company's charter, this Law and relevant laws.

3. The President of the Board of Members shall be designated by the owner or elected by members of the Board of Members under the majority rule following the procedures specified in the company's charter. Unless otherwise prescribed by the company's charter, the term of office,

rights and obligations of the President of the Board of Members shall comply with Article 56 and relevant regulations of this Law.

4. Meetings of the Board of Members shall be convened in accordance with Article 57 of this Law.

5. A meeting of the Board of Members shall be conducted when it is participated in by at least two thirds of the members. Unless otherwise prescribed by the company's charter, each member shall have one vote with equal value. The Board of Members may ratify its resolutions and decisions by questionnaire survey.

6. A resolution or decision of the Board of Members will be ratified when it is voted for by more than 50% of the participating members or by a number of participating members that hold more than 50% of the total votes. Revisions to the company's charter, reorganization of the company, transfer of all or part of the company's charter capital must be voted for by than 75% of the participating members or by a number of participating members that hold more than 75% of the total votes. A resolution or decision of the Board of Members takes effect from the day on which it is ratified or on the effective date written therein unless otherwise prescribed by the company's charter.

7. Minutes of every meeting the Board of Members shall be taken in accordance with Clause 2 Article 60 of this Law. Audio recording and other electronic forms are optional.

#### **Article 81. The company's President**

1. The company's President shall be designated by the company's owner, perform the owner's rights and obligations in the owner's name; perform the company's rights and obligations in the company's name, except the rights and obligations of the Director/General Director; take responsibility to the law and the owner for his/her performance as prescribed by the company's charter, this Law and relevant laws.

2. Rights, obligations and working regulations of the company's President shall comply with the company's charter, this Law and relevant laws.

3. A decision of the company's President on performance of his/her rights and obligations shall be effective from the day on which it is approved by the owner unless otherwise prescribed by the company's charter.

#### **Article 82. The Director/General Director**

1. The Board of Members or the company's President shall designate or hire the Director/General Director within a term of office not exceeding 05 years to manage the company's everyday business. The Director/General Director shall be responsible for the law and the Board of Members or the company's President for his/her performance. The President of the Board of Members, another member of the Board of Members or the company's President



may concurrently hold the position of Director/General Director unless otherwise prescribed by law or the company's charter.

2. The Director/General Director has the following rights and obligations:

a) Organize the implementation of resolutions and decisions of the Board of Members or the company's President;

b) Decide everyday operating issues of the company;

c) Organize implementation of the company's business plans and investment plans;

d) Issue the company's rules and regulations;

dd) Designate, dismiss the company's executives, except those within jurisdiction of the Board of Members;

e) Enter into contracts in the company's name, except those within jurisdiction of the President of the Board of Members or the company's President;

g) Propose the company's organizational structure;

h) Submit annual financial statements to the Board of Members or the company's President;

i) Propose plans for use of profits or settlement of business losses;

k) Recruit employees;

l) Other rights and obligations specified in the company's charter and the employment contract.

3. To hold the position of Director/General Director, a person shall satisfy the following requirements:

a) He/she is not one of the persons specified in Clause 2 Article 17 of this Law;

b) He/she has professional qualifications and experience of business administration and satisfies other conditions specified in the company's charter.

**Article 83. Responsibilities of members of the Board of Members, the company's President, the Director/General Director, other executives and Controllers**

1. Comply with regulations of law, the company's charter, decisions of the company's owner in performance of their rights and obligations.

2. Perform their rights and obligations in an honest and prudent manner to serve the best and lawful interests of the company and its owner.

3. Be loyal to the interests of the company and its owner; do not abuse their power and position or use the enterprise's information, secrets, business opportunities and assets for personal gain or serve any other organization's or individual's interests.
4. Promptly and fully notify the company of the enterprises that they own or have shares/stakes or that their related persons own, jointly own or have separate controlling shares/stakes. The notifications shall be retained at the company's headquarters.
5. Other responsibilities prescribed by this Law and the company's charter.

#### **Article 84. Salaries, bonuses and other benefits of the company's executives and Controllers**

1. The company's executives and Controllers shall receive salaries, bonuses and other benefits according to the company's business performance.
2. The company's owner shall decide the salaries, bonuses and other benefits of members of the Board of Members, the company's President and Controllers. Salaries, bonuses and other benefits of the company's executives and Controllers shall be recorded as the company's expenses in accordance with regulations of law on corporate income tax and relevant laws and shall be placed in a separate section in the company's annual financial statements.
3. The Controllers' salaries, bonuses and other benefits may be directly paid by the company's owner as prescribed by the company's charter.

#### **Article 85. Organizational structure of a single-member limited liability company owned by an individual**

1. A single-member limited liability company owned by an individual shall have a President and a Director/General Director.
2. A company's owner shall be the President who may concurrently hold the position of Director/General Director or hire another person as the Director/General Director.
3. Rights and obligations of the Director/General Director shall be specified in the company's charter and the employment contract.

#### **Article 86. Contracts and transactions between the company and related persons**

1. Unless otherwise prescribed by the company's charter, contracts and transactions between a single-member limited liability company owned by an organization and the following persons are subject to approval by the Board of Members or the company's President, Director/General Director and Controllers:
  - a) The owner of the company and the owner's related persons;

b) Members of the Board of Members, the company's President, Director/General Director and Controllers;

c) Related persons of the persons mentioned in Point b of this Clause;

d) Executives of the company's owner, the person having the power to designate these executives;

dd) Related persons of the persons mentioned in Point d of this Clause.

2. The person who concludes a contract or carries on a transaction in the company's name shall send a notification to the Board of Members or the company's President, Director/General Director and Controllers of the related persons and interests; the notification shall be enclosed with the draft contract or summary of the transaction.

3. Unless otherwise prescribed by the company's charter, members of the Board of Members or the company's President, Director/General Director and Controllers shall decide whether to approve the contract or transaction within 10 days from the receipt of the notification under majority rule. Each person shall have one vote; related persons of the parties shall not vote.

4. A contract or transaction mentioned in Clause 1 of this Article shall only be approved if the following conditions are fully satisfied:

a) The parties to the contract or transaction are independent legal entities with separate rights, obligations, assets and interests;

b) The prices applied to the contract or transactions are market prices at the time the contract is concluded or the time the transaction is conducted;

c) The company's owner fulfills the obligations specified in Clause 4 Article 77 of this Law.

5. A contract or transaction shall be invalidated under a court decision and handled as prescribed by law if it is concluded or carried out against regulations of Clauses 1, 2, 3 and 4 of this Article. The person who concludes the contract or carries out the transaction and related persons of the parties shall jointly pay compensation for any damage caused and return the benefits generated by such contract or transaction to the company.

6. Every contract and transaction between a single-member limited liability company owned by an individual and the company's owner or related persons of the owner shall be recorded in separate documents of the company.

### **Article 87. Increasing, decreasing charter capital**

1. A single-member limited liability company may increase its charter capital when its owner contributes capital or raises capital from other persons. The owner shall decide on the specific increase and the method.

2. In case of raising capital from other persons, the company shall be converted into a multiple-member limited liability company or joint stock company. To be specific:

a) In case of conversion into a multiple-member limited liability company, a notification of change in enterprise registration information shall be submitted within 10 days from the day on which the change in charter capital is complete;

b) In case of conversion into a joint stock company, follow the instructions in Article 202 of this Law;

3. A single-member limited liability company may decrease its charter capital in the following cases:

a) Part of the contributed capital is returned to the company's owner after the company has operated for at least 02 consecutive years from the enterprise registration date and the company is able to fully pay its debts and other liabilities after the return of capital;

b) Charter capital is not fully and punctually contributed by the owner as prescribed in Article 75 of this Law.

## **Chapter IV**

### **STATE-OWNED ENTERPRISES**

#### **Article 88. State-owned enterprises**

1. State-owned enterprises shall be limited liability companies or joint stock companies, including:

a) Wholly state-owned enterprises (100% of charter capital of which is held by the State)

b) Partially state-owned enterprises (over 50% of charter capital or voting shares is held by the State, except the enterprises specified in Point a Clause 1 of this Article).

2. Wholly state-owned enterprises specified in Point a Clause 1 of this Article include:

a) Single-member limited liability companies 100% of charter capital of which is held by the State that are parent companies of state-owned corporations or parent companies in groups of parent company – subsidiary companies;

b) Independent single-member limited liability companies 100% of charter capital of which is held by the State.

3. Partially state-owned specified in Point b Clause 1 of this Article include:

- a) Multiple-member limited liability companies and joint stock companies over 50% of charter capital or voting shares of which is held by the State that are parent companies of state-owned corporations or parent companies in groups of parent company – subsidiary companies;
  - b) Independent multiple-member limited liability companies and joint stock companies over 50% of charter capital or voting shares of which is held by the State.
4. The Government shall elaborate this Article.

#### **Article 89. Application of regulations on state-owned enterprises**

1. Wholly state-owned enterprises specified in Point a Clause 1 Article 88 of this Article shall be organized as single-member limited liability companies in accordance with this Chapter and relevant regulations of this Law. In case of discrepancies between regulations of this Law, the regulations of this Chapter shall prevail.
2. Partially state-owned enterprises specified in Point b Clause 1 Article 88 of this Article shall be organized as multiple-member limited liability companies in accordance with Section 1 of Chapter III or as joint stock companies in accordance with Chapter V of this Law.

#### **Article 90. Organizational structure**

The state ownership representative body shall decide whether to apply one of the two models below to organize the state-owned enterprise as a single-member limited liability company:

1. A company with a President, Director/General Director and Board of Controllers;
2. A company with a Board of Members, Director/General Director and Board of Controllers.

#### **Article 91. The Board of Members**

1. The Board of Members shall perform the company's rights and obligations in the company's name as prescribed by this Law and relevant laws.
2. The Board of Members shall consist of up to 07 members including a President. Members of the Board of Members shall be designated, dismissed, rewarded and disciplined by the state ownership representative body.
3. The term of office of the President and other members of the Board of Members shall not exceed 05 years. A member of Board of Members may be designated again for not more than 02 terms in the same company unless he/she has worked for the company for more than 15 consecutive years before the first designation.

#### **Article 92. Rights and obligations of the Board of Members**

1. The Board of Members shall, in the name of the company, perform the rights and obligations of the owner, shareholders/members of other companies owned by the company or whose shares/stakes are owned by the company.

2. The Board of Members has the following rights and obligations:

a) Decide the matters prescribed in the Law on Management and use of State Investment in Enterprises;

b) Decide establishment, reorganization, dissolution of the company's branches, representative offices and dependent units;

c) Decide the company's annual business plan, policies on market development, marketing and technology;

d) Organize internal audits and decide establishment of the company's internal audit unit;

dd) Other rights and obligations prescribed by the company's charter, this Law and relevant laws.

### **Article 93. Requirements to be satisfied by members of the Board of Members**

To become a member of the Board of Members, a person shall satisfy the following requirements:

1. He/she is not one of the persons specified in Clause 2 Article 17 of this Law.

2. He/she has professional qualifications and experience of business administration or experience of the company's business lines.

3. He/she is not a relative of the head or deputies of the state ownership representative body; any of the members of the Board of members, the Director/General Director, the Deputy Director/General Director, the chief accountant or Controllers of the company.

4. He/she is not an executive of the member enterprise.

5. A member of the Board of Members other than the President may concurrently hold the position of Director/General Director of the company or another company that is not a member enterprise under a decision of the state ownership representative body.

6. He/she has never been discharged from the position of President of the Board of Members, member of Board of Members, the company's President, Director/General Director, Deputy Director/General Director of a state-owned enterprise.

7. He/she satisfies other requirements specified in the company's charter.

### **Article 94. Dismissal, discharge of members of the Board of Members**

1. The President or another member of the Board of Members shall be dismissed in the following cases:

a) He/she does not fully satisfy the requirements specified in Article 93 of this Law;

b) He/she hands in the resignation and is accepted in writing by the state ownership representative body;

c) A reassignment or retirement decision is issued;

d) He/she is not capable of or qualified for the given tasks;

dd) He/she is not healthy or reputable enough to hold the position.

2. The President or another member of the Board of Members shall be discharge from duty in the following cases:

a) The company fails to achieve the annual targets; fails to conserve and develop investment capital as required by the state ownership representative body without an excuse that is objective or accepted by the state ownership representative body;

b) He/she is convicted by the Court under an effective judgment or decision;

c) He/she fails to perform her duties in an honest manner or abuses his/her power and position or uses the company's assets for personal gain or serve any other organization's or individual's interests; fails to truthfully report the company's finance and business performance.

3. Within 60 days from the issuance date of the decision to dismiss or discharge the President or member of the Board of Members, the state ownership representative body shall designate another person as President or member.

#### **Article 95. President of the Board of Members**

1. The President of the Board of Members shall be designated by the state ownership representative body as prescribed by law and must not concurrently hold the position of Director/General Director of the company or another enterprise.

2. The President of the Board of Members has the following rights and obligations:

a) Plan quarterly and annual activities of the Board of Members;

b) Draw up agenda and prepare documents for meetings or surveys of the Board of Members;

c) Convene and chair meetings of the Board of Members or organize surveys of the Board of Members;

d) Organize the implementation of decisions of the state ownership representative body and resolutions of the Board of Members;

dd) Supervise, organize the supervision and evaluation of the achievement of strategic targets and the company's business performance, performance of the Director/General Director;

e) Organize the disclosure of the company's information as prescribed by law; take responsibility for the adequacy, punctuality, accuracy and systematic organization of the disclosed information.

3. In addition to the cases specified in Article 94 of this Law, the President of the Board of Members may be dismissed or discharged if he/she fails to perform the rights and obligations specified in Clause 2 of this Article.

### **Article 96. Rights and obligations of members of the Board of Members**

1. Participate in meetings of the Board of Members; discuss, propose, vote on the issues within the jurisdiction of the Board of Members;

2. Inspect, access, extract logbooks; monitor contracts, transactions, accounting books, financial statements, minutes of meetings of the Board of Members and other documents of the company;

3. Other rights and obligations prescribed by the company's charter, this Law and relevant laws.

### **Article 97. Responsibilities of President and other members of the Board of Members**

1. Comply with the company's charter, decisions of the company's owner and regulations of law.

2. Exercise and perform their rights and obligations in an honest and prudent manner to protect the lawful interests of the company and the State.

3. b) Be loyal to the interests of the company and the State; do not abuse their power and position or use the enterprise's information, secrets, business opportunities and assets for personal gain or serve any other organization's or individual's interests;

4. c) Promptly and fully notify the company of the enterprises that they own or have shares/stakes or that their related persons own, jointly own or have separate controlling shares/stakes. These notifications shall be retained at the company's headquarters.

5. Implement resolutions of the Board of Members.

6. Take personal responsibility when performing the following actions:

a) Take advantage of the company's name to violate the law;

b) Do business or conduct transactions that do not serve the company's interests and cause damage to other organizations and individuals;



c) Pay debts before they are due while the company is facing financial risks.

7. The member who discovers another member's violation shall send a written notification to the state ownership representative body, request the violator to stop the violation and implement remedial measures.

### **Article 98. Working regulations, conditions and procedures for conducting meetings of the Board of Members**

1. The Board of Members shall work as a collective. At least one meeting shall be held in a quarter to consider and decide the matters within its jurisdiction. For matters that do not require discussion, the Board of Members may carry out a questionnaire survey as prescribed by the company's charter. Ad hoc meetings may be convened to resolve urgent issues at the request of the state ownership representative body, the President of the Board of Members, more than 50% of the members of the Board of Members or the Director/General Director.

2. The President of the Board of Members or the person authorized by the President of the Board of Members shall draw up the meeting agenda and prepare meeting document; convene and chair the meeting. Members of the Board of Members are entitled to propose additional contents to the meeting agenda in writing. The meeting documents and agenda shall be sent to the members of the Board of Members and invited participants at least 03 working days before the meeting date. Meeting documents relevant to proposed revisions to the company's charter, orientation for development of the company, ratification of the annual financial statement, reorganization or dissolution of the company shall be sent to the members at least 05 working days before the meeting date.

3. Invitations to the meeting can be sent physically, by phone, fax, electronically or by other methods prescribed by the company's charter to each member of the Board of Members and invited participants. The invitation shall specify the time, location and agenda of the meeting. Online meetings may be carried out where necessary.

4. A meeting of the Board of Members shall be conducted when it is participated in by at least two thirds of the members. A resolution of the Board of Members shall be ratified when it is voted for by more than half of the participating members. In case of equality of votes, the option that is voted for by the President of the Board of Members or the person authorized by the President to chair the meeting shall prevail. Members of Board of Members who have dissenting opinions may submit their proposals to the state ownership representative body.

5. In case of questionnaire survey, a resolution of the Board of Members shall be ratified when it is voted for by more than half of the members. A resolution may be ratified by using multiple copies of the same document if each copy bears at least one signature of the members of Board of Members.

6. The Board of Members may invite representatives of relevant organizations to participate in the meeting to discuss specific matters in the agenda. The invited participants may comment but must not vote. Their comments shall be fully written in the minutes.

7. The discussion, comments, voting result and resolutions ratified by the Board of Members shall be written in the minutes. The chair and the secretary of the meeting shall be jointly responsible for the accuracy of the minutes. The minutes shall be ratified before the meeting comes to an end and contain the following information:

a) The meeting time, location, purposes and agenda; list of participating members; discussed and voted matters; summaries of comments made by the members and invited participants on each matter;

b) The number of affirmative votes, negative votes and abstentions (if permitted);

c) Ratified decisions;

d) Full names and signatures of the participating members.

8. Members of the Board of Directors are entitled to request the Director/General Director, Deputy Director/Deputy General Director, chief accountant, executives of the company and subsidiary companies 100% of charter capital of which is held by the company, representatives of the company's investment in other enterprises to provide information and documents about the company's finance and business performance in accordance with regulations of the Board of Members or resolution of the Board of Members. The requested person shall provide accurate information and documents, unless otherwise decided by the Board of Members.

9. The Board of Members may employ the company's management and assistance apparatus in performance of their duties.

10. Operating costs of the Board of Members, their salaries and allowances shall be recorded as the company's administrative expenses.

11. Where necessary, the Board of Members may discuss with domestic and foreign counsels before making important decisions under its jurisdiction. The counseling cost shall be specified in the company's financial management regulations.

12. A resolution of the Board of Members shall take effect on the ratification date or the effective date written therein, unless it is subject to approval by the state ownership representative body.

#### **Article 99. The company's President**

1. The company's President shall be designated by the state ownership representative body as prescribed by law and has up to 02 terms of office of up to 05 years each, unless he/she has worked for the company for more than 15 consecutive years before the first designation. The requirements, dismissal of the company's President shall comply with Article 93 and Article 94 of this Law.

2. The company's President shall perform the rights and obligations of the state ownership representative at the company in accordance with the Law on Management and use of State

Investment in Enterprises; other rights, obligations and responsibilities prescribed in Article 92 and Article 97 of this Law.

3. The Presidents' salaries and allowances shall be recorded as the company's administrative expenses.
4. The company's President shall employ the company's administration and assistance apparatus to perform his/her rights and obligations. Where necessary, the company's President may discuss with domestic and foreign counsels before making important decisions under his/her jurisdiction. The counseling costs shall be specified in the company's financial management regulations.
5. The decisions within the President's jurisdiction mentioned in Clause 2 of this Article shall be made in writing and bear the President's signature, even if the President concurrently holds the position of Director/General Director.
6. A President's decision takes effect from the day on which it is signed or on the effective date written therein, unless it is subject to approval by the state ownership representative body.
7. In case the President is not present in Vietnam for more than 30 days, he/she shall authorize another person in writing to perform some of his/her rights and obligations. A written notification of the authorization shall be sent to the state ownership representative body. Other cases of authorization shall comply with the company's rules and regulations.

#### **Article 100. The Director/General Director and Deputy Directors/General Directors**

1. The Director/General Director shall be designated or hired by the Board of Members or the company's President under a personnel plan approved by the state ownership representative body.
2. The Director/General Director shall manage the company's everyday business and has the following rights and obligations:
  - a) Organize the implementation of the company's business plans and investment plans and evaluation thereof;
  - b) Organize the implementation of resolutions and decisions of the Board of Members, company's President and state ownership representative body and evaluation thereof;
  - c) Decide everyday matters of the company;
  - d) Issue the company's rules and regulations after they are approved by the Board of Members or company's President;
  - dd) Designate, hire, dismiss, terminate employment contracts with the company's executives, except those within jurisdiction of the Board of Members or the company's President;

e) Enter into contracts and carry out transactions in the company's name, except those within jurisdiction of the President of the Board of Members or the company's President;

g) Prepare and submit quarterly and annual reports on achievement of business targets and financial statements to the Board of Members or the company's President;

h) Propose the distribution and use of post-tax profits and other financial obligations of the company;

i) Recruit employees;

k) Propose the plan for the company's reorganization;

l) Other rights and obligations prescribed by law and the company's charter.

3. The company may have one or several Deputy Directors/General Directors. The designation and quantity of Deputy Directors/General Directors shall be specified in the company's charter. Rights and obligations of Deputy Directors/General Directors shall be specified in the company's charter and their employment contracts.

#### **Article 101. Requirements to be satisfied by the Director/General Director**

1. He/she is not one of the persons specified in Clause 2 Article 17 of this Law.

2. He/she has professional qualifications and experience of business administration or in the company's business lines.

3. He/she is not a relative of the head or deputies of the state ownership representative body; any of the members of the Board of members, the company's President; any of the Deputy Directors/General Directors, the chief accountant or Controllers of the company.

4. He/she has never been dismissed from the position of President of the Board of Members, member of the Board of Members, the company's President, Director/General Director, Deputy Director/General Director of the company or another state-owned enterprise.

5. He/she is not holding the position of Director/General Director of another enterprise.

6. He/she satisfies other requirements specified in the company's charter.

#### **Article 102. Dismissal, discharge of the Director/General Director, other executives and the chief accountant**

1. The Director/General Director shall be dismissed from office in the following cases:

a) He/she no longer fully satisfies the requirements specified in Article 101 of this Law;

b) He/she hands in the resignation.

2. The Director/General Director shall be discharged from duty in the following cases:

a) The enterprise's capital is not conserved as prescribed by law;

b) The enterprise fails to achieve its annual targets;

c) The enterprise violates the law;

d) The Director/General Director is not qualified for or capable of developing the enterprise's new business plan and development strategy;

dd) The Director/General Director fails to perform his/her rights and obligations prescribed in Article 97 and Article 100 of this Law;

e) Other cases prescribed by the company's charter.

3. Within 60 days from the issuance date of the decision on dismissal or discharge, the Board of Members or the company shall recruit or designate a person to hold the position.

4. The company's charter shall provide for cases of dismissal and discharge of Deputy Directors/General Directors, other executives and the chief accountant.

### **Article 103. Controllers and the Board of Controllers**

1. The state ownership representative body shall decide the establishment of a Board of Controllers, which has 01 – 05 Controllers including a Chief Controller. The term of office of a Controller shall not exceed 05 years. A Controller must not be designated more than 02 consecutive terms. In case the Board of Controllers has only 01 Controller, he/she shall be the Chief Controller and has to satisfy corresponding requirements.

2. An individual may concurrently hold the position of Chief Controller or Controller of up to 04 state-owned enterprises.

3. A Controller or Chief Controller shall satisfy the following requirements:

a) He/she has a bachelor's degree or higher in economics, finance, accounting, audit, law, business administration or a major that is relevant to the enterprise's business operation and at least 03 years' experience (05 years for Chief Controller);

b) He/she is not executive of the company or any other enterprise; not a Controller of enterprises other than state-owned enterprises; not a company's employee.

c) He/she is not a relative of the head or deputies of the state ownership representative body; any of the members of the Board of members, the Director/General Director, any of the Deputy Directors/General Directors, the chief accountant or any other Controllers of the company;

d) He/she satisfies other requirements specified in the company's charter.

4. The Government shall elaborate this Article.

#### **Article 104. Obligations of the Board of Controllers**

1. The Board of Controllers has the following obligations:

a) Supervise the implementation of the company's business plans and development strategy;

b) Supervise and evaluate the company's business performance and finance;

c) Supervise and evaluate the performance of the Board of Members and its members, the company's President and Director/General Director;

d) Supervise and evaluate the compliance to the company's internal audit, risk management, reporting regulations and other rules and regulations;

dd) Supervise the legitimacy, systematic organization and honesty of accounting tasks, accounting records, financial statements, their annexes and relevant documents;

e) Supervise the company's contracts and transactions with relevant parties;

g) Supervise execution of major projects; sales and purchases; other large-scale contracts and transactions; unusual contracts and transactions of the company;

h) Prepare and send evaluation reports and proposals of the matters specified in Points a, b, c, d, dd, e and g of this Clause to the state ownership representative body and the Board of Members;

i) Perform other obligations demanded by the state ownership representative body, prescribed by the company's charter.

2. The state ownership representative body shall decide and pay the Controllers' salaries, bonuses and other benefits.

3. The Government shall elaborate this Article.

#### **Article 105. Rights the Board of Controllers**

The Board of Controllers has the rights to:

1. Participate in meetings of the Board of Members, official and unofficial discussions between the state ownership representative body with the Board of Members; question the Board of Members, its members, the company's President and the Director/General Director about the plans, projects, development programs and other decisions in management and administration of the company.
2. Examine accounting books, reports, contracts, transactions and other documents of the company; inspect the management and administration by the Board of Members and its members, the company's President and Director/General Director where necessary or at the request of the state ownership representative body.
3. Request the Board of Members and its members, the company's President and Director/General Director, Deputy Directors/Deputy General Directors, chief accountant and other executives to submit reports or provide information about the company's management, investment and business operation.
4. Request the company's executives to submit reports on the subsidiary companies' finance and business performance if they are necessary for performance of their duties prescribed by law and the company's charter.
5. Request the state ownership representative body to establish an audit unit which will advise and assist the Board of Controllers in performance of its rights and obligations.
6. Other rights and obligations prescribed by the company's charter.

#### **Article 106. Working regulations of the Board of Controllers**

1. The Chief Controller shall prepare monthly, quarterly and annual working plans of the Board of Controllers; assign specific tasks to each Controller.
2. Controllers shall perform their assign tasks independently; propose other tasks where necessary.
3. The Board of Controllers shall hold a meeting at least once a month to evaluate and approve the monthly operation reports before they are submitted to the state ownership representative body; discuss and approve operation plans of the next month.
4. A decision of the Board of Controllers will be ratified when it is voted for by the majority of the participating members. Dissenting opinions shall be fully and accurately recorded and reported to the state ownership representative body.

#### **Article 107. Responsibilities of Controllers**

1. Comply with regulations of law, the company's charter, decisions of the state ownership representative body and the code of ethics in performance of their rights and obligations.

2. Exercise and perform their rights and obligations in an honest and prudent manner to protect the lawful interests of the State, the company the parties.
3. Be loyal to the interests of the company and the State; do not abuse their power and position or use the enterprise's information, secrets, business opportunities and assets for personal gain or serve any other organization's or individual's interests;
4. The Controller that violates the regulations of this Article and causes damage to the company shall be personally or jointly pay compensation, be held liable to disciplinary actions, administrative penalties or criminal prosecution depending on the nature and severity of the violation and have to return the incomes and benefits earned from the violation.
5. Send a notification to the state ownership representative body of violations committed by another Controller and request the violator to stop the violation and implement remedial measures.
6. Request the violator to stop the violation and implement remedial measures, and notify to the state ownership representative body, other Controllers and relevant individuals in the following cases:
  - a) A member of the Board of Members, the company's President, the Director/General Director or another executive violates or is going to violate regulations on their rights and obligations
  - b) Violations against the law, the company's charter or the company's rules and violations are discovered.
7. Other responsibilities prescribed by this Law and the company's charter.

#### **Article 108. Dismissal and discharge of Controllers and the Chief Controller**

1. The Chief Controller or a Controller shall be dismissed in the following cases:
  - a) He/she no longer fully satisfies the requirements specified in Article 103 of this Law;
  - b) He/she hands in the resignation and is accepted by the state ownership representative body;
  - c) He/she is reassigned by the state ownership representative body or another competent authority;
  - d) Other cases prescribed by the company's charter.
2. The Chief Controller or a Controller shall be discharged from duty in the following cases:
  - a) He/she fails to perform his/her duties for 03 consecutive months, except in force majeure events;



- b) He/she fails to perform his/her duties for 01 year;
- c) He/she commits multiple, serious violations against the rights and obligations of a Controller or the Chief Controller prescribed by this Law and the company's charter;
- d) Other cases prescribed by the company's charter.

#### **Article 109. Periodic disclosure of information**

1. The information shall be periodically posted on the websites of the company and the state ownership representative body:

- a) Basic information about the company and the company's charter;
- b) Overall targets and specific targets in the annual business plan;
- c) The annual financial statement audited by an independent audit organization within 150 days after the end of the fiscal year and its summary (including the financial statement of the parent company and the consolidated financial statement (if any));
- d) The mid-year financial statement audited by an independent audit organization and its summary (including the financial statement of the parent company and the consolidated financial statement (if any); these documents must be disclosed before July 31;
- dd) Reports on implementation of annual business plans;
- e) Reports on performance of public duties that are assigned or bid for (if any) and other social responsibilities;
- g) The report on the company's management and organizational structure.

2. g) The report on the company's management and organizational structure shall contain the following information:

- a) Information about the state ownership representative body, its head and deputies;
- b) Information about the company's executives, their qualifications and experience, managerial position previously held, how they are designated, their managerial tasks; their salaries, bonuses, benefits and payment method, their related persons and interests;
- c) Relevant decisions of the state ownership representative body; resolutions and decisions of the Board of Members of the company's President;
- d) Information about the Board of Controllers, Controllers and their activities;

dd) Verdicts of inspecting authorities (if any) and reports of the Controllers and the Board of Controllers;

e) Information about the company's related persons; contracts and transactions between the company and its related persons;

g) Other information prescribed by the company's charter.

3. Information shall be fully, accurately and punctually disclosed as prescribed by law.

4. Information shall be disclosed by the legal representative or the person authorized to disclose information. The legal representative shall be responsible for the adequacy, punctuality and accuracy of the information disclosed.

5. The Government shall elaborate this Article.

#### **Article 110. Irregular disclosure of information**

1. Information shall be posted the company's website and printed matters (if any) and displayed at the company's headquarters and business locations within 36 hours from the occurrence of any of the following events:

a) The company's account is frozen or unfrozen;

b) All or part of the company's business activities are suspended; the certificate of enterprise registration, establishment license, establishment and operation license, operation license or another license relevant to the company's operation is revoked;

c) The certificate of enterprise registration, establishment license, establishment and operation license, operation license or another license relevant to the company's operation is revised;

d) There is a change of members of the Board of Members, the company's President, Director/General Director, Deputy Directors/General Directors, chief accountant, accounting – finance department manager, Controllers or Chief Controller;

dd) An executive of the company is disciplined or charged under a decision; the court issues a decision that involves an executive of the company;

e) An inspecting authority or tax authority announces a verdict on the enterprise's violations of law;

g) There is a decision that the independent audit organization is changed or not permitted to audit the financial statement;

h) There is a decision on establishment, dissolution, consolidation, acquisition or conversion of a subsidiary company, branch or representative office; investment in, decrease or withdrawal of investment in other companies.

2. The Government shall elaborate this Article.

## **Chapter V**

### **JOINT STOCK COMPANIES**

#### **Article 111. Joint stock companies**

1. A joint stock company is an enterprise in which:

a) The charter capital is divided into units of equal value called shares;

b) Shareholders can be organizations and individuals; the minimum number of shareholders is 03; there is no limit on the maximum number of shareholders;

a) A shareholder's liability for the company's debts and liabilities is equal to the amount of capital contributed to the company by the shareholder;

d) Shareholders may transfer their shares to other persons except for the cases specified in Clause 3 Article 120 and Clause 1 Article 127 of this Law.

2. A joint stock company has the status of a juridical person from the day on which the Certificate of Enterprise Registration is issued.

3. A joint stock company may issue shares, bonds and other kinds of securities.

#### **Article 112. Capital of a joint stock company**

1. A joint stock company's charter capital is the total face value of the shares sold. The initially registered charter capital of a joint stock company is the total face value of subscribed shares and shall be written in the company's charter.

2. Sold shares are authorized shares that have been fully paid for the shareholders. Upon registration of a joint stock company, sold shares are the total number of subscribed shares.

3. Authorized shares are the total number of shares that are offered by the General Meeting of Shareholders (GMS) to raise capital. The number of authorized shares of a joint stock company upon its registration is the total number of shares that will be offered by the company to raise capital, including subscribed shares and unsubscribed shares.

4. Unsold shares are authorized shares that have not been paid for. Upon registration of a joint stock company, unsold shares are the total number of unsubscribed shares.

5. A joint stock company may decrease its charter capital in the following cases:

a) The decrease is decided by the GMS, in which case the company will return part of the contributed capital to the shareholders in proportion to their holdings if the company has operated for at least 02 consecutive years from the enterprise registration date and is able to fully pay its debts and other liabilities after the return of capital;

b) The company repurchases the sold shares in accordance with Article 132 and Article 133 of this Law;

c) Charter capital is not fully and punctually contributed by the shareholders as prescribed in Article 113 of this Law.

### **Article 113. Paying for subscribed shares upon enterprise registration**

1. Shareholders shall fully pay for the subscribed shares within 90 days from issuance date of the Certificate of Enterprise Registration unless shorter time limit is specified by the company's charter or the shares registration contract. In case of capital contribution by assets, the time needed to transport or import the contributed assets and for completing ownership transfer procedures shall be added to this time limit. The Board of Directors shall supervise the shareholders fully and punctually paying for the subscribed shares.

2. During the period from the issuance date of the Certificate of Enterprise Registration to the deadline for paying for the subscribed shares mentioned in Clause 1 of this Article, the number votes of shareholders shall be proportional to their subscribed shares unless otherwise prescribed by the company's charter.

3. In case a shareholder fails to pay or to fully pay for the subscribed shares by the deadline specified in Clause of this Article:

a) The shareholder that fails to pay for the subscribed shares is no longer a shareholder of the company and must not transfer the right to purchase the shares to another person;

b) The shareholder that only pays for part of the subscribed shares will be entitled to a number of votes, dividends and benefits that are proportional to the paid shares and must not transfer the right to purchase the unpaid shares to another person;

c) The shares that are not paid for shall be considered unsold shares and may be sold by the Board of Directors;

d) Within 30 days from the deadline for paying for the subscribed shares mentioned in Clause 1 of this Article, the company shall register the change in charter capital, which shall be equal to the total face values of paid shares unless the unpaid shares are sold out during this period; and register the change of founding shareholders.

4. The shareholders that do not pay or fully pay for their subscribed shares shall be held liable for the company's financial obligations that incur before the day on which the company registers the change in charter capital as prescribed in Point d Clause 3 of this Article in proportion to the amount of their subscribed shares. Members of the Board of Directors and the legal representative shall be jointly responsible for the damage caused by the failure to comply with or fully comply with regulations of Clause 1 and Point d Clause 3 of this Article.

5. Except for the cases in Clause 2 of this Article, a capital contributor will become the company's shareholder from the day on which the shareholder's shares are fully paid for and the shareholder's information specified in Points b, c, d and dd Clause 2 Article 122 of this Law is recorded in the shareholder register.

#### **Article 114. Types of shares**

1. A joint stock company shall have ordinary shares, which are held by ordinary shareholders.
2. In addition to ordinary shares, a joint stock company may have preference shares, which are held by preference shareholders. Preference shares include:
  - a) Participating preference shares;
  - b) Redeemable preference shares;
  - c) Super-voting shares;
  - d) Other types of preference shares prescribed by the company's charter and securities laws.
3. The persons that may purchase participating preference shares, redeemable preference shares and other preference shares shall be specified in the company's charter or decided by the GMS.
4. Every share of the same type will confer upon the holder equal rights, obligations and interest.
5. Ordinary shares cannot not be converted into preference shares. preference shares may be converted into ordinary shares under a resolution of the GMS.
6. Ordinary shares used as underlying assets to issue non-voting depository receipts are called underlying ordinary shares. Non-voting depository receipts have interest and obligations proportional to the underlying ordinary shares, except voting rights.
7. The Government shall provide for non-voting depository receipts.

#### **Article 115. Rights of ordinary shareholders**

1. Ordinary shareholders have the right to:

a) Participate in and make comments at the General Meeting of Shareholders; exercise the right to vote directly or through authorized representatives or another method prescribed by law or the company's charter. Each ordinary share equals one vote;

b) Receives dividends at the rate decided by the GMS;

c) Be given priority to buy additional shares in proportion to their holding of ordinary shares in the company;

d) Transfer their shares to other persons except for the cases specified in Clause 3 Article 120 and Clause 1 Article 127 of this Law and relevant laws;

dd) Access names and addresses on the list of voting shareholders; request rectification of incorrect information about themselves;

e) Access, extract, make copies of the company's charter, minutes and resolutions of the GMS;

g) Receive part of the remaining assets in proportion to their holdings in the company when the company is dissolved or goes bankrupt.

2. The shareholder or group of shareholders that holds at least 5% of the ordinary shares (or a smaller ratio specified in the company's charter) shall have the rights to:

a) Access, extract the minutes of meetings, resolutions and decisions of the Board of Directors, mid-year and annual financial statements, reports of the Board of Controllers, contracts and transactions subject to approval by the Board of Directors and other documents except those that involve the company's business secrets;

b) Demand that a GMS be convened in the cases specified in Clause 3 of this Article;

c) Request the Board of Controllers to investigate into specific matters relevant to the company's administration where necessary. The request shall be made in writing and contain the full names, mailing addresses, nationalities, legal document numbers of shareholders that are individuals; names, EID numbers or legal document numbers, headquarters addresses of shareholders that are organizations; quantities of shares and time of shares registration of each shareholder, total quantity of shares of the group and their holdings in the company; the matter that needs investigating and the purposes of investigation;

dd) Other rights prescribed by this Law and the company's charter.

3. The shareholder or group of shareholders specified in Clause 2 of this Article is entitled to demand a GMS be convened in the following cases:

a) The Board of Directors seriously violates the shareholders' rights, obligations of executives or issues decisions ultra vires;

b) Other cases prescribed by the company's charter.

4. A request mentioned in Clause 3 of this Article shall be made in writing and contain the full names, mailing addresses, nationalities, legal document numbers of shareholders that are individuals; names, EID numbers or legal document numbers, headquarters addresses of shareholders that are organizations; quantities of shares and time of shares registration of each shareholder, total quantity of shares of the group and their holdings in the company; the reasons for convening the GMS. The request shall be enclosed with documentary evidence of the violations committed by the Board of Directors or the decision issued ultra vires.

5. Unless otherwise prescribed by the company's charter, the shareholder or group of shareholders that holds at least 10% of the ordinary shares (or a smaller ratio specified in the company's charter) is entitled to nominate candidates for the Board of Directors and the Board of Controllers as follows:

a) The ordinary shareholders shall hold a meeting to nominate candidates for the Board of Directors and the Board of Controllers and inform the participating shareholders before the opening of the GMS;

b) The number of candidates depends on the quantity of members of the Board of Directors and the Board of Controllers and shall be decided by the GMS. In case the number of candidates nominated is smaller than the permissible number, the remaining candidates shall be nominated by the Board of Directors, the Board of Controllers and other shareholders.

6. Other rights prescribed by this Law and the company's charter.

#### **Article 116. Super-voting shares and rights of their holders**

1. Super-voting shares are ordinary shares that have more votes than other ordinary shares. The number of votes of a preferred voting share shall be specified in the company's charter. Only organizations authorized by the Government and founding shareholders may hold super-voting shares. The super-voting powers of founding shareholders shall be effective for 03 years from the issuance date of the Certificate of Enterprise Registration. The right to vote and voting preference period of super-voting shares held by organizations authorized by the Government shall be specified in the company's charter. After this period expires, super-voting shares shall become ordinary shares.

2. Holders of super-voting shares have the rights to:

a) Vote on the matters under the jurisdiction of the GMS with the number of votes specified in Clause 1 of this Article;

b) Other rights of ordinary shareholders, except the cases specified in Clause 3 of this Article.

3. Holders of super-voting shares must not transfer these shares to other persons unless it is demanded by an effective court judgment or decision or transferred in accordance with inheritance laws.

4. The Government shall elaborate this Article.

#### **Article 117. Participating preference shares and rights of their holders**

1. Participating preference shares are shares that provide their holders with higher dividends than those of ordinary shares or with stable annual dividend. Annual dividend includes fixed dividend and extra dividend. Fix dividends do not depend on the company's business performance. Fix dividend and method for determination of extra dividend shall be written on the certificates of participating preference shares.

2. Holders of participating preference shares have the rights to:

a) Receive the dividend prescribed in Clause 1 of this Article;

b) Receive part of the company's remaining assets in proportion to their holdings in case the company is dissolved or goes bankrupt after the company's debts and redeemable preference shares are fully paid;

c) Other rights of ordinary shareholders, except the cases specified in Clause 3 of this Article;

3. Holders of participating preference shares do not have the right to vote, participate in the GMS, nominate candidates for the Board of Directors and the Board of Controllers, except the cases specified in Clause 6 Article 148 of this Law.

#### **Article 118. Redeemable preference shares and rights of their holders**

1. Redeemable preference shares are shares that will be redeemed by the company at the request of their holders or under the conditions written in the certificates of redeemable preference shares and the company's charter.

2. Holders of redeemable preference shares have all of the rights of ordinary shareholders, except the cases specified in Clause 3 of this Article.

3. Holders of redeemable preference shares do not have the right to vote, participate in the GMS, nominate candidates for the Board of Directors and the Board of Controllers, except the cases specified in Clause 5 Article 114 and Clause 6 Article 148 of this Law.

#### **Article 119. Obligations of shareholders**

1. Fully and punctually pay for their subscribed shares.



2. Do not withdraw contributed capital in the form of ordinary shares in any shape or form, unless the shares are purchased by the company or other persons. The shareholder that withdraws all or part of the share capital against regulations of this Clause and persons with related interests in the company shall have a liability for the company's debts and other liabilities which is equal to the value of the shares withdrawn and the damage caused by this action.
3. Comply with the company's charter, rules and regulations.
4. Comply with resolutions and decisions of the Board of Directors and the GMS.
5. Protect the confidentiality of information provided by the company in accordance with the company's charter and the law; only use the provided information to perform and protect their lawful rights and interests; do not spread or share information provided by the company to any other organization or individual.
6. Other obligations prescribed by Law and the company's charter.

#### **Article 120. Ordinary shares of founding shareholders**

1. A new joint stock company shall have at least 03 founding shareholders. A joint stock company converted from a state-owned enterprise or limited liability company or after division, consolidation, acquisition of another joint stock company is not required to have founding shareholders. Instead, the company's charter in the enterprise registration application shall contain signatures of the company's legal representatives or ordinary shareholders.
2. The founding shareholders shall subscribe for at least 20% of the total authorized ordinary shares upon enterprise registration.
3. Within 03 years from the issuance date of the Certificate of Enterprise Registration, the ordinary shares of founding shareholders may be transferred to other founding shareholders and may only be transferred to a person that is not a founding shareholder if the transfer is accepted by the GMS. In this case, the transferor does not have the right to vote on this transfer.
4. The limitations specified in Clause 3 of this Article do not apply to the following ordinary shares:
  - a) Additional shares acquired by founding shareholders after the enterprise is registered;
  - b) Shares that have been transferred to other persons that are not founding shareholders.

#### **Article 121. Share certificate**

1. A share certificate is a certificate issued by a joint stock company, a book entry or electronic data that certifies the ownership of one or a number of shares of the company. A share certificate shall contain the following information:

- a) The company's name, EID number, headquarter address;
- b) Quantity and type of shares;
- c) The face value of each share and total face value of the number of shares written therein;
- d) Full name, signature, mailing address, nationality and legal document number if the shareholder is an individual; names, EID numbers or legal document number and headquarters address if the shareholder is an organization;
- dd) Signatures of the company's legal representatives;
- e) Registration number on the company's shareholder register and issuance date of the share certificate;
- g) Other information specified in Articles 116, 117 and 118 of this Law for certificates of preference shares.

2. Errors in a share certificate do not affect rights and interests of its holder. The company's legal representative shall be responsible for the damage caused by such errors.

3. In case a share certificate is lost or damaged, it will be reissued at the request of its holder. The request shall contain:

- a) Information about the lost or damaged certificate;
- b) The commitment to take responsibility for disputes caused by its reissuance.

#### **Article 122. Shareholder register**

1. A joint stock company shall make and retain the shareholder register from the issuance date of the Certificate of Enterprise Registration. The shareholder register can be physical or electronic documents and contain information about the shareholders' ownership of shares.

2. A shareholder register shall contain the following information:

- a) The company's name and headquarters address;
- b) Total number of authorized shares, types of authorized shares and quantity of each type;
- c) Total number of sold shares of each type and value of share capital contributed;
- d) Full names, signatures, mailing addresses, nationalities and legal document numbers of shareholders that are individuals; names, EID numbers or legal document numbers and headquarters addresses of shareholders that are organizations;

dd) Quantity of each type of shares of each shareholder, date of share registration.

3. The shareholder register shall be retained at the company's headquarters or another organization that is licensed to retain shareholder registers. Shareholders are entitled to inspect, access, extract names and addresses of the company's shareholders from the shareholder register.

4. In case a shareholder's mailing address is changed, a notification shall be promptly sent to the company in order to update the shareholder register. The company is not responsible if a shareholder cannot be contacted due to the failure to notify the change of that shareholder's mailing address.

5. The company shall update changes of shareholders in the shareholder register as requested by relevant shareholders in accordance with company's charter.

### **Article 123. Offering shares**

1. Offering shares means the company's increase in charter capital by increasing the quantity of shares, types of authorized shares.

2. Shares may be offered as follows:

a) Offering shares to existing shareholders;

b) Private placement of shares;

c) Public offering of shares.

3. Public offering of shares, offering of shares of public companies and other organization shall be carried out in accordance with securities laws.

4. The company shall register the change in charter capital within 10 days from the day on which the shares offering is complete.

### **Article 124. Offering of shares to existing shareholders**

1. Offering of shares to existing shareholders is an event in which the company increases the quantity and types of authorized and sell all of these shares to all shareholders in proportion to their holdings in the company.

2. The offering of shares to existing shareholders by a non-public joint stock company shall be carried out as follows:

a) The company shall send a written notification by express mail to the shareholders' mailing addresses written in the shareholder register at least 15 days before the deadline for subscribing for shares;

b) The notification shall contain the full name, signature, mailing address, nationality and legal document number if the shareholder is an individual; names, EID numbers or legal document number and headquarters address if the shareholder is an organization; the shareholder's current shares and holding; the total quantity of shares offered and the number of shareholders having the right to buy them; the offered price; deadline for subscribing; full name and signature of the company's legal representative. The notification shall be enclosed with the share subscription form issued by the company. If the share subscription form is not sent to the company by the deadline, it will be considered that the shareholder has renounced the right to buy shares;

c) Shareholders may transfer their right to buy shares to other persons.

3. If the offered shares are undersubscribed, the Board of Directors is entitled to sell the remaining number of authorized shares to the company's shareholders and other persons under conditions that are not more favorable than those offered to the shareholders, unless otherwise accepted by the GMS or prescribed by securities laws.

4. Shares are considered soled when they are fully paid for and information about the buyer specified in Clause 2 Article 122 of this Law is fully recorded in the shareholder register. From that time, the buyer is a shareholder of the company.

5. After the shares are fully paid for, the company shall issue and deliver the share certificate to the buyer. In case a share certificate is not delivered, information about the shareholder specified in Clause 2 Article 122 of this law shall be recorded in the shareholder register to certify the shareholder's owner of shares.

### **Article 125. Private placement of shares**

1. The private placement of shares of a non-public joint stock company shall satisfy the following conditions:

a) The offering is not made through mass media;

b) Shares are offered to fewer than 100 investors, not including professional securities investors or only offered to professional securities investors.

2. The private placement of shares of a non-public joint stock company shall be carried out as follows:

a) The company shall issue a decision on private placement of shares in accordance with this Law;

b) The company's shareholders exercise their rights to buy shares in accordance with Clause 2 Article 124 of this Law, except consolidation and acquisition of companies;

c) In case the shares are not completely bought by the shareholders and the persons that receive the rights to buy shares, the remaining number of shares shall be offered by private placement

under conditions that are not more favorable than those offered to the shareholders, unless otherwise accepted by the GMS.

3. Foreign investors that buy shares offered in accordance with this Article shall complete the procedures for purchasing shares specified in the Law on Investment.

#### **Article 126. Selling shares**

The Board of Directors shall decide the time, method and prices for selling shares. The selling prices must not be lower than their market values or latest book values, except:

1. Shares that are sold for the first time to persons other than founding shareholders;
2. Shareholders that are sold to all shareholders according to their holdings in the company;
3. Shares that are sold to brokers or guarantors, in which case the discount or discount rate must be approved by the GMS unless otherwise prescribed by the company's charter;
4. Other cases in which the discount rates are specified in the company's charter or resolution of the GMS.

#### **Article 127. Transfer of shares**

1. Shares may be transferred freely except the cases specified in Clause 3 Article 120 of this Law and other cases of restriction specified in the company's charter. The restrictions on transfer of shares specified in the company's charter are only applicable if they are written in the certificates of the shares subject to restriction.

2. The transfer shall be made into a contract or carried out on the securities market. In case of transfer under a contract, the documents shall bear the signatures of the transferor and the transferee or their authorized representatives. In case shares are transferred on the securities market, the transfer procedures prescribed by securities laws shall apply.

3. In case of the death of a shareholder that is an individual, his/her heir at law or designated by a will shall become a shareholder of the company.

4. In case a shareholder that is an individual dies without an heir or the heir refuses the inheritance or is disinherited, his/her shares shall be settled in accordance with civil laws.

5. A shareholder may donate all or part of their shares to other organizations and individuals; use the shares to pay debts. The organization or individual that receives the donation or debt payment will become a shareholder of the company.

6. The organizations and individuals that receive shares in the cases specified in this Article will only become shareholders when the information specified in Clause 2 Article 122 of this Law is fully recorded in the shareholder register.

7. The company shall register the changes of shareholders in the shareholder register as requested by relevant shareholders within 24 hours after the request is received.

### **Article 128. Private placement of bonds**

1. The joint stock company that is not a public company may make sell bonds using private placement in accordance with this Law and relevant laws. Private placement of bonds by public companies and other organizations, and public offering of bonds shall comply with securities laws.

2. Private placement of bonds by a joint stock company that is not a public company means the offering of bonds without mass media to fewer than 100 investors, excluding professional securities investors, that satisfy the following conditions:

a) Strategic investors for privately placed convertible bonds and bonds attached to warrants;

b) Professional securities investors for privately placed convertible bonds, warrant-linked bonds and other kinds of privately placed bonds.

3. A joint stock company that is not a public company must satisfy the following conditions to make private placement of bonds:

a) The company's has fully paid the principal and interest of the bonds that are offered and due or fully paid due debts over the last 03 years before the offering (if any), except offering of bonds to creditors that are pre-selected finance organizations;

b) The company has the audited financial statement of the year preceding the year of offering;

c) The liquidity ratios and prudential ratios are maintained;

d) Other conditions prescribed by relevant laws.

### **Article 129. Procedures for making private placement of bonds and transfer of privately placed bonds**

1. The company shall decide the plan for private placement of bonds in accordance with this Law;

2. The company shall disclose information to the investors before each placement and send a notification to the stock exchange at least 01 day before the intended date of offering.

3. The company shall disclose information about the result of the offering to the investors before each placement and send a notification to the stock exchange within 10 days from the completion date of the offering.

4. Privately placed bonds may be transferred among eligible investors specified in Clause 2 Article 128 of this Law, except transfer under an effective court decision or arbitration award or inheritance as prescribed by law.

5. Pursuant to this Law and the Law on Securities, the Government shall provide for the types of bonds, procedures for private placement of bonds; information disclosure; international issuance of bonds.

### **Article 130. Deciding private placement of bonds**

1. The company shall decide the private placement of bonds as follows:

a) The GMS shall decide the types and total value of bonds and time of offering of convertible bonds and warrant-linked bonds. A voting shall be carried out in accordance with Article 148 of this Law;

b) Unless otherwise prescribed by the company's charter and except the cases specified in Point a of this Clause, the Board of Directors is entitled to decide the types and total value of bonds and time of offering and shall submit a report to the nearest GMS. The report shall be enclosed with documents about the offering.

2. The company shall register the change in charter capital within 10 days from the day on which the bonds are converted into shares.

### **Article 131. Buying shares and bonds**

Shares and bonds of a joint stock company may be bought in VND, convertible foreign currencies, gold, land use right (LUR), intellectual property rights, technologies, technical secrets, other assets specified in the company's charter and shall be paid in a lump sum.

### **Article 132. Share repurchase at shareholders' request**

1. The shareholders that have voted against the resolution on reorganization of the company or change of shareholders' rights and obligations in the company's charter are entitled to request the company to repurchase their shares. The request shall be made in writing and specify the shareholder's name and address, quantity of shares of each type, offered prices, reasons for requesting the repurchase. The request shall be sent to the company within 10 days from the day on which the previously mentioned resolution is ratified by the GMS.

2. The company shall repurchase shares at the request of its shareholders in accordance with Clause 1 of this Article at market prices or at the prices calculated in accordance with the rules in the company's charter within 90 days from the receipt of the request. In case an agreement on the prices cannot be reached, the parties may hire a valuation organization to determine the price. The company shall introduce at least 03 valuation organizations for the shareholders to make the final decision.

### **Article 133. Share repurchase under the company's decision**

The company is entitled to repurchase up to 30% the total ordinary shares, all or part of the participating preference shares that have been sold. To be specific:

1. The Board of Directors is entitled to decide repurchase of up to 10% of the total shares of each type which are sold within 12 months. Other cases of share repurchase shall be decided by the GMS;
2. The Board of Directors is entitled to impose the repurchase price. The repurchase price for ordinary shares must not exceed their market price at the time, except the cases specified in Clause 3 of this Article. Repurchase prices of other types of shares must not be lower than their market prices unless otherwise prescribed by the company's charter or agreed upon by the company and relevant shareholders;
3. The company may repurchase shares of each shareholder in proportion to their holding in the company as follows:
  - a) The notification on the company's decision to repurchase shares shall be sent by express mail to all shareholders within 30 days from its ratification date. The notification shall contain the company's name and headquarters address, total number and types of shares repurchased, repurchase prices or pricing rules; procedures and deadline for paying, procedures and deadline for shareholders to sell their shares to the company;
  - b) The shareholders that agree to sell back their shares to the company shall send a written agreement to the company by express mail within 30 days from the notification date. The agreement shall contain the full name, mailing address, nationality, legal document number if the shareholder is an individual; name, EID number or legal document number, headquarters address if the shareholder is an organization; the quantity of shares being held, quantity of shares to be sold; method of payment, signature of the shareholder or the shareholder's legal representative. The company only buys back the shares within this time limit.

### **Article 134. Conditions for payment and settlement of repurchased shares**

1. The company may only make the payment for the shares repurchased in accordance with Article 132 and Article 133 of this Law if it is still able to fully pay its debts and other liabilities after the shares are fully paid for.
2. The shares repurchased in accordance with Article 132 and Article 133 of this Law shall be considered unsold shares according to Clause 4 Article 112 of this Law. The company shall register the charter capital decreases, which is equal to the total face value of repurchased shares, within 10 days from the date of completion of payment for the shares unless otherwise prescribed by securities laws.
3. The share certificates of the repurchased shares shall be destroyed right after the shares are fully paid for. The President of the Board of Directors and the Director/General Director shall be



jointly responsible for the damage caused by the failure to or delay in destroying the share certificates.

4. After all of the repurchased shares are fully paid for, if the total assets in the company's accounting books is reduced by more than 10%, the company shall send a notification to all of its creditors within 15 days from the payment date.

### **Article 135. Paying dividends**

1. Dividends of preference shares shall be paid under the conditions applied thereto.

2. Dividends of ordinary shares shall be determined according to the realized net profit and the dividend payment from the company's retained earnings. The joint stock company may only pay dividend of ordinary shares when the following conditions are fully satisfied:

a) The company has fully its tax liabilities and other liabilities as prescribed by law;

b) The company's funds are contributed to and the previous losses are made up for as prescribed by law and the company's charter;

c) After dividends are fully paid, the company is still able to fully pay its debts and other liabilities when they are due.

3. Dividends can be paid in cash, the company's shares or other assets specified in the company's charter. If dividends are paid in cash, it shall be VND and using the methods of payment prescribed by law.

4. Dividends shall be fully paid within 06 months form the ending date of the annual GMS. The Board of Directors shall compile a list of shareholders that receive dividends, dividend of each share, time and method of payment at least 30 days before each payment of dividends. The notification of dividend payment shall be sent by express mail to the shareholders' registered addresses at least 15 days before the dividend payment date. Such a notification shall contain the following information:

a) The company's name and headquarters address;

b) Full name, mailing address, nationality and legal document number if the shareholder is an individual;

c) Name, EID number or legal document number and headquarters address if the shareholder is an organization;

d) Quantity of each type of shares; dividend of each share and the total dividends receivable by the shareholder;

dd) Time and method of dividend payment;

e) Full names and signatures of the company's legal representatives and the President of the Board of Directors.

5. In case a shareholder transfers their shares during the period from the date of compilation of the list of shareholders to the dividend payment date, the transferor will receive the dividend.

6. In case dividends are paid in shares, the company is not required to follow the procedures for offering shares prescribed in Articles 123, 124 and 125 of this Law and is only required to register the charter capital increase, which is equal to the total face value of shares paid as dividends, within 10 days from the completion date of dividend payment.

### **Article 136. Return of payments for repurchased shares or dividends**

In case repurchased shares are paid for against the regulations of Clause 1 Article 134 of this Law or dividends are paid against regulations of Article 135 of this Law, the shareholder shall return the money or assets received. Otherwise, all members of the Board of Directors shall have a joint liability for the company's debts and liabilities which is equal to the value of unrecovered money or assets.

### **Article 137. Organizational structure of a joint stock company**

1. Unless otherwise prescribed by securities laws, a joint stock company may choose one of the following models:

a) A joint stock company with the GMS, Board of Directors, Board of Controllers and Director/General Director. If the joint stock company has fewer than 11 shareholders and the shareholders that are organizations hold less than 50% of the company's total shares, a Board of Controllers is not mandatory;

b) A joint stock company with the GMS, Board of Directors and Director/General Director. In this case, at least 20% of the members of the Board of Directors shall be independent members and there has to be an audit committee affiliated to the Board of Directors. The organizational structure, functions and duties of the audit committee shall be specified in the company's charter or the audit committee's operating regulations promulgated by the Board of Directors.

2. If the company has only one legal representative, the President of the Board of Directors or the Director/General Director shall be the legal representative. The President of the Board of Directors shall be the company's legal representative unless otherwise prescribed by the company's charter. If the company has more than one legal representative, the President of the Board of Directors and the Director/General Director shall be the company's legal representatives.

### **Article 138. Rights and obligations of the GMS**

1. The GMS shall consist of all voting shareholders and is the supreme body of a joint stock company.

2. The GMS has the following rights and obligations:

- a) Ratify the orientation for development of the company;
- b) Decide the types of authorized shares and quantity of each type; decide the annual dividends of each type of shares;
- c) Elect, dismiss members of the Board of Directors and Controllers;
- d) Decide investment in or sale of assets that are worth at least 35% of the total assets written in the latest financial statement, unless another ratio or value is specified in the company's charter;
- dd) Decide revisions to the company's charter;
- e) Ratify annual financial statements;
- g) Decide repurchase of more than 10% of total sold shares of each type;
- h) Take actions against violations committed by members of the Board of Directors and Controllers that cause damage the company and its shareholders;
- i) Decide reorganization or dissolution of the company;
- k) Decide the budget or total salaries, bonuses and other benefits of the Board of Directors and the Board of Controllers;
- l) Approve the rules and regulations of the company, the Board of Directors and the Board of Controllers;
- m) Approve the list of independent audit companies; choose independent audit companies carry out audit of the company; dismiss independent audits where necessary;
- n) Other rights and obligations prescribed by Law and the company's charter.

### **Article 139. General Meetings of Shareholders**

1. General Meetings of Shareholders (GMS) shall be convened annually and whenever necessary. The meeting location is the place where the chair attends and shall be within Vietnam's territory.
2. The annual GMS shall be convened within 04 months from the end of the fiscal year. Unless otherwise prescribed by the company's charter, the Board of Directors shall decide deferral of the annual GMS where necessary by up to 06 months from the end of the fiscal year.
3. The following issues shall be discussed and ratified at the annual GMS:

- a) The company's annual business plan;
- b) The annual financial statement;
- c) The report of the Board of Directors on its performance and that of its members;
- d) The report of the Board of Controllers on the company's business performance, performance of the Board of Directors, the Director/General Director;
- dd) The report of the Board of Controllers on its performance and that of the controllers;
- e) Dividend of each type of shares;
- g) Other issues within its jurisdiction.

#### **Article 140. Convening GMS**

1. Board of Directors shall convene annual and ad hoc GMS. An ad hoc GMS shall be convened in the following cases:

- a) The meeting is necessary for the company's interests;
- b) The quantity of remaining members of the Board of Directors and Board of Controllers is smaller than the minimum quantity prescribed by law;
- c) The meeting is requested by the shareholder or group of shareholders mentioned in Clause 2 Article 115 of this Law;
- d) The meeting is requested by the Board of Controllers;
- dd) Other cases prescribed by law and the company's charter.

2. Unless otherwise prescribed by the company's charter, the Board of Directors shall convene the GMS within 30 days from the date of occurrence of the event mentioned in Point b Clause 1 of this Article or the day on which the request for holding the meeting mentioned in Point c and Point d Clause 1 of this Article is received. If the Board of Directors fails to convene such GMS, the President and members of the Board of Directors shall pay compensation for the damage incurred by the company.

3. In case the Board of Directors fails to convene a GMS as prescribed in Clause 2 of this Article, the Board of Controllers shall convene a GMS within the next 30 days in accordance with regulations of this Law. If the Board of Controllers fails to convene the GMS, it shall pay compensation for the damage incurred by the company

4. In case the Board of Controllers fails to convene a GMS as prescribed in Clause 3 of this Article, the shareholder or group of shareholders prescribed in Clause 2 Article 115 of this Law may convene the GMS on behalf of the company in accordance with this Law.

5. The person who convenes the GMS shall:

a) Prepare a list of shareholders entitled to participate in the GMS;

b) Provide information and settle complaints relevant to the aforementioned list;

c) Draw up the meeting agenda;

d) Prepare documents for the meeting;

dd) Draft the resolution of the GMS according to the meeting agenda; prepare a list and detailed information about the candidates for members of the Board of Directors and Controllers (in case of election);

e) Determine the meeting time and location;

g) Send the invitation to each and every shareholder on the list mentioned in (a);

h) Perform other tasks serving the meeting.

6. The cost of convening and conduct the GMS as prescribed in Clauses 2, 3 and 4 of this Article shall be reimbursed by the company.

#### **Article 141. List of shareholders entitled to participate in the GMS**

1. The list of shareholders entitled to participate in the GMS shall be compiled according to the company's shareholder register numbers. The list shall be compiled not more than 10 days before dan on which the invitations to participate in the GMS are sent if a shorter period is not specified in the company's charter.

2. The list shall contain full names, mailing addresses, nationalities, legal document numbers of shareholders that are individuals; names, EID numbers or legal document numbers, headquarters addresses of shareholders that are organizations; quantities of shares of each type and each shareholder registration date and number of each shareholder.

3. Shareholders are entitled to access and make copies of names and mailing addresses of shareholders on the list; request correction of errors or addition of information about themselves on the list. The company's executives shall promptly provide information in the shareholder register, revise and add information as requested by the shareholders; pay compensation for damage caused by the failure to provide or to accurately and promptly provide shareholder registration numbers as requested. The procedures for requesting provision of information in the shareholder register shall be specified in the company's charter.

## **Article 142. Agenda of the GMS**

1. The person who convenes the GMS shall prepare the agenda.
2. The shareholder or group of shareholders specified in Clause 2 Article 115 of this Law is entitled to propose additional issues to the GMS agenda. The proposal shall be made in writing and sent to the company at least 03 working days before the opening date unless another period is specified in the company's charter. The proposal shall contain the names of shareholders and the proposed issues.
3. In case the proposal mentioned in Clause 2 of this Article is rejected by the person who convenes the GMS, a written response and explanation must be provided at least 02 days before the opening day. A proposal may only be rejected in the following cases:
  - a) The proposal is sent against the regulations of Clause 2 of this Article;
  - b) The issue exceeds the jurisdiction of the GMS;
  - c) Other cases prescribed by the company's charter.
4. The person who convenes the GMS shall include the issues proposed in accordance with Clause 2 of this Article in the draft agenda, except in the cases specified in Clause 3 of this Article. The issues will be included in the official agenda if their inclusion is accepted by the GMS.

## **Article 143. Invitations to the GMS**

1. The person who convenes the GMS shall send invitations to all shareholders on the list of shareholders entitled to participate in the GMS at least 21 days before the opening day unless an earlier time is specified in the company's charter. The invitation shall contain the participant's name, headquarters/ mailing address, EID number, time and location of the meeting and other requirements.
2. Invitations shall be sent to mailing addresses of the shareholders and posted on the company's website. If necessary, the invitation may be published on a local or central daily newspaper as prescribed by the company's charter.
3. An invitation shall be sent together with:
  - a) The meeting agenda, meeting documents and the draft resolution on each issue in the agenda;
  - b) The votes.
4. The invitation and meeting documents mentioned in Clause 3 of this Article may be uploaded on the company's website (if any) instead of sending physical invitations and documents. In this case, the invitation shall contain instructions on how to download the documents.

## **Article 144. Exercising the right to attend the GMS**

1. Shareholders and representatives of shareholders that are organizations may directly participate in the GMS or authorize one or some other organizations and individuals to participate the GMS, or participate in the GMS in one of the forms specified in Clause 3 of this Article.
2. The authorization of participants in the GMS shall be made in writing. The authorization letter shall be made in accordance with civil laws and specify the name of the authorized participant, the quantity of shares authorized. The authorized participant shall present the authorization letter before entering the meeting room.
3. It will be considered that a shareholder attends and votes at the GMS in the following cases:
  - a) The shareholder directly participates in and votes at the GMS;
  - b) The shareholder authorizes another organization or individual to participate in and vote at the meeting;
  - c) The shareholder participates and votes online or through other electronic methods;
  - d) The shareholder sends the votes to the GMS by post, fax or email;
  - dd) The shareholder sends the votes by other means specified in the company's charter.

## **Article 145. Conditions for conducting the GMS**

1. The GMS shall be conducted when it is participated by a number of shareholders that represent more than 50% of the votes; the specific ratio shall be specified in the company's charter.
2. In case the conditions for conducting the meeting prescribed in Clause 1 of this Article are not fulfilled, the second invitation shall be sent within 30 days from the first meeting date unless otherwise prescribed by the company's charter. The second GMS shall be conducted when it is participated by a number of shareholders that represent at least 33% of the votes; the specific ratio shall be specified in the company's charter.
3. In case the conditions for conducting the second meeting prescribed in Clause 2 of this Article are not fulfilled, the third invitation shall be sent within 20 days from the second meeting date unless otherwise prescribed by the company's charter. The third GMS shall be conducted regardless of the number of votes represented by the participants.
4. Only the GMS has the right to change the agenda enclosed with the invitation prescribed in Article 142 of this Law.

## **Article 146. Meeting and voting protocols**

Unless otherwise prescribed by the company's charter, the following meeting and voting protocol shall be followed:

1. The shareholders that participate in the GMS shall be registered before the meeting is declared open;

2. Election of the chair, secretary and election board:

a) The President of the Board of Directors shall assume the role of the chair or authorize a member of Board of Directors to chair the GMS if it is convened by the Board of Directors. In case the chair is not present or is temporarily unable to work, the remaining members of the Board of Directors shall elect one of them as the chair under the majority rule. In case a chair cannot be elected, the chief of the Board of Controllers shall preside over the election of the GMS chair, in which case the person that receives the most votes will be the chair;

b) Except for the cases specified in Point a of this Clause, the person that signs the decision to convene the GMS shall preside over the election of the chair by the GMS, in which case the person that receives the most votes will be the chair;

c) The chair shall designate one or some persons as the secretary(ies) of the GMS;

d) The GMS shall elect one or some people as the election board as requested by the chair;

3. The meeting agenda shall be ratified by the GMS during the opening session. The agenda shall specify the duration of each issue therein;

4. The chair is entitled to implement necessary and reasonable measures to maintain order during the meeting and adhere to the ratified agenda and serve the majority of the participants;

5. The GMS shall discuss and vote on each issue on the agenda. Votes include affirmative votes, negative votes and abstentions. The voting result shall be announced by the chair before the meeting ends unless otherwise prescribed by the company's charter;

6. Shareholders and authorized participants that arrive at the meeting after it is declared open will be registered and has the right to vote after registration. In this case, previous voting result shall remain unchanged;

7. The person who convenes or chair the GMS has the rights to:

a) Request all participants to facilitate inspection and other lawful and reasonable security measures;

b) Request a competent authority to maintain order during the meeting; expel those who do not comply with the chair's instructions, deliberately disrupt order, obstruct the meeting progress or disobey security requirements;



8. The chair is entitled to postpone the GMS that has a sufficient number of participants for up to 03 working days from the initial opening day or change the meeting location in the following cases:

- a) The current meeting location does not have enough seats for all participants;
- b) Communication devices at the current meeting location are not adequate for all participant to discuss and vote;
- c) One or some participants disrupt the meeting and thus threaten the fairness and legality of the meeting;

9. In case the chair postpones or suspends the GMS against Clause 8 of this Article, the GMS shall elect another participant to chair the meeting until the end; all resolutions ratified at the meeting shall be effective.

#### **Article 147. Methods for ratifying resolutions of the GMS**

1. The GMS shall decide ratification of resolutions by voting or questionnaire survey.
2. Unless otherwise prescribed by the company's charter, resolutions of the GMS on the following issues shall be voted on at the meeting:
  - a) Revisions to the company's charter;
  - b) Orientation for development of the company;
  - c) Types of shares and quantity of each type;
  - d) Election and dismissal of members of the Board of Directors and the Board of Controllers;
  - dd) Investment or sale of assets that are worth at least 35% of the total assets written in the latest financial statement, unless another ratio or value is specified in the company's charter;
  - e) Ratification of the annual financial statement;
  - g) Reorganization or dissolution of the company.

#### **Article 148. Conditions for ratification of resolutions of the GMS**

1. A resolution on one of the following issues will be ratified if it is voted for by a number of shareholders that represent at least 65% (a specific ratio shall be specified in the company's charter) of votes of all participants, except for the cases specified in Clauses 3, 4 and 6 of this Article:

- a) Types of shares and quantity of each type;

- b) Change of the company's business lines;
- c) Change of the company's organizational structure;
- d) Investment or sale of assets that are worth at least 35% of the total assets written in the latest financial statement, unless another ratio or value is specified in the company's charter;
- dd) Reorganization or dissolution of the company.
- e) Other issues specified in the company's charter.

2. A resolution will be ratified when it is voted for by a number of shareholders that hold more than 50% (a specific ratio shall be specified in the company's charter) of the votes of all participants, except for the cases specified in Clauses 1, 3, 4 and 6 of this Article.

3. Unless otherwise prescribed by the company's charter, the election of members of the Board of Directors and the Board of Controllers shall be cumulative voting, which means a shareholder will a number of votes that is proportional to that shareholder's holding multiplied by (x) the number of members of the Board of Directors or the Board of Controllers and a shareholder may use all or part of the votes for one or some candidates. Successful candidates shall be chosen according to the votes they receive in descending order until the number of members of the Board of Directors or the Board of Controllers reaches the minimum number specified in the company's charter. In case 02 or more candidates receive the same number of votes for the last member of the Board of Directors or the Board of Controllers, these candidates will undergo an additional election or be chosen according to the criteria specified in the election regulations or company's charter.

4. In case of questionnaire survey, a resolution will be ratified when it is voted for by a number of shareholders that hold more than 50% (a specific ratio shall be specified in the company's charter) of the votes of all voting shareholders.

5. A resolution of the GMS shall be notified to the shareholders having the right to participate in the GMS within 15 days from the day on which it is ratified or uploaded onto the company's website (if any).

6. A resolution on adverse changes to rights and obligations of preference shareholders may only be ratified if it is voted for by a number of preference shareholders that participate in the meeting and hold at least 75% of the same kind of preference shares. In case of questionnaire survey, it needs to be approved by a number of preference shareholders that holding at least 75% of the same kind of preference shares.

#### **Article 149. Power and method for ratifying resolutions of the GMS by questionnaire survey**

Unless otherwise prescribed by the company's charter, a questionnaire survey on ratification of resolution of the GMS shall be carried out as follows:

1. The Board of Directors is entitled to carry out questionnaire survey to ratify a resolution of the GMS when it is considered necessary for the company's interests, except for the cases specified in Clause 2 Article 147 of this Law;

2. The Board of Directors shall prepare the questionnaires, the draft resolution and explaining documents; send it to all voting shareholders at least 10 days before the deadline for submission of the questionnaires unless a longer period is specified in the company's charter. The list of shareholders to receive the questionnaires shall be compiled in accordance with Clause 1 and Clause 2 Article 141 of this Law. Questionnaires and documents shall be sent in accordance with Article 143 of this Law;

3. A questionnaire shall contain:

a) The company's name, EID number, headquarter address;

b) Purposes of the survey;

c) If the shareholder is an individual: full name, mailing address, nationality, legal document number; If the shareholder is an organization: name, EID number or legal document number of the organization or full name, mailing address, nationality, legal document number of the organization's representative; quantity of each type of shares and number of votes of the shareholder;

d) The issues that need voting;

dd) The options including affirmative, negative, abstention;

e) Deadline for submission of the answered questionnaire;

g) Full name and signature of the President of the Board of Directors;

4. Shareholders may send answered questionnaires to the company by post, fax or email as follows:

a) An answered questionnaire sent by post shall bear the signature of the shareholder (if the shareholder is an individual) or the shareholder's authorized representative or legal representative (if the shareholder is an organization), be placed in a closed envelope which must not be opened before vote counting time;

b) An answered questionnaire sent by fax or email shall be kept confidential until the vote counting time;

c) Answered questionnaires that are submitted after the deadline or opened before vote counting time (for those sent by post) or revealed (for those sent by fax or email) shall be considered invalid. Questionnaires that are not submitted shall not be counted as votes;

5. The Board of Directors shall organize vote counting and issue a vote counting record in the presence of the Board of Controllers or the shareholders that are not holding any managerial position in the company. The vote counting record shall have the following information:

- a) The company's name, EID number, headquarter address;
- b) Purposes and the issue that needs voting;
- c) Quantities of voters, votes casted, valid votes and invalid votes, voting method and a list of voters;
- d) Quantities of affirmative votes, negative votes and abstentions on each issue;
- dd) Ratified decisions and corresponding ratio of affirmative votes;
- e) Full names and signatures of the President of the Board of Directors, vote counting supervisors and vote counters.

The members of the Board of Directors, vote counters and vote counting supervisor are jointly responsible for the accuracy and honesty of the vote counting record; for the damage caused the decisions that are ratified due to inaccurate or dishonest vote counting;

6. The vote counting record and the resolution shall be sent to all shareholders within 15 days from the date of vote counting completion or uploaded on the company's website (if any);

7. Answered questionnaires, the vote counting record, the ratified resolution and relevant documents enclosed with the answered questionnaires shall be retained at the company's headquarters;

8. An resolution that is ratified through questionnaire survey has the same value as those ratified at the GMS.

#### **Article 150. Minutes of the GMS**

1. The minutes of the GMS shall be in Vietnamese language (audio recordings and electronic files are optional), may be translated into foreign languages, and shall contain the following information:

- a) The company's name, EID number, headquarter address;
- b) Time and location of the GMS;
- c) The meeting agenda;
- d) Full names of the chair and secretary;

- dd) Summary of developments of the meeting, comments at the GMS on each issue on the agenda.
- e) Quantities of shareholders and votes casted by shareholders that participated in the meeting, the list of subscribed shareholders and shareholders' representatives that participated in the meeting and their votes;
- g) Number of affirmative votes on each issue, voting method, numbers of valid votes, invalid votes, affirmative votes, negative votes and abstentions, their ratios to total number of votes of all participants;
- h) Ratified decisions and corresponding ratio of affirmative votes;
- i) Full names of the chair and secretary.

In case the chair and the secretary refuse to sign the minutes, they will be effective if they are signed by the other members of the Board of Directors and contain all information prescribed in this Clause. The minutes shall clearly state the reasons why the chair and the secretary refuse to sign them.

2. The minutes of the GMS shall be completed and ratified before the meeting ends.
3. The chair and secretary or other persons who sign the minutes are joint responsible for its accuracy and truthfulness.
4. The Vietnamese and foreign language copies of the minutes have the same legal value. In case of any discrepancy between them, the Vietnamese copy shall prevail.
5. The minutes of the GMS shall be sent to all shareholders within 15 days from the ending date of the meeting; the vote counting record may be uploaded to the company's website.
6. The minutes of the GMS, the list of registered participants, the ratified resolutions and documents enclosed with the invitations shall be retained at the company's headquarters.

#### **Article 151. Requesting invalidation of a resolution of the GMS**

Within 90 days from the receipt of the resolution or minutes of the GMS or the vote counting record, the shareholder or group of shareholders mentioned in Clause 2 Article 115 of this Law is entitled to request the court or an arbitral tribunal to consider invalidating the resolution in part or in full in the following cases:

1. The procedures for convening the GMS and issuing decisions prescribed in this Law and the company's charter are not followed, except for the cases specified in Clause 2 Article 152 of this Law;
2. The contents of the resolution violations the law or the company's charter.

## **Article 152. Effect of the resolution of the GMS**

1. The resolution of the GMS takes effect from the day on which it is ratified or on the effective date specified therein.
2. A resolution that is ratified by 100% of the voting shares shall be lawful and effective even if the procedures for convening the meeting and issuing such resolution prescribed in this Law and the company's charter are not followed;
3. In case a shareholder or group of shareholders requests the court or an arbitral tribunal to consider invalidating the resolution as prescribed in Article 151 of this Law, the resolution shall remain effective until the effective date of the decision on invalidation of such resolution, except for the cases in which temporary emergency measures are implemented under a decision of a competent authority.

## **Article 153. The Board of Directors**

1. The Board of Directors is the managerial body of the company and has the right to make decisions on behalf of the company, perform rights and obligations of the company, except the rights and obligations of the GMS.
2. The Board of Directors has the following rights and obligations:
  - a) Decide the company's medium-term development strategies and annual business plans;
  - b) Propose the types of authorized shares and quantity of each type;
  - c) Decide sale of certain types of unsold authorized shares; decide other methods of raising capital;
  - d) Decide selling prices for the company's shares and bonds;
  - dd) Decide repurchase of shares as prescribed in Clause 1 and Clause 2 Article 133 of this Law;
  - e) Decide the investment plan and investment projects within its jurisdictions and limitations prescribed by law;
  - g) Decide solutions for market development, marketing and technology;
  - h) Approve sale contracts, purchase contracts, borrowing contracts, lending contracts, other contracts and transactions that are worth at least 35% of the total assets written in the latest financial statement, unless another ratio or value is specified in the company's charter; contracts and transactions within the jurisdiction of the GMS as prescribed in Point d Clause 2 Article 138, Clause 1 and Clause 3 Article 167 of this Law.

i) Elect, dismiss the President of the Board of Directors; designate, dismiss, enter into and terminate contracts with the Director/General Director and other key executives specified in the company's charter; decide salaries, remunerations, bonuses and other benefits of these executives; designate authorized representatives to participate in the Board of Members or GMS of another company; decide their remunerations and other benefits;

k) Supervise the Director/General Director and other executives managing the company's everyday business;

l) Decide the company's organizational structure, rules and regulations; establishment of subsidiary companies, branches and representative offices; contribution of capital to and purchase of shares of other enterprises;

m) Approve the agenda and documents of the GMS; convene the GMS or carry out surveys for the GMS to ratify its resolutions;

n) Submit annual financial statements to the GMS;

o) Propose the dividends; decide the time and procedures for paying dividends or settling business losses;

p) Propose reorganization or dissolution of the bankruptcy; file bankruptcy of the company;

q) Other rights and obligations prescribed by Law and the company's charter.

3. The Board of Directors shall ratify its resolution and decisions by voting at the meeting, questionnaire survey or another method specified in the company's charter. Each member of the Board of Directors shall have one vote.

4. In case a resolution or decision is ratified by the Board of Directors against regulations of law or a resolution of the GMS or the company's charter and causes damage to the company, the members that vote for the ratification of such resolution or decision shall be jointly responsible for it and pay compensation for the company; the members that vote against such resolution or decision shall not be held responsible. In this case, the company's shareholders are entitled to request the court to suspend or invalidate the resolution or decision.

#### **Article 154. Term of office and quantity of members of the Board of Directors**

1. The Board of Directors shall have 03 – 11 members. The specific quantity of members shall be prescribed by the company's charter.

2. The term of office of a member of the Board of Directors shall not exceed 05 years without term limit. An individual may only be elected independent member of the Board of Directors of a company for up to 02 continuous terms.

3. In case the term of office of all members of the Board of Directors ends at the same time, they shall remain members of the Board of Directors until new members are elected and take over their jobs unless otherwise prescribed by company's charter.

4. The company's charter shall specify the quantity, rights, obligations of independent members of the Board of Directors; method for organizing and coordinating their activities.

### **Article 155. Organizational structure and requirements to be fulfilled by members of the Board of Directors**

1. To be a member of the Board of Directors, a person shall satisfy the following requirements:

a) He/she is not one of the persons specified in Clause 2 Article 17 of this Law;

b) He/she has professional qualifications and experience of business administration in the company's business lines; a member is not necessarily a shareholder of the company, unless otherwise prescribed by the company's charter;

c) A person may hold the position of member of the Board of Directors of more than one company;

d) A member of the Board of Directors of a state-owned enterprise prescribed in Point b Clause 1 Article 88 of this Law and subsidiary companies of a state-owned enterprise prescribed in Clause 1 Article 88 of this Law must not be a relative of the Director/General Director or any other executive of the company, of the executive or the person having the power to designate the executive of the parent company.

2. Unless otherwise prescribed by securities laws, an independent member of the Board of Directors prescribed in Point b Clause 1 Article 137 of this Law shall satisfy the following requirements:

a) He/she is not working for the company or its parent company or subsidiary company; did not work for the company or its parent company or subsidiary company within the last 03 years or longer;

b) He/she is not receiving a salary from the company, except the allowances to which members of the Board of Directors are entitled as per regulations;

c) His/her spouse, biological parents, adoptive parents, biological children, adopted children and siblings are not major shareholders of the company, executives of the company or its subsidiary companies;

d) He/she is not directly or indirectly holding 1% of the company's voting shares or more;



dd) He/she did not hold the position of member of the Board of Directors or the Board of Controllers of the company within the last 05 years or longer unless he/she was designated in 02 consecutive terms.

3. An independent member of the Board of Directors shall notify the Board of Directors if he/she no longer satisfies the requirements specified in Clause 2 of this Article and is obviously no longer an independent member from the day on which a condition is not satisfied. The Board of Directors shall the disqualification if this member at the nearest GMS or convene the GMS to elect a new independent member within 06 months from the day on which the notification is received from the member.

### **Article 156. The President of the Board of Directors**

1. The Board of Directors shall elect one of its members President of the Board of Directors; dismiss its President.

2. The President of the Board of Directors of a public company or a joint stock company prescribed in Point b Clause 1 Article 88 of this Law must not concurrently hold the position of Director/General Director.

3. The President of the Board of Directors has the following rights and obligations:

a) Plan the activities of the Board of Directors;

b) Draw up agenda and prepare documents for meetings of the Board of Directors; convene and chair the meetings;

c) Organize the ratification of resolutions and decisions of the Board of Directors;

d) Supervise the implementation of resolutions and decisions of the Board of Directors;

dd) Chair the GMS;

e) Other rights and obligations prescribed by Law and the company's charter.

4. In case the President of the Board of Directors is not present or not able to perform his tasks, he/she shall authorize another member in writing to perform the rights and obligations of the President of the Board of Directors in accordance with the company's charter. In case no member is authorized or the President is dead, missing, detained, serving an imprisonment sentence, serving an administrative penalty in a correctional institution or rehabilitation center, making a getaway; has limited legal capacity or is incapacitated, has difficulty controlling his/her behavior, is prohibited by the court from holding certain positions or doing certain works, one of the Board of Directors shall convene a meeting with the remaining members to elect one of them as the interim President under the majority rule until a new decision is issued by the Board of Directors.

5. Where necessary, the Board of Directors may designate the company's secretary, who will have the following rights and obligations:

- a) Assist in convening the GMS and meetings of the Board of Directors; takes minutes of the meetings;
- b) Assists members of the Board of Directors in performing their rights and obligations;
- c) Assists the Board of Directors in applying and implementing the business administration rules;
- d) Assist the company in development of shareholder relationship, protection of lawful rights and interests of shareholders; fulfillment of the obligation to provide and disclose information and administrative procedures;
- dd) Other rights and obligations prescribed by the company's charter.

#### **Article 157. Meetings of the Board of Directors**

1. The President of the Board of Directors shall be elected during the first meeting of the Board of Directors within 07 working days from the election of that Board of Directors. This meeting shall be convened and chaired by the member that received the highest number of votes. In case more than one member received the same highest number of votes, one of them will be elected by the members under majority rule to convene the meeting of the Board of Directors.

2. Meetings of the Board of Directors shall be held at least quarterly and on an ad hoc basis.

3. The President of Board of Directors shall convene a meeting of the Board of Directors in the following cases:

- a) It is requested by the Board of Controllers or independent members of the Board of Directors;
- b) It is requested by the Director or General Director and at least 05 other executives;
- c) It is requested by at least 02 members of the Board of Directors;
- d) Other cases specified in the charter.

4. The request mentioned in Clause 3 of this Article shall be made in writing and specify the issues that need discussing and deciding within the jurisdiction of the Board of Directors.

5. The President of the Board of Directors shall convene the meeting within 07 working days from the day on which the request mentioned in Clause 3 of this Article is received. Otherwise, he/she shall be responsible for the damage to the company and the requesting person is entitled to convene the meeting of the Board of Directors.

6. The President of the Board of Directors or the person that convenes the meeting shall send the invitations at least 03 working days before the meeting day unless otherwise prescribed by the company's charter. The invitation shall specify the meeting time, location, agenda, issues to be discussed. The invitation shall be enclosed with meeting documents and votes.

The invitations can be sent physically, by phone, fax, electronically or by other methods prescribed by the company's charter to the registered mailing address of each member of the Board of Directors.

7. The President of the Board of Directors or the person that convenes the meeting shall send the same invitations and documents to the Controllers.

The Controllers are entitled to participate in meetings of the Board of Directors and discuss but must not vote.

8. A meeting of the Board of Directors shall be conducted when it is participated in by at least three fourths (3/4) of the members. In case a meeting cannot be conducted due to inadequate number of participants, the second meeting shall be convened within 07 days from the first meeting date unless a shorter period is prescribed by the company's charter. The second meeting shall be conducted when it is participated in by more than 50% of the members.

9. It will be considered that a member participates in and votes at the meeting of the Board of Directors in the following cases:

a) He/she directly participates in and votes at the meeting;

b) He/she authorizes another person to participate in and vote at the meeting as prescribed in Clause 11 of this Article;

c) He/she participates in the meeting and votes online or through other electronic methods;

d) He/she sends his/her vote to the meeting by post, fax or email;

dd) He/she sends the votes by other means specified in the company's charter.

10. A vote is sent by post shall be put in a closed envelope and be delivered to the President of the Board of Directors at least 01 hour before the opening time. Votes shall only be open in the presence of all participants.

11. The members shall participate in all meetings of the Board of Directors and may authorize other persons to participate in and vote at the meeting if accepted by the majority of the Board of Directors.

12. Unless a higher ratio is prescribed by the company's charter, a resolution or decision of the Board of Directors shall be ratified if it is voted for by the majority of the participants. In case of

equality of votes, the option that is voted for by the President of the Board of Directors shall prevail.

### **Article 158. Minutes of meetings of the Board of Directors**

1. The minutes of all meetings of the Board of Directors shall be taken. Audio recordings and other electronic forms are optional. The minutes shall be written in Vietnamese language, may be translated into foreign languages, and shall contain the following information:

- a) The company's name, EID number, headquarter address;
- b) Time and location of the meeting;
- c) Purposes and agenda of the meeting;
- d) Full names of participating members and the persons authorized to participate in the meeting and how they participate; full names of non-participating members and their excuses;
- dd) The issues to be discussed and voted on at the meeting;
- e) Summary of comments of each participating member in chronological order;
- g) Voting result, the members that cast affirmative votes, negative votes and abstentions;
- h) Ratified decisions and corresponding ratio of affirmative votes;
- i) Full names, signatures of the chair and the minute taker, except the case in Clause 2 of this Article.

2. In case the chair and the minute take refuse to sign the minutes, they will be effective if they are signed by all of the other members of the Board of Directors and contain all the information prescribed in Points a, b, c, d, đ, e, g and h Clause 1 of this Article.

3. The chair, the minute take and the persons who sign the minutes shall be responsible for its accuracy and truthfulness.

4. The minutes and meeting documents shall be retained at the company's headquarters.

5. The Vietnamese and foreign language copies of the minutes have the same legal value. In case of any discrepancy between them, the Vietnamese copy shall prevail.

### **Article 159. Rights to information of members of the Board of Members**

1. Members of the Board of Directors are entitled to request the Director/General Director, Deputy Director/Deputy General Director and other executives of the company to provide

information and documents about the finance and business performance of the company and its units.

2. The requested executives shall provide information and documents fully and accurately as requested by the members. The procedures for requesting and providing information shall be specified in the company's charter.

#### **Article 160. Dismissal, replacement and addition of members of the Board of Directors**

1. The GMS shall dismiss a member of the Board of Directors from office in the following cases:

- a) He/she does not fully satisfy the requirements specified in Article 155 of this Law;
- b) He/she hands in a resignation and is accepted;
- c) Other cases prescribed by the company's charter.

2. The GMS shall dismiss a member of the Board of Directors in the following cases:

- a) He/she fails to participate in activities of the Board of Directors for 06 consecutive months, except in force majeure events;
- b) Other cases prescribed by the company's charter.

3. Where necessary, the GMS shall replace members of the Board of Directors; dismiss members of the Board of Directors in cases other than those specified in Clause 1 and Clause 2 of this Article.

4. The Board of Directors shall convene the GMS to elect additional members of Board of Directors in the following cases:

- a) The number of members of the Board of Directors decreases by more than one third of the number specified in the company's charter. The Board of Directors shall convene the GMS within 60 days from that day;
- b) The number of independent members of the Board of Directors falls below the minimum number specified in Point b Clause 1 Article 137 of this Law;
- c) Except the cases specified in Point a and Point b of this Clause, the nearest GMS shall elect new members to replace the dismissed members.

#### **Article 161. Audit committee**

1. The audit committee is a specialized body of the Board of Directors and has at least 02 members. The Chairperson of the audit committee shall be an independent member of the Board

of Directors. Other members of the audit committee shall be non-executive members of the Board of Directors.

2. The audit committee shall ratify its decisions by voting at meetings, questionnaire survey or another method specified in the company's charter or the audit committee's operating regulations. Each member of the audit committee has one vote. Unless a higher ratio is prescribed by the company's charter or the audit committee's operating regulations, a decision of the audit committee shall be ratified if it is voted for by the majority of the participating members. In case of equality of votes, the option that is voted for by the Chairperson shall prevail.

3. The audit committee has the following rights and obligations:

a) Inspect the accuracy of the company's financial statements and make official announcements about the company's finance;

b) review the internal control and risk management system;

c) Review transactions with related persons subject to approval by the Board of Directors or the GMS; offer recommendations on these transactions;

d) Supervise the company's internal audit unit;

dd) Propose independent audit company, payment, terms and conditions in the contract with the audit company to the Board of Directors before it is submitted to the annual GMS.

e) Monitor and evaluate the independence and objectivity of the audit company and effectiveness of the audit, especially when the company uses non-audit services of the audit company;

g) Supervise the company's compliance with law, requests of the authorities and the company's rules and regulations.

### **Article 162. The Director/General Director**

1. The Board of Directors shall designate one of its members or hire a person as the Director/General Director.

2. The Director/General Director shall manage the company's everyday business operation, is supervised by and responsible to the Board of Directors Members and the law for his/her performance.

The term of office of the Director/General Director shall not exceed 05 years without term limit.

3. The Director/General Director has the following rights and obligations:

- a) Decide everyday operating issues of the company that are outside the jurisdiction of the Board of Directors;
- b) Organize the implementation of resolutions and decisions of the Board of Directors;
- c) Organize implementation of the company's business plans and investment plans;
- d) Propose the company's organizational structure, rules and regulations;
- dd) Designate, dismiss the company's executives, except those under jurisdiction of the Board of Directors;
- e) Decide salaries and other benefits of the company's employees, including the executives designated by the Director/General Director;
- g) Recruit employees;
- h) Propose plans distribution of dividends or settlement of business losses;
- i) Other rights and obligations specified by law, the company's charter, resolutions and decisions of the Board of Directors.

4. The Director/General Director shall manage the company's everyday business in accordance with law, the company's charter, his/her employment contract with the company, resolutions and decisions of the Board of Directors. Otherwise, the Director/General Director shall be legally responsible for and pay damages to the company.

5. The Director/General Director of a public company or state-owned enterprise prescribed in Point b Clause 1 Article 88 of this Law or a subsidiary company of a state-owned enterprise prescribed in Clause 1 Article 88 of this Law shall satisfy the following requirements:

- a) He/she is not one of the persons specified in Clause 2 Article 17 of this Law;
- b) He/she is not a relative of any of the executives, controllers of the company and the parent company; the representatives of state investments and the enterprise' investment in the company and the parent company;
- c) He/she has professional qualifications and experience of business administration.

#### **Article 163. Salaries, remunerations, bonuses and other benefits of members of the Board of Directors and the Director/General Director**

1. The company is entitled to pay salaries and bonuses to members of the Board of Directors, the Director/General Director and other executives according to the company's business performance.

2. Unless otherwise prescribed by the company's charter, the salaries, bonuses and other benefits of the members of the Board of Directors and the Director/General Director shall be paid as follows:

a) Members of the Board of Directors shall receive salaries and bonuses. The salary is based on the number of days necessary to fulfill the member's duties and the daily pay. The Board of Directors shall estimate the salary of each member by consensus. The total salaries and bonuses of the Board of Directors shall be decided by the annual GMS;

b) Members of the Board of Directors shall have the costs of food, stay, travel and other reasonable costs reimbursed if their duties are fulfilled;

c) The Director/General Director's salary and bonuses shall be decided by the Board of Directors.

3. Salaries of members of the Board of Directors, the Director/General Director and other executives shall be recorded as the company's expenses in accordance with regulations of law on corporate income tax in a separate section of the company's consolidated financial statement and shall be reported at the annual GMS.

#### **Article 164. Disclosure of related interests**

Unless more stringent requirements are prescribed by the company's charter, the company's benefits and related persons shall be disclosed as follows:

1. The company shall compile a list of its related persons in accordance with Clause 23 Article 4 of this Law, their contracts and transactions with the company;

2. Members of the Board of Directors, Controllers, Director/General Director and other executives of the company shall declare their related interests, including the following information:

a) Names, enterprise ID numbers, headquarters addresses and business lines of the enterprises they own or have shares/stakes in; the holdings and time of owning or holding the shares/stakes;

b) Names, EID numbers, headquarters addresses, business lines of the enterprises their related persons own, jointly own or have separate controlling shares/stakes that are worth more than 10% of charter capital;.

3. The information specified in Clause 2 of this Article shall be declared within 07 working days from the day on which the related interests are brought about; any revision shall be notified to the company within 07 working days from its date of occurrence;

4. The list mentioned in Clause 1 and declaration 2 of this Article shall be retained, disclosed, accessed, extracted and copied as follows:



- a) The company shall announce the list of related persons and interests at the annual GMS;
  - b) The list shall be retained at the company's headquarters; part or all of the list may be retained at the company's branches where necessary;
  - c) Shareholders and their authorized representative, members of the Board of Directors, the Board of Controllers, Director/General Director and other executives are entitled to access, extract and make copies of the list;
  - d) The company shall enable the persons specified in Point c of this Clause to access, extract and make copies of the list and must not obstruct them in the process. Procedures for accessing, extracting and copying the list shall be specified in the company's charter;
5. When members of the Board of Directors and the Director/General Director do business within the company's business lines in their own names or others' names, they shall explain the nature and contents of such business to the Board of Directors and the Board of Controllers, and may only proceed if it is accepted by the majority of the remaining members of the Board of Directors. Otherwise, all incomes from such business will belong to the company.

#### **Article 165. Responsibilities of the company's executives**

1. Members of the Board of Directors, the Director/General Director and other executives have the following responsibilities:
- a) Perform their rights and obligations in accordance with this Law, relevant laws, the company's charter and resolution of the GMS;
  - b) Perform their rights and obligations in an honest and prudent manner to serve the best and lawful interests of the company;
  - c) Be loyal to the company's interests; do not abuse their power and position or use the enterprise's information, secrets, business opportunities and assets for personal gain or serve any other organization's or individual's interests;
  - d) Promptly and fully provide the company with the information specified in Clause 2 Article 164 of this Law;
  - dd) Other responsibilities prescribed by this Law and the company's charter.
2. The member of the Board of Directors, Director/General Director or executive that violates Clause 1 of this Article shall be personally or jointly responsible for the loss, return the benefits received and pay damages to the company and the third parties.

#### **Article 166. Rights to file lawsuits against the Board of Directors and the Director/General Director**

1. A shareholder or group of shareholders that holds at least 01% of the total ordinary shares may, in their own names or in the company's name, file lawsuit against a member of the Board of Members or the Director/General Director if the member or Director/General Director to claim the interest or damages:

a) fails to fulfill the executive's duties prescribed in Article 165 of this Law;

b) fails to comply with or fully and punctually perform their rights and obligations as prescribed by law, the company's charter, resolution or decision of the Board of Directors;

c) abuses his/her power and position or uses the enterprise's information, secrets, business opportunities and assets for personal gain or serve any other organization's or individual's interests;

d) Other cases prescribed by law and the company's charter.

2. Lawsuits shall be filed in accordance with civil proceedings laws. Proceedings costs in case the lawsuit is filed on behalf of the company shall be recorded as the company's expense unless the lawsuit is rejected.

3. The shareholder or group of shareholders mentioned in this Article is entitled to access and extract necessary information under decision of the court or arbitral tribunal before or during the proceedings.

#### **Article 167. Approving contracts and transactions between the company and related persons**

1. The GMS or Board of Directors shall approve contracts and transactions between the company and the following related persons:

a) Shareholders and authorized representatives of shareholders that are organizations holding more than 10% of the company's total ordinary shares and their related persons;

b) Members of the Board of Directors, the Director/General Director and their related persons;

c) Enterprises that must be declared by members of the Board of Directors, Controllers, Director/General Director and other executives as prescribed in Clause 2 Article 164 of this Law.

2. The Board of Directors shall approve the contracts and transactions that are mentioned in Clause 1 of this Article and are worth less than 35% of the company's total assets according to the latest financial statement (or a smaller ratio or value specified in the company's charter). In this case, the person that signs the contract or conducts the transaction on behalf of the company shall send a notification to the members of the Board of Directors and Controllers of the related persons together with the draft contract or transaction summary. The Board of Directors shall decide whether to approve the contract or transaction within 15 days from the day on which the notification is received unless a different deadline is specified in the company's charter. Members

of the Board of Directors that are related to the parties to the contract or transaction must not vote.

3. The GMS shall approve the following contracts and transactions:

a) Contracts and transactions other than those specified in Clause 2 of this Article;

b) Contracts and transactions that involve borrowing, lending, selling assets that are worth more than 10% of the company's total assets according to the latest financial statement between the company and shareholders that hold at least 51% of the total voting shares or their related persons.

4. If a contract or transaction specified in Clause 3 of this Article is approved, the person who concludes the contract or conducts the transaction on behalf of the company shall send a notification to the Board of Directors and Controllers of the entities related to such contract or transaction together with the draft contract or summary of the transaction. The Board of Directors shall submit the draft contract or explain the contract or transaction at the GMS or carry out a questionnaire survey. In this case, shareholders that are related to the parties to the contract or transaction must not vote. The contract or transaction shall be approved in accordance with Clause 1 and Clause 4 Article 148 of this Law, unless otherwise prescribed by the company's charter.

5. A contract or transaction shall be invalidated under a court decision and handled as prescribed by law when it is concluded or carried out against regulations of this Article. The person who concludes the contract or carries out the transaction, the related shareholders, members of the Board of Directors, Director/General shall pay compensation for any damage caused and return the benefits generated by such contract or transaction to the company.

6. The company shall disclose related contracts and transactions in accordance with relevant laws.

#### **Article 168. Board of Controllers**

1. The Board of Controllers shall have 3 - 5 Controllers. The term of office of a Controller shall not exceed 05 years without term limit.

2. The Chief Controller shall be elected by the Board of Controllers among the Controllers. The Chief Controller shall be elected and dismissed under the majority rule. Rights and obligations of the Chief Controller shall be specified in the company's charter. More than half of the Controllers shall have permanent residences in Vietnam. The Chief Controller shall have a bachelor's degree in economics, finance, accounting, audit, law, business administration or a major that is relevant to the enterprise's business operation, unless higher standards are prescribed in the company's charter.

3. In case the term of office of all Controllers expires before an election can be carried out, the existing Controllers shall keep performing until Controllers are elected and take over the job.

## **Article 169. Requirements to be satisfied by Controllers**

1. A Controller shall satisfy the following standards and requirements:

- a) He/she is not in one of the persons specified in Clause 2 Article 17 of this Law;
- b) His/her major is economics, finance, accounting, audit, law, business administration or a major that is relevant to the enterprise's business operation;
- c) He/she is not a relative of any of the members of the Board of Directors, Director/General Director and other executives;
- d) He/she is not the company's executive, is not necessarily a shareholder or employee of the company unless otherwise prescribed by the company's charter;
- dd) Other standards and requirements are satisfied as prescribed by law and the company's charter.

2. In addition to the standards and requirements specified in Clause 1 of this Article, Controllers of a public company or state-owned enterprise prescribed in Point b Clause 1 Article 88 of this Law must not be relatives of the executives of the company and the parent company; of the representative of enterprise's investment or state investment in the company and the parent company.

## **Article 170. Rights and obligations of the Board of Controllers**

- 1. Supervise the Board of Directors and the Director/General Director managing the company.
- 2. Inspect the rationality, legitimacy, truthfulness and prudence in business administration; systematic organization, uniformity and appropriateness of accounting works, statistics and preparation of financial statements.
- 3. Validate the adequacy, legitimacy and truthfulness of the income statements, annual and biannual financial statements, reports on performance of the Board of Directors; submit validation reports at the annual GMS. Review contracts and transactions with related persons subject to approval by the Board of Directors or the GMS and offer recommendations.
- 4. Review, inspect and evaluate the effectiveness of the internal control, internal audit, risk management and early warning systems of the company.
- 5. Inspect accounting books, accounting records, other documents of the company, the company's administration where necessary, under resolutions of the GMS or at the request of the shareholder or group of shareholders specified in Clause 2 Article 115 of this Law.
- 6. When requested by the shareholder or group of shareholders specified in Clause 2 Article 115 of this Law, the Board of Controllers shall carry out an inspection within 07 working days from

the day on which the request is received. Within 15 days after the end of the inspection, the Board of Controllers shall submit a report to the Board of Directors or the requesting shareholder or group of shareholders. The inspection must not obstruct normal operation of the Board of Directors or interrupt the company's business operation.

7. Propose changes or improvements to the company's organizational structure and administration to the Board of Directors or the GMS.

8. Promptly submit a written notification to the Board of Directors whenever a member of the Board of Directors, the Director/General Director is found to be violating Article 165 of this law, request the violator to stop the violations and implement remedial measures.

9. Participate in and discuss at the GMS, meetings of the Board of Directors and other meetings of the company.

10. Employ independent counsels and internal audit unit of the company to perform their tasks.

11. The Board of Controllers may discuss with the Board of Directors before submitting reports and proposals to the GMS.

12. Other rights and obligations prescribed by this Law, the company's charter and resolution of the GMS.

#### **Article 171. Rights to information of the Board of Controllers**

1. Documents and information shall be sent to Controllers in the same manner as those being sent to members of the Board of Directors, including:

a) Meeting invitations, questionnaires and enclosed documents;

b) Resolutions, decisions and minutes of meetings of the Board of Directors and the GMS;

c) Reports of the Director/General Director to the Board of Directors or other documents issued by the company.

2. Controllers are entitled to access the company's documents at the headquarters, branches and other locations; enter the executives' and employees' workplace during working hours.

3. The Board of Directors, members of the Board of Directors, the Director/General Director and other executives shall fully and promptly provide information and documents about the company's administration as requested by Controllers or the Board of Controllers.

#### **Article 172. Salaries, bonuses and other benefits of Controllers**

Unless otherwise prescribed by the company's charter, the salaries, bonuses and other benefits of Controllers shall be paid as follows:

1. Controllers' salaries, bonuses, other benefits and operating budget shall be decided by the GMS;
2. Reasonable costs of food, stay, travel, independent counseling services of Controllers shall be reimbursed. The total salaries and costs must not exceed the annual operating budget of the Board of Controllers which has been approved by the GMS, unless otherwise prescribed by the GMS;
3. Salaries and operating costs of the Board of Controllers shall be recorded as the company's expenses in accordance with regulations of law on corporate income tax and relevant laws and placed in a separate section in the company's annual financial statements.

### **Article 173. Responsibilities of Controllers**

1. Comply with regulations of law, the company's charter, resolutions of the GMS and code of ethics in performance of their rights and obligations.
2. Perform their rights and obligations in an honest and prudent manner to serve the best and lawful interests of the company.
3. Be loyal to the company's interests; do not abuse their power and position or use the enterprise's information, secrets, business opportunities and assets for personal gain or serve any other organization's or individual's interests.
4. Other obligations prescribed by Law and the company's charter.
5. The Controller that violates Clauses 1, 2, 3 or 4 of this Article and causes damage to the company or another person shall be personally or jointly responsible for the damage and return the benefits earned from the violation to the company
6. Send a written notification to the Board of Controllers of violations committed by another Controller and request the violator to stop the violation and implement remedial measures.

### **Article 174. Dismissal of Controllers**

1. The GMS shall dismiss a Controller from office in the following cases:
  - a) He/she does not fully satisfy the standards and requirements specified in Article 169 of this Law;
  - b) He/she hands in a resignation and is accepted;
  - c) Other cases specified in the charter.
2. The GMS shall dismiss a Controller in the following cases:

- a) He/she fails to perform his/her duties;
- b) He/she fails to perform his/her rights and obligations for 06 consecutive months, except in force majeure events;
- c) He/she commits multiple, serious violations of Controller's duties prescribed by this Law and the charter;
- d) Other cases specified in resolutions of the GMS.

#### **Article 175. Submission of annual reports**

1. At the end of the fiscal year, the Board of Directors shall submit the following documents to the GMS:

- a) The company's income statement;
- b) The financial statement;
- c) The report on the company's administration and management;
- d) The validation report of the Board of Controllers.

2. If the annual financial statement of a joint stock company has to be audited as prescribed by law, it shall be audited before submission to the GMS for ratification.

3. The documents specified in Points a, b and c Clause 1 of this Article shall be submitted to the Board of Controllers for validation at least 30 days before the opening date of the GMS unless otherwise prescribed by company's charter.

4. The documents specified in Clauses 1, 2 and 3 of this Article, the validation report of the Board of Controllers and the audit report shall be retained at the company's headquarters at least 10 days before the opening date of the GMS unless a longer period is prescribed by company's charter. Shareholders who have been holding the company's shares continuously for at least 01 may examine the documents mentioned in this Article themselves or with their lawyers, accountants or auditors.

#### **Article 176. Disclosure of information**

1. A joint stock company shall send its ratified annual financial statements to competent authorities prescribed by accounting laws and relevant laws.

2. The following information of a joint stock company shall be published on its website:

- a) The company's charter;

b) Curriculum vitae (CV), qualifications, professional experience of members of the Board of Directors, Controllers, Director/General Director of the company;

d) Annual financial statements ratified by the GMS;

d) Annual reports on performance of the Board of Directors and the Board of Controllers.

3. An unlisted joint stock company shall send a notification to the business registration authority in charge of the area where the company's headquarters is situated within 03 working days from the occurrence of the change in full name, nationality, passport number, mailing address, quantity and types of shares of a foreign shareholder; name, EID number, headquarters address, quantity and types of shares of a shareholder that is a foreign organization and full name, nationality, passport number, mailing address of that organization's authorized representative.

4. Public companies shall disclose information in accordance with securities laws. Joint stock companies specified in Point b Clause 1 Article 88 shall disclose information in accordance with Points a, c, dd and g Clause 1 Article 109 and Article 110 of this Law.

## **Chapter VI**

### **PARTNERSHIPS**

#### **Article 177. Partnerships**

1. A partnership is an enterprise in which:

a) There are least 02 partners that are joint owners of the company and do business under the same name ((hereinafter referred to as "general partner"). There can be limited partners in addition to general partners;

b) A general partner shall be an individual whose liability for the company's obligations is equal to all of his/her assets;

c) A limited partner can be an organization or an individual whose liability for the company's debts is equal to the promised capital contribution.

2. A partnership has the status of a juridical person from the day on which the Certificate of Enterprise Registration is issued.

3. A partnership must not issue any kind of securities.

#### **Article 178. Capital contribution and issuance of the capital contribution certificate**

1. General partners and limited partners shall contribute capital fully and punctually as promised.



2. A general partner who fails to contribute capital fully and punctually as promised and thus causes damage to the company shall pay compensation.

3. In case a limited partner fails to contribute capital fully and punctually as promised, the uncontributed capital shall be considered that partner's debt to the company, in which case the limited partner can be excluded from the company under a decision of the Board of Partners.

4. When capital is fully contributed, the partner shall be granted the capital contribution certificate, which shall contain the following information:

a) The company's name, EID number, headquarter address;

b) The company's charter capital;

c) Full name, signature, mailing address, nationality and legal document number if the partner is an individual; EID number or legal document number, headquarters address if the partner is an organization; type of partner;

d) The value of capital contributed and types of contributed assets;

dd) The number and date of issuance of the certificate of capital contribution;

e) Rights and obligations of the certificate holder;

g) Full names and signatures of the certificate holder and the company's general partners.

5. In case the capital contribution certificate is lost or damaged, the partner will be reissued with another certificate by the company.

#### **Article 179. A partnership's assets**

A partnership's assets include:

1. Assets that are contributed by the partners and have been transferred to the company;

2. Assets created under the partnership's name;

3. Assets obtained from business activities performed by general partners on behalf of the company and from business activities of the partnership performed by general partners in their own names;

4. Other assets prescribed by law.

#### **Article 180. Limitations of general partners**

1. A general partner must not be the owner of a sole proprietorship; must not be a general partner of another partnership unless it is accepted by the other general partners.
2. A general partner must not, in their own names or others' names, do business in the same business lines as those of the partnership for personal gain or to serve the interests of another organization or individual.
3. A general partner must not transfer part or all of his/her stake in the company to another organization or individual unless it is accepted by the other general partners.

#### **Article 181. Rights and obligations of general partners**

1. A general partner has the rights to:

- a) Participate in meetings, discuss and vote on the partnership's issues; each general partner shall have one vote or a specific number of votes specified in the partnership's charter;
- b) Do business in the partnership's business lines on its behalf; negotiate and enter into contracts, transactions or agreements under conditions that the partner believes to be most beneficial to the partnership;
- c) Use the partnership's assets to do business in its business lines. In case a general partner advances money to do business on behalf of the partnership, he/she is entitled to request the partnership to reimburse the principal and interest thereon at market rate;
- d) Request the partnership to pay compensation for damage that is not on account of that partner.
- dd) Request the partnership and other general partners to provide information about the partnership's business performance; inspect the partnership's assets, account records and other documents where necessary;
- e) Receive distributed profits in proportion to his/her stake or as agreed;
- g) Receive the remaining assets in proportion to his/her stake upon the partnership's dissolution or bankruptcy unless another ratio is specified in the charter;
- h) When a general partner dies, his/her heir shall receive a value of assets minus the partner's debts and other liabilities. The heir may become a general partner if accepted by the Board of Partners;
- i) Other rights prescribed by this Law and the company's charter.

2. A general partner has the following obligations:

- a) Manage and do business in an honest and prudent manner to ensure the partnership's lawful and best interests;

- b) Manage and do business in accordance with law, the charter, resolutions and decisions of the Board of Partners; pay compensation for the damage caused by his/her violations of these;
- c) Do not use the partnership's assets for personal gain or to serve the interests of any other organization or individual;
- d) Return to the partnership the money or assets that he/she received when doing business in his/her own name, in the partnership's or another person's name and has not returned to the partnership and pay for any damage caused by this action;
- dd) Jointly pay the partnership's remaining debts (if any) after all of the partnership's assets are used to pay them;
- e) Incur the loss that is proportional to his/her stake or as agreed in the charter in case the partnership makes a loss;
- g) Submit monthly written reports on his/her performance to the partnership; provide information on his/her performance for other partners on request;
- h) Other obligations prescribed by Law and the charter.

#### **Article 182. The Board of Partners**

1. The Board of Partners consists of all partners and shall elect a partner as the President of the Board of Partners, who may concurrently hold the position of Director/General Director of the partnership unless otherwise prescribed by the charter.
2. A general partner is entitled to request a meeting of the Board of Partners to discuss and decide its business. The requesting partner shall prepare the meeting documents and agenda.
3. The Board of Partners is entitled to decide all business activities of the partnership. Unless otherwise prescribed by the charter, the following issues are subject to approval by at least three fourths (3/4) of the general partners:
  - a) Orientation for development of the partnership;
  - b) Revisions to the charter;
  - c) Admission of new partners;
  - d) Permission for withdrawal or exclusion of a partner;
  - dd) Investment in projects;
  - e) Taking of loans and other methods for raising capital; granting a loan that is worth at least 50% of the partnership's charter capital, unless a higher rate is prescribed by the charter;

g) Purchase or sale of assets that whose value is equal to or greater than the partnership's charter capital, unless a higher value is prescribed by the charter;

h) Ratification of the annual financial statement, total distributable profit and distributed profit of each partner;

i) Dissolution or bankruptcy of the company.

4. Other issues that are not mentioned in Clause 3 of this will be ratified if approved by at least two thirds (2/3) of the general partners; a specific ratio shall be specified in the charter.

5. The rights to vote of limited partners shall comply with this Law and the charter.

### **Article 183. Convening meetings of the Board of Partners**

1. The President of the Board of Partners may convene a meeting whenever it is necessary or at the request of a general partner. In case the President does not convene a meeting as requested by a general partner, that general partner may convene the meeting himself/herself.

2. Invitations to a meeting of the Board of Partner can be sent physically, by phone, fax, electronically or by other methods prescribed by the charter. The invitation shall specify the time, location and agenda and purposes of the meeting, and the name of the partner that requests the meeting.

Documents serving the process of deciding the issues specified in Clause 3 Article 182 of this Law shall be sent to all partners before the opening of the meeting. The deadline shall be specified in the charter.

3. The President of the Board of Partners or the partner that requests the meeting shall chair the meeting. Minutes of the meeting shall be taken and contain the following information:

a) The partnership's name, EID number, headquarter address;

b) Time and location of the meeting;

c) Purposes and agenda of the meeting;

d) Full names of the chair and participants;

dd) Comments of the participants;

e) Ratified resolutions and decisions, quantity of partners that cast affirmative votes, negative votes and abstentions; summaries of such resolutions and decisions;

g) Full names and signatures of the participants.

## **Article 184. Business administration of partnerships**

1. General partners are the partnership's legal representative and shall administer its everyday business. A limitation to general partners is only applied to a third party when it is known by the third party.

2. General partners shall assume different managerial positions in the partnership under agreement.

When some or all general partners perform certain business activities together, it will be decided under the majority rule.

A general partner's activities beyond the scope of operation of the partnership are not responsibility of the partnership unless they are accepted by the other partners.

3. A partnership may open one or some bank accounts. The Board of Partners authorize certain partners to deposit and withdraw money from such account.

4. The President of the Board of Partners, the Director/General Director has the following rights and obligations:

a) Manager the partnership's everyday business as general partners;

b) Convene and organize meetings of the Board of Partners; sign resolutions and decisions of the Board of Partners;

c) Assign tasks and coordinate operation of general partners;

d) Organize and fully retain accounting records, invoices and other documents of the partnership as prescribed by law;

d) Represent the company in civil proceedings, as the plaintiff, defendant, person with relevant interests and duties in front of the court or arbitral tribunal; represent the company in performance of other rights and obligations prescribed by law;

e) Other obligations specified in the charter.

## **Article 185. Termination of general partners**

1. A general partner status will be terminated if he/she:

a) voluntarily withdraws capital from the partnership;

b) is dead, missing or incapacitated; has limited legal capacity; has difficulty controlling his/her own behaviors;

- c) is excluded from the partnership;
- d) is serving an imprisonment sentence or banned by the court from doing certain jobs;
- dd) In other cases specified in the charter.

2. A general partner is entitled to withdraw capital from the partnership if it is accepted by the Board of Partners. In this case, the withdrawing partner shall make a written notification at least 06 months before the withdrawal date and may only withdraw capital at the end of the fiscal year after the financial statement of the same year has been ratified.

3. A general partner will be excluded from the partnership if he/she:

a) is not able to contribute capital or fails to contribute capital as promised after a second notice is made by the company;

b) violates the regulations of Article 180 of this Law;

c) fails to do business in an honest and prudent manner or has inappropriate actions causing serious damage to the interest of the partnership and other partners; or

d) fails to fulfill a general partner's obligations.

4. In case of termination due to a partner's being incapacitated or having limited legal capacity or having difficulty controlling his/her behaviors, his/her stake shall be fairly returned.

5. For 02 years from the date of termination in the cases specified in Points a, c, d and dd Clause 1 of this Article, the partner still jointly has a liability for the company's debts that occur before the termination date which is equal to his/her total assets.

6. After termination of a general partner whose name is used as part of or the whole partnership's name, that general partner or his/her heir or legal representative is entitled to request the partnership to stop using that name.

#### **Article 186. Admission of new partners**

1. A partnership may admit new general partners and limited partners; the admission of a new partner is subject to approval by the Board of Partners.

2. The new general partner or limited partner shall fully contribute capital as promised within 15 days from the day on which the admission is approved unless a different time limit is decided by the Board of Partners.

3. The new general partner has a joint liability for the company's debts and liabilities which is equal to his/her total assets, unless otherwise agreed upon by the new partner and the other partners.

## **Article 187. Rights and obligations of limited partners**

1. Limited partners have the rights to:

a) Participate in meetings, discuss and vote at the meetings of the Board of Partners on revisions to the charter, changes in rights and obligations of limited partners, reorganization and dissolution of the company and other contents of the charter directly affecting their rights and obligations;

b) Receive distributed profits in proportion to their holdings;

c) Be provided with the partnership's annual financial statements; request the President of the Board of Partners and general partners to fully and accurately provide information about the partnership's business performance; examine accounting books, records, transactions and other documents of the company;

d) Transfer their stakes to other persons;

dd) Do business within the partnership's business lines in their own names in other persons' names;

e) Leave as inheritance, give away, pledge or otherwise dispose of their stakes in accordance with regulations of law and the charter. In case a limited partner dies, his/her heir shall be a new limited partner;

g) Receive part of the partnership's remaining assets in proportion to their holdings in case the partnership is dissolved or goes bankrupt;

h) Other rights prescribed by Law and the company's charter.

2. Limited partners have the obligations to:

a) Take on a liability for the partnership's debts and other liabilities which is equal to their promised capital contribution;

b) Do not participate in administration of the partnership; do not do business in the partnership's name;

c) Comply with the partnership's charter, resolutions and decisions of the Board of Partners;

d) Other obligations prescribed by Law and the partnership's charter.

## **Chapter VII**

### **SOLE PROPRIETORSHIPS**

### **Article 188. Sole proprietorships**

1. A sole proprietorship is an enterprise owned by a single individual whose liability for its entire operation is equal to his/her total assets.
2. A sole proprietorship must not issue any kind of securities.
3. An individual may only establish one sole proprietorship. The owner of a sole proprietorship must not concurrently own a household business or hold the position of general partner of a partnership.
4. A sole proprietorship must not contribute capital upon establishment or purchase shares or stakes of partnerships, limited liability companies or joint stock companies.

### **Article 189. Capital of sole proprietorships**

1. The capital of a sole proprietorship shall be registered by its owner. The sole proprietorship's owner shall register the accurate amounts of capital in VND, convertible currencies, gold and other assets, types and quantities of assets.
2. All the capital, including loans and leased assets serving the sole proprietorship's operation, shall be fully recorded in its accounting books and financial statements as prescribed by law.
3. During its operation, the sole proprietorship's owner is entitled to increase or decrease its capital. The increases and decreases in capital shall be fully recorded in accounting books. In case the capital is decreased below the registered capital, the decrease may only be made after it has been registered with the business registration authority.

### **Article 190. Administration of sole proprietorships**

1. The sole proprietorship's owner has total authority to decide all of its business activities, use of post-tax profit and fulfillment of other financial obligations as prescribed by law.
2. The owner may directly or hire another person to hold the position of Director/General Director. In case of an hired Director/General Director, the owner is still responsible for every business activity of the enterprise.
3. The sole proprietorship's owner is its legal representative who will represent it during civil proceedings, as the plaintiff, defendant or person with relevant interests and duties before the court and arbitral tribunals, and in performance of other rights and obligations prescribed by law.

### **Article 191. Leasing out a sole proprietorship**

The sole proprietorship's owner is entitled to lease out the entire sole proprietorship, provided a written notification and certified true copies of the lease contract are submitted to the business registration authority and tax authority within 03 working days from the effective date of the



contract. During the lease term, the sole proprietorship's owner is still legally responsible as its owner. The rights and obligations of the owner and the lessee to the sole proprietorship's business operation shall be specified in the lease contract.

#### **Article 192. Selling a sole proprietorship**

1. The sole proprietorship's owner is entitled to sell it to another organization or individual.
2. After selling the sole proprietorship, the owner is still responsible for its debts and liabilities that occur before the date of transfer, unless otherwise agreed upon by the owner, the buyer and the creditors.
3. The sole proprietorship's owner and the buyer shall comply with labor laws.
4. The buyer of the sole proprietorship shall register the change of owner in accordance with this Law.

#### **Article 193. Exercising the owner's rights in special cases**

1. In case the sole proprietorship's owner is detained, serving an imprisonment sentence, serving an administrative penalty in a correctional institution or rehabilitation center, he/she shall authorize another person to perform his/her rights and obligations.
2. In case the owner dies, this/her heir or one of the legal heirs or designated heirs shall be the owner under an agreement among the heirs. In case such an agreement cannot be reached, the sole proprietorship shall be converted into a company or dissolved.
3. In case of the owner dies without an heir or the heir refuses the inheritance or is disinherited, the owner's assets shall be handled in accordance with civil laws.
4. In case owner is incapacitated, has limited legal capacity or has difficulty controlling his/her behaviors, his/her rights and obligations shall be performed through his/her representative.
5. In case the sole proprietorship's owner is banned by the court to do certain jobs in the enterprise's business lines, the owner shall suspend or stop doing business in the relevant business lines shall be suspended or stopped or transfer the sole proprietorship to another organization or individual.

### **Chapter VIII**

#### **GROUP OF COMPANIES**

#### **Article 194. Business groups and corporations**

1. A business group or corporation is a group of companies that are interrelated by ownership of shares/stakes or otherwise associated. A business group or corporation is not an enterprise, is not a juridical person and registration of its establishment under this Law is not required.

2. A business group or corporation has a parent company, subsidiary companies and other member companies. They have the same rights and obligations of as those of independent enterprises as prescribed by law.

#### **Article 195. Parent company and subsidiary companies**

1. A company is considered parent company of another company if:

a) It holds more than 50% of charter capital or total ordinary shares of the latter;

b) It has the right to directly or indirectly designate most or all of the members of the Board of Directors and Director/General Director of the latter; or

c) It has the right to decide revisions to the latter's charter.

2. A subsidiary company must not contribute capital to or purchase shares of the parent company. Subsidiary companies of the same parent company must not contribute capital to or purchase shares of each other to establish cross ownership.

3. Subsidiary companies of the same parent company with at least 65% state capital must not contribute capital to or purchase shares of other enterprises or to establish new enterprises as prescribed by this Law.

4. The Government shall elaborate Clause 2 and Clause 3 of this Article.

#### **Article 196. Rights, obligations and responsibilities of the parent company to its subsidiary companies**

1. Depending on the type of the subsidiary company, the parent company shall perform its rights and obligations as its member, owner or shareholder in accordance with corresponding regulations of this Law and relevant laws.

2. All contracts, transactions and relationships between the parent company and the subsidiary company shall be established and executed independently and equally under conditions applied to independent legal entities.

3. In case the parent company makes intervention beyond the power of the owner, member or shareholder and forces the subsidiary company to operate against its ordinary business practice or do non-profit activities without paying compensation in the relevant fiscal year and thus causes damage to the subsidiary company, the parent company shall be responsible for such damage.

4. The executive of the parent company shall be responsible for its intervention mentioned in Clause 3 of this Article and shall be jointly responsible for the damage caused together with the parent company.

5. In case the parent company fails to pay damages as prescribed in Clause 3 of this Article, the creditor, member or shareholder that holds at least 01% of the subsidiary company's charter capital is entitled to, in their own names or in the subsidiary company's name, request the parent company to pay damages.

6. In case the intervention mentioned in Clause 3 of this Article is beneficial to another subsidiary company of the same parent company, that subsidiary company and the parent company shall jointly provide the benefit for the subsidiary company that suffers damage.

#### **Article 197. Financial statements of the parent company and subsidiary companies**

1. At the end of the fiscal year, in addition to the reports and documents prescribed by law, the parent company shall prepare the following reports:

- a) The consolidated financial statement of the parent company prescribed by accounting laws.
- b) The consolidated annual income statement of the parent company and subsidiary companies;
- c) The consolidated report on administration of the parent company and subsidiary companies.

2. Whenever requested by the parent company's legal representative, the subsidiary company's legal representative shall provide reports, documents and information that are necessary for preparation of the consolidated financial statements and other consolidated reports of the parent company and subsidiary companies.

3. The person responsible for preparing the parent company's reports shall use the reports mentioned in Clause 2 of this Article to prepare the consolidated financial statements and other consolidated reports if the reports prepared and submitted by the subsidiary companies are not suspected to contain incorrect or fraudulent information.

4. The person responsible for preparing the report mentioned in Clause 1 of this Article must not prepare and submit the report if the subsidiary companies' financial statements are not fully received. In case the parent company's executive is not able to obtain necessary reports, documents and information after all necessary measures within his/her power have been taken, he/she shall prepare and submit the consolidated financial statement and other consolidated reports with or without information from the subsidiary company. Explanation shall be provided to avoid confusion or misunderstanding.

5. Annual financial statements, reports, consolidated financial statements and consolidated reports of the parent company and subsidiary companies shall be retained at the parent company's headquarters. Their copies shall be retained at the parent company's branches in Vietnam.

6. In addition to the reports and documents prescribed by law, the subsidiary companies shall prepare reports on purchases, sales and other transactions with the parent company.

## **Chapter IX**

### **REORGANIZATION, DISSOLUTION AND BANKRUPTCY OF ENTERPRISES**

#### **Article 198. Full division**

1. Full division is the situation in which a limited liability company or joint stock company (the divided company) divides its assets, rights, obligations, members/shareholders to establish two new companies or more.

2. Full division procedures:

a) The Board of Members, the owner or General Meeting of Shareholders of the divided company shall ratify the resolution or decision on fully division of the company in accordance with this Law and the company's charter. The resolution or decision shall contain the name and headquarters address of the divided company; names of the new companies; rules and procedures for division of the company's assets; employment plan; method for division; time limit and procedures for transfer of shares/stakes to the divided company to the new companies; rules for settlement of the divided company's obligations; division time. This resolution or decision shall be sent to all creditors and employees within 15 days from its issuance date or ratification date;

b) The members, owner or shareholders of each new company shall ratify its charter, elect or designate the President of the Board of Members, President of the company, Board of Directors, the Director/General Director and apply for enterprise registration in accordance with this Law. The enterprise registration application of the new company shall be enclosed with the full division resolution/decision mentioned in Point a of this Clause.

3. The quantity of members or shareholders, their holdings of shares/stakes and charter capital of the new company shall be written according to the full division resolution/decision.

4. The divided company shall cease to exist after the new companies are granted the Certificate of Enterprise Registration. The new companies shall be jointly responsible for unpaid debts, unfulfilled liabilities, employment contracts and other obligations of the divided company or reach an agreement with the divided company's creditors, clients and employees that one of the new companies will fulfill these obligations. The new companies obviously inherit all rights, obligations and lawful interests of the divided company under the full division resolution/decision.

5. The business registration authority shall update the status of the divided company in the national enterprise registration database when issuing the Certificate of Enterprise Registration to the new companies. In case a new company is headquartered outside the province in which the divided company is headquartered, the business registration authority of the province in which the divided company is headquartered shall make the update.

## **Article 199. Partial division**

1. A limited liability company or joint stock company may be partially divided by transfer part of the divided company's assets, rights, obligations, members/shareholders to one or some new limited liability companies or joint stock companies without ceasing the existence of the divided company.

2. The divided company shall register the change in charter capital, quantity of members/shareholders in proportion to the decrease in the stakes/shares and quantity of members/shareholders and apply for registration of the new companies.

3. Partial division procedures:

a) The Board of Members, the owner or General Meeting of Shareholders of the divided company shall ratify the resolution or decision on partial division of the company in accordance with this Law and the company's charter. The resolution or decision on partial division of the company shall contain the name and headquarters address of the divided company; name of each new company; employment plan; method for division; values of assets, rights and obligations transferred from the divided company to the new company/companies; division time. This resolution or decision shall be sent to all creditors and employees within 15 days from its issuance date or ratification date;

b) The members, owner or shareholders of each new company shall ratify its charter, elect or designate the President of the Board of Members, President of the company, Board of Directors, the Director/General Director and apply for enterprise registration in accordance with this Law.

4. After applying for registration, the divided company and the new company/companies shall be jointly responsible for unpaid debts, employment contracts and other obligations of the divided company or unless otherwise agreed upon by the divided company, the new company/companies, the divided company's creditors, clients and employees. The new company/companies obviously inherit all rights, obligations and lawful interests that are transferred under the partial division resolution/decision.

## **Article 200. Consolidation of companies**

1. Two or more companies (consolidating companies) may be consolidated into a new company (consolidated company), after which the consolidating companies shall cease to exist.

2. Consolidation procedures:

a) The consolidating companies shall prepare the consolidation contract and charter of the consolidated company. The contract shall contain the names and addresses of the consolidating companies; name and address of the consolidated company; procedures and conditions for consolidation; employment plan; deadline and conditions for transfer of assets, shares/stakes, bonds of the consolidating companies to the consolidated company; consolidation time;

b) The members, owners or shareholders of the consolidating companies shall ratify the consolidation contract, the consolidated company's charter, elect or designate the President of the Board of Members, President of the company, Board of Directors, the Director/General Director of the consolidated company and apply for registration of the consolidated company in accordance with this Law. The consolidation contract shall be sent to the creditors and employees within 15 days from the day on which it is ratified.

3. The consolidating companies shall comply with regulations Competition Law on consolidation of companies.

4. After the consolidated company is registered, the consolidating companies shall cease to exist. The consolidated company shall inherit the lawful rights and interests, liabilities, unpaid debts, employment contracts and other obligations of the consolidating companies under the consolidation contract.

5. The business registration authority shall update the status of the consolidating companies to the national enterprise registration database when issuing the Certificate of Enterprise Registration to the consolidated company. In case the consolidating companies are headquartered outside the province in which the consolidated company is headquartered, the business registration authority of the province in which the consolidated company is headquartered shall make the update.

## **Article 201. Acquisition of companies**

1. One or some companies (acquired companies) may be acquired by another company (acquiring company) by transfer all of the acquired company's assets, rights, obligations and lawful interests to the acquiring company, after which the acquired company shall cease to exist.

2. Acquisition procedures:

a) The acquiring company and acquired company shall prepare the acquisition contract and draft the charter of the acquiring company. The contract shall contain the name and address of the acquiring company; name and address of the acquired company; procedures and conditions for acquisition; employment plan; method, procedures, deadline and conditions for transfer of assets, shares/stakes, bonds of the acquired company to the acquiring company; acquisition time;

b) The members, owners or shareholders of the companies shall ratify the acquisition contract and the acquiring company's charter and apply for registration of the acquiring company in accordance with this Law. The acquisition contract shall be sent to the creditors and employees within 15 days from the day on which it is ratified;

c) After the acquiring company is registered, the acquired companies shall cease to exist. The acquiring company shall inherit the lawful rights and interests, liabilities, unpaid debts, employment contracts and other obligations of the acquired company under the acquisition contract.

3. The companies shall comply with regulations Competition Law on consolidation of companies during the acquisition process.

4. The business registration authority shall update the status of the acquired company to the national enterprise registration database and revise the Certificate of Enterprise Registration of the acquiring company. In case the acquired company is headquartered outside the province in which the acquiring company is headquartered, the business registration authority of the province in which the acquiring company is headquartered shall request the business registration authority of the province in which the acquired company is headquartered to make the update.

#### **Article 202. Conversion of a limited liability company into a joint stock company**

1. The conversion of a state-owned enterprise into a joint stock company shall comply with relevant laws.

2. A limited liability company can be converted into a joint stock company:

a) without raising additional capital from other organizations and individuals or selling stakes;

b) by raising additional capital from other organizations and individuals;

c) by selling all or part of the stakes to one or some organizations and individuals; or

d) combining the methods specified in Points a, b and c of this Clause and other methods.

3. The conversion shall be registered with the business registration authority within 10 days from the day on which the conversion is complete. Within 03 working days from the receipt of the application for conversion, the business registration authority shall reissue the Certificate of Enterprise Registration and update the company's status to the national enterprise registration database.

4. The joint stock company obviously inherits all lawful rights and interests, debts including tax debts, employment contract and other obligations of the limited liability company.

#### **Article 203. Conversion of a joint stock company into a single-member limited liability company**

1. A joint stock company can be converted into a single-member limited liability company as follows:

a) A shareholder receives all shares of the other shareholders;

b) A organization or individual other than a shareholder receives all shares of all shareholders;

c) Only 01 shareholder remains in the company.

2. The transfer or receipt of shares specified in Clause 1 of this Article shall be made at market value or a value determined by asset-based method or discounted cash flow method or another method.

3. Within 15 days from the occurrence of any of the events specified in Clause 1 of this Article, an application for conversion shall be submitted to the business registration authority where the enterprise is registered. Within 03 working days from the receipt of the application, the business registration authority shall issue the Certificate of Enterprise Registration and update the company's status to the national enterprise registration database.

4. The limited liability company obviously inherits all lawful rights and interests, debts including tax debts, employment contract and other obligations of the joint stock company.

#### **Article 204. Conversion of a joint stock company into a multiple-member limited liability company**

1. A joint stock company can be converted into a multiple-member limited liability:

a) without raising additional capital or selling stakes;

b) by raising additional capital from other organizations and individuals;

c) by transfer all or part of the shares to other organizations and individuals;

d) when only 02 shareholders remain in the company; or

dd) combining the methods specified in Points a, b and c of this Clause and other methods.

2. The conversion shall be registered with the business registration authority within 10 days from the day on which the conversion is complete. Within 03 working days from the receipt of the application for conversion, the business registration authority shall issue the Certificate of Enterprise Registration and update the company's status to the national enterprise registration database.

3. The limited liability company obviously inherits all lawful rights and interests, debts including tax debts, employment contract and other obligations of the joint stock company.

#### **Article 205. Conversion of a sole proprietorship into a limited liability company, joint stock company or partnership**

1. The owner of a sole proprietorship may convert it into a limited liability company, joint stock company or partnership if the following conditions are fully satisfied:

a) The sole proprietorship satisfies the conditions specified in Clause 1 Article 27 of this Law;



b) The owner makes a written commitment to take personal responsibility for all unpaid debts and pay them when they are due with all of his/her assets;

c) The owner has a written agreement with the parties of ongoing contracts that the new company will take over and continue executing these contracts.

d) The owner has a written commitment or agreement with other limited partners to continue hiring the existing employees of the sole proprietorship.

2. Within 03 working days from the receipt of the application, the business registration authority shall consider issuing the Certificate of Enterprise Registration if the conditions specified in Clause 1 of this Article are fully satisfied and update the enterprise's status to the national enterprise registration database.

3. The new company obviously inherits all rights and obligations of the sole proprietorship from the issuance date of the Certificate of Enterprise Registration. The owner of the sole proprietorship shall be personally responsible for all debts that are incurred before this day with all of his/her assets.

#### **Article 206. Business suspension and termination**

1. An enterprise shall send a written notification to the business registration authority at least 03 working days before the suspension or resumption date.

2. The business registration authority and competent authorities are entitled to request an enterprise to suspend or terminate its business operation in the following cases:

a) The enterprise does not fully satisfy the conditions for doing business in restricted business lines must suspend or terminate business operation in the corresponding business lines.

b) Relevant authorities request the suspension in accordance with regulations of law on tax administration, environment and relevant laws;

c) Operation in one or some business lines have to be suspended or terminated under a court decision.

3. During the suspension period, the enterprise shall fully pay the unpaid taxes, social insurance, health insurance, unemployment insurance premiums and fulfill contracts with its clients and employees, unless otherwise agreed by the enterprise, creditors, clients and employees.

4. The Government shall elaborate the procedures for cooperation between the business registration authority and other competent authorities mentioned in Clause 2 of this Article.

#### **Article 207. Cases of and conditions for dissolution of enterprises**

1. An enterprise shall be dissolved in the following cases:

- a) The operating period specified in the company's charter expires without an extension decision;
- b) The enterprise is dissolved under a resolution or decision of the owner (for sole proprietorships), the Board of Partners (for partnerships), the Board of Members and the owner (for limited liability companies) or the GMS (for joint stock companies);
- c) The enterprise fails to maintain the adequate number of members prescribed in this Law for 06 consecutive months without converting into another type of business;
- d) The Certificate of Enterprise Registration is revoked, unless otherwise prescribed by the Law on Tax administration.

2. An enterprise may only be dissolved after all of its debts and liabilities are fully paid and it is not involved in any dispute at the court or arbitration. Relevant executives and the enterprise mentioned in Point d Clause 1 of this Article are jointly responsible for the enterprise's debts.

### **Article 208. Dissolution procedures**

Enterprise dissolution in the cases specified in Points a, b and c Clause 1 Article 207 of this Law shall be carried out as follows:

1. A resolution or decision on the dissolution is issued. Such a resolution or decision shall contain the following information:

- a) The enterprise's name and headquarters address;
- b) Reasons for dissolution;
- c) Time limit and procedures for finalization of contracts and payment of the enterprise's debts;
- d) Plan for settlement of obligations under employment contracts;
- dd) Full name and signature of the owner of the sole proprietorship, the company's owner, the President of the Board of Members, the President of the Board of Directors;

2. The owner of the sole proprietorship, the Board of Members or the owner, the Board of Directors directly organizes the liquidation of the enterprise's assets, unless the company's charter requires establishment of a separate liquidation organization;

3. Within 07 working days from the ratification date, the resolution or decision on dissolution and the minutes of the meeting shall be sent to the business registration authority, tax authority and the enterprise's employees. The resolution or decision shall be posted on the National Enterprise Registration Portal, displayed at the enterprise's headquarters, branches and representative offices.

In case the enterprise still has unpaid debts, the resolution or decision and the debt payment plan shall be sent to the creditors and persons with related rights, obligations and interest. The debt payment plan shall contain the creditors' names, debts, repayment time, location and method; method and time limit for settling creditors' complaints;

4. The business registration authority shall post a notification that an enterprise is undergoing dissolution, the dissolution resolution or decision and debt payment plan (if any) on the National Enterprise Registration Portal right after the resolution or decision is received (if any);

5. An enterprise's debts shall be paid in the following order of priority:

a) Unpaid salaries, severance pay, social insurance, health insurance, unemployment insurance premiums and other benefits of employees under the collective bargaining agreement and concluded employment contracts;

b) Tax debts;

c) Other debts;

6. After the dissolution costs and debts have been fully paid, the remainder shall be divided among the owner, members/partners, shareholders in proportion to their stakes/shares;

7. The enterprise's legal representative shall submit the application for dissolution to the business registration authority within 05 working days from the day on which the enterprise's debts are fully paid;

8. After 180 days from the receipt of the dissolution resolution or decision mentioned in Clause 3 of this Article without further comments from the enterprise or written objections from relevant parties, or within 05 working days from the receipt of the application for dissolution, the business registration authority shall update the enterprise's status on the national enterprise registration database;

9. The Government shall elaborate the procedures for enterprise dissolution.

#### **Article 209. Dissolution upon revocation of the Certificate of Enterprise Registration or under court decision**

Procedures for dissolution of an enterprise upon revocation of the Certificate of Enterprise Registration or under court decision:

1. The business registration authority shall post on the National Enterprise Registration Portal a notification that an enterprise is undergoing dissolution on the same day on which the decision to revoke the Certificate of Enterprise Registration is issued or right after the court decision on the enterprise's dissolution is received. The notification shall be enclosed with the effective revocation decision or the court decision.

2. Within 10 days from the receipt of the effective decision, the enterprise shall convene a meeting to dissolve the enterprise. The dissolution resolution or decision and copies of the effective decision shall be sent to the business registration authority, tax authority and the enterprise's employees and displayed at the enterprise's headquarters, branches and representative offices. The dissolution resolution or decision, if required by law, shall be published in at least 03 issues of 01 printed newspaper or electronic newspaper.

In case the enterprise still has unpaid debts, the resolution or decision and the debt payment plan shall be sent to the creditors and persons with related rights, obligations and interest. The debt payment plan shall contain the creditors' names, debts, repayment time, location and method; method and time limit for settling creditors' complaints;

3. The enterprise's debts shall be paid in accordance with Clause 5 Article 208 of this Law;

4. The enterprise's legal representative shall submit the application for dissolution to the business registration authority within 05 working days from the day on which the enterprise's debts are fully paid;

5. After 180 days from the notification date mentioned in Clause 1 of this Article without further comments from the enterprise or written objections from relevant parties, or within 05 working days from the receipt of the application for dissolution, the business registration authority shall update the enterprise's status on the national enterprise registration database;

6. Relevant executives of company shall be personal responsible for any damage caused by their failure to comply with this Article.

### **Article 210. Application for dissolution**

1. An application for dissolution of an enterprise shall consist of:

a) The notification of the enterprise's dissolution;

b) The report on liquidation of the enterprise's assets; list of creditors and paid debts, including tax debts, social insurance, health insurance, unemployment insurance of employees after the dissolution decision is issued (if any).

2. Members of the Board of Directors (for joint stock companies), members of the Board of Members (for limited liability companies), the owner (for sole proprietorships), the Director/General Director, general partners and legal representatives shall be responsible for the accuracy and truthfulness of the application.

3. In case the application contains inaccurate or false information, the persons specified in Clause 2 of this Article shall jointly provide the outstanding employees' benefits, taxes and other debts and bear personal responsibility for the consequences that occur within 05 years from the day on which the application is submitted to the business registration authority.

## **Article 211. Actions prohibited from the issuance date of the dissolution decision**

1. From the issuance date of the dissolution decision, the enterprise and its executives are prohibited from the following actions:

- a) Concealing, disguising assets;
- b) Denying or reducing the creditors' claims to the debts;
- c) Convert unsecured debts into debts secured with the enterprise's assets;
- d) Concluding new contracts, except for dissolving the enterprise;
- dd) Pledging, donating, leasing out assets;
- e) Terminating effective contracts;
- g) Raising capital in any shape or form.

2. The persons who commit the violations mentioned in Clause 1 of this Article, depending on their nature and seriousness, will be held liable to administrative penalties or criminal prosecution and pay damages.

## **Article 212. Revocation of the Certificate of Enterprise Registration**

1. An enterprise's Certificate of Enterprise Registration shall be revoked in the following cases:

- a) The enterprise registration application contains fraudulent information;
- b) The enterprise is established by persons banned from establishing enterprises specified in Clause 2 Article 17 of this Law;
- c) The enterprise is suspended for 01 year without notifying the business registration authority and the tax authority;
- d) The enterprise fails to send reports in accordance with Point c Clause 1 Article 216 of this Law to the business registration authority within 06 months from the deadline or from the receipt of a written request;
- dd) Other cases under decision of the court or request of competent authorities as prescribed by law.

2. The Government shall elaborate the procedures for revoking the Certificate of Enterprise Registration.

## **Article 213. Shutting down branches, representative offices and business locations**

1. Shutdown of branches, representative offices, business locations of an enterprise shall be decided by the enterprise or under a decision to revoke the certificate of branch/representative office registration issued by a competent authority.
2. The enterprise's legal representative and the head of the branch/representative office that is shut down shall be jointly responsible for the accuracy and truthfulness of the application for shutdown of the branch/representative office/business location.
3. The enterprise whose branch is shut down shall execute the contracts and pay the debts, including tax debts, of the branch and continue employing or fully provide lawful benefits for the branch's employees as prescribed by law.
4. The Government shall elaborate this Article.

#### **Article 214. Bankruptcy of enterprises**

Bankruptcy laws shall apply to bankruptcy of enterprises.

### **Chapter X**

#### **IMPLEMENTATION CLAUSES**

#### **Article 215. Responsibilities of various authorities**

1. The Government shall ensure uniform state management of enterprises.
2. Ministries and ministerial agencies shall be responsible to the Government for performance of their tasks relevant to state management of enterprises.
3. The People's Committees of provinces shall perform state management of enterprises in their provinces.
4. Ministries, ministerial agencies, relevant agencies and the People's Committees of provinces, within the scope of their duties and entitlements, shall establish connection and share the following information with the national enterprise registration database:
  - a) Information about business licenses, certificates of eligibility, practicing certificates, certificates or written approval for business conditions and administrative penalty imposition decisions;
  - b) information about enterprises' operation and tax payment from tax reports; enterprises' financial statements;
  - c) Cooperate and share information about enterprises' operation to improve effectiveness of state management.

5. The Government shall elaborate this Article.

#### **Article 216. Business registration authorities**

1. Business registration authorities have the following duties and entitlements:

a) Process enterprise registration apps and issue the Certificate of Enterprise Registration as prescribed by law;

c) Participate in development and management of the National Enterprise Registration Information System; disclose and provide information for state agencies and other organizations and individuals on request as prescribed by law;

c) Request enterprises to submit reports on their compliance to this Law where necessary; supervise enterprises submitting reports;

d) Carry out inspection and supervision of enterprises according to their enterprise registration applications or request competent authorities to do so;

dd) Take responsibility for validity of enterprise registration applications; deny responsibility for enterprises' violations committed before and after applying for enterprise registration;

e) Deal with violations against regulations of law on enterprise registration; revoke the Certificate of Enterprise Registration and request enterprises to file for dissolution in accordance with this Law;

g) Other duties and entitlements by this Law and relevant laws.

2. The Government shall provide for organization of the systems of business registration authorities.

#### **Article 217. Implementation clauses**

1. This Law comes into force from January 01, 2021.

2. The Law on Enterprises No. 68/2014/QH13 ceases to have effect from the effective date of this Law.

3. The phrase “doanh nghiệp nhà nước” (“state-owned enterprises”) shall be replaced with “doanh nghiệp do Nhà nước nắm giữ 100% vốn điều lệ” (“wholly state-owned enterprises”) in Point m Clause 1 Article 35 and Point k Clause 1 Article 37 of the Law on State Budget No. 83/2015/QH13; Point a Clause 3 Article 23 of the Law on Irrigation No. 08/2017/QH14, amended by the Law No. 35/2018/QH14; Point b Clause 2 Article 74 of the Civil Proceedings Code No. 92/2015/QH13, amended by the Law No. 45/2019/QH14; Point a Clause 2 Article 43 of the Law on Management and Use of Weapons, Explosives and Combat Gears No. 14/2017/QH14, amended by the Law No. 50/2019/QH14; Article 19 of the Law on Denunciation

No. 25/2018/QH14; Articles 3, 20, 30, 34, 39 and 61 of the Anti-corruption Law No. 36/2018/QH14.

4. The Government shall provide for registration and operation of household businesses.

5. Pursuant to this Law, the Government shall provide for management and operation of state-owned enterprises that operates in the field of defense or both defense and business.

#### **Article 218. Transition clauses**

1. Companies whose shares or stakes are not obtained by the State before July 01, 2015 are not required to implement the regulations of Clause 2 Article 195 of this Law but must not increase their cross-ownership ratios.

2. Enterprises' executives, Controllers and authorized representatives who do not fully satisfy the requirements specified in Point b Clause 5 Article 14, Clause 3 Article 64, Clause 3 Article 93, Clause 3 Article 101, Points a, b, and c Clause 3 Article 103, Point d Clause 1 Article 155, Point b Clause 5 Article 162 or Clause 2 Article 169 of this Law may continue working until the end of their terms of office.

This Law is ratified by the 14<sup>th</sup> National Assembly of the Socialist Republic of Vietnam during its 9<sup>th</sup> session on June 17, 2020.

### **PRESIDENT OF THE NATIONAL ASSEMBLY**

**Nguyen Thi Kim Ngan**

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