

General meeting quorum reduction in LLC

On 24 November 2015, the Verkhovna Rada of Ukraine amended the Law of Ukraine "On commercial entities" in relation to the LLC general participants' meeting quorum reduction for the purposes of improvement of Ukrainian investment climate and better protection of LLC participants' rights concerning management of the company.

The law amended Article 60 of the Law of Ukraine "On commercial entities" in relation to the quorum of general meeting of participants of LLC, reducing it from 60% to 50%. In other words, the founder (participant) of the company who owns 50%+1 votes/shares is independently and solely able to call for general meeting, to hold general meeting and to resolve the majority of issues regarding the company's economic activity. Respectively, the owner of 49% of votes is not capable to influence the general meeting by its absence and to block adoption of decisions at such meeting.

In accordance with these changes, the LLC general participants' meeting shall be considered as authorized if there are participants (their representatives) present who jointly own more than 50% of votes/shares.

According to the Parliament's rationale, previous wording of Article 60 of the Law of Ukraine "On commercial entities", pursuant to which the LLC participants' general meeting had quorum on condition of presence of participants (their representatives), who jointly own more than 60% of votes/shares, provided the owner of 40% of votes/shares with the opportunity to paralyze management activity of general meeting. Owners of 40% of votes/shares were able to block the activities of the supreme management body of LLC by not attending the general meeting. Thus, the previous high quorum requirement for general meeting created risks of violation of the majority participants' right to take part in LLC management.

The law also specified that the constitutional documents of entities without state participatory interest in their capital might provide for other percentage of votes of participants (their representatives) necessary for passing resolutions at the participants' meetings of LLCs.

In case of restatement of statutory documents and creation of new business structures, the issue of determination of number of votes required for quorum shall be approached with great care. After all, amendment of the habitual 60% votes/shares quorum threshold could significantly affect the management system of the company.

We are planning to cover this matter in detail in further issues of our newsletter. In particular, DLF attorneys-at-law will provide insights on

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various aspects of the LLC general participants' meeting quorum reduction in relation to new investment prospects of such innovations, possible risks to be considered during corporate structuring and company management in Ukraine, including in case if management over the assets in Ukraine is performed by foreign holding companies.