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Forms of conducting business activity in Poland

prepared by
FKA Furtek Komosa Aleksandrowicz
at the request of Polish Information
and Foreign Investment Agency
[PAIiIZ]



1. Forms of conducting business activity in Poland – Introduction

Business activity in Poland may be conducted in forms similar to those found in other European countries. Available types of business activity include:

- 1.1 commercial companies comprising:
 - 1.1.1 corporations (limited liability company and joint-stock company);
 - 1.1.2 partnerships (general partnership, limited liability partnership, limited partnership, limited joint-stock partnership);
- 1.2 branch offices of a foreign company;
- 1.3 representative offices of a foreign company;
- 1.4 individual business activity (also as part of a civil partnership).

Cooperatives, associations, foundations and cross-border vehicles such as the European Company, or the European Economic Interest Grouping, which may also be used in conducting business in Poland, are not covered by this study.

2. Freedom of business activity

Polish law stipulates the principle of freedom of business activity. This means that anyone has equal rights in undertaking business activity of their choosing.

However, this principle does not offer absolute freedom of business activity. Crucial in this respect are restrictions as to the subject (i.e. who can undertake business activity) and the object (i.e. the requirements that must be met in order to conduct a given type of activity).

2.1 Restrictions as to the subject

The rules applicable to Polish citizens (i.e. with respect to selecting the type of business activity) with regard to undertaking business activity also apply to natural persons, legal persons and other organisational units with legal capacity:

- 2.1.1 from the Member States of the European Union;
- 2.1.2 from Norway, Iceland and Liechtenstein;
- 2.1.3 from countries that are not signatories to the Agreement on the European Economic Area, pursuant to agreements entered into by those states with the European Community and its Member States (e.g. from Russia or Ukraine);
- 2.1.4 citizens of countries other than those listed above, who are family members of the persons listed in points 2.1.1 to 2.1.3 above, have obtained a residence permit under the Foreigners Act, are subject to protection in Poland under the Act on Granting Protection to Foreigners in the Republic of Poland (e.g. have obtained a settlement or tolerated stay permit in Poland or have refugee status) or hold a Polish Charter.

The above list includes entities able to take advantage of the freedom of business activity in the broadest scope. Other persons may solely operate as: (i) limited partnerships, (ii) limited joint-stock partnerships, (iii) limited liability companies or (iv) joint-stock companies.



However, international agreements may grant more extensive rights to persons not included in the catalogue.

2.2 Restrictions as to the object

The most important restrictions as to the object are those that require the entrepreneur to obtain a prior administrative decision that enables them to undertake a given activity.

2.2.1 Concessions

Concessions are issued in areas of business activity that carry particular importance for national security or the safety of the citizens or other important public interest.

The requirement of obtaining a concession concerns activities that involve:

- (i) exploring and identifying hydrocarbons and solid mineral ores subject to mining proprietorship, extracting minerals from ores, subterranean non-reservoir storing of substances and subterranean depositing of waste;
- (ii) manufacturing and trading in explosives, weapons and ammunition, as well as military and law enforcement products and technologies;
- (iii) manufacturing, processing, storing, transmitting, distributing and trading in fuels and energy;
- (iv) protecting people and property;
- (v) distributing radio and television programming, save for programming distributed solely using the ICT system, which is not broadcast terrestrially, by satellite or over cable networks;
- (vi) air transportation;
- (vii) running casinos.

Before issuing a concession, the administrative body may verify if the entrepreneur meets the requirements of conducting business activity that requires a concession and whether it guarantees proper conduct of such activity.

The number of available concessions may be limited. In such cases, the relevant administrative body organises a tender. The winner is the entity offering the highest price for the concession.

A promise of a concession, i.e. an undertaking to grant a concession once certain requirements are met, may also be obtained. Such a promise is issued for at least six months. During its term, a concession cannot be denied unless the entrepreneur failed to meet the relevant requirements or unless the information contained in the promise application has changed.

2.2.2 Permits, licences, authorisations

Another manifestation of the restriction of economic freedom as to the object is the requirement for the entrepreneur to obtain a permit, licence or authorisation. However, the different names do not mean that we are dealing with different acts. All of these types of administrative decisions are equivalent



– they carry the same legal effect with respect to the ability to conduct business. Therefore, the collective term permit will hereinafter be used to refer to all of these.

A permit allows an entity to undertake and perform a specific type of business activity provided that it meets the relevant statutory requirements.

Presented below are examples of activities that require a permit:

- (i) business activity within a special economic zone, which is eligible for public aid;
- (ii) activity that involves maintaining a regulated market (stock exchange and over-the-counter);
- (iii) the activities of pension funds;
- (iv) banking activities involving risk for entrusted funds subject to repayment;
- (v) collective water supply or waste removal activities;
- (vi) activities involving the manufacturing or importing of medicinal products;
- (vii) scheduled and special transportation services;
- (viii) conducting insurance activity in the Republic of Poland;
- (ix) providing postal services;
- (x) the activities of investment funds.

A permit is granted to an entrepreneur upon finding that it has met the statutory requirements. These requirements primarily concern the protection of human life and health, safety and public order, state secret and the nature of business activity covered by the permit. Detailed provisions on the procedure of issuing permits are set forth in the relevant acts. If the entrepreneur has met the requirements for conducting a given type of activity, the administrative authority is required to grant a permit.

2.2.3 Regulated activities

Regulated activities are defined as such in the legislation. In order to conduct them, an entrepreneur must:

- (i) meet the requirements set forth in a given act;
- (ii) obtain an entry in the register of regulated activities.

Regulated activities do not require obtaining a concession or permit, but are yet another manifestation of state control of the freedom of business activity.

For instance, regulated activity includes:

- (i) post-graduate training for doctors and dentists;
- (ii) currency exchange activities;
- (iii) organising travel events;
- (iv) detective services;



- (v) packaging and customising or trading in plant care products.

In order to obtain an entry in the register of regulated activity, an entrepreneur must submit a statement on meeting the requirements for conducting such activity. During the registration proceedings, the registering authority does not verify the authenticity of the information and documents submitted. However, this may be done after making the entry. If it turns out that the information provided by the entrepreneur was untrue or the entrepreneur failed to remedy breaches of the requirements for conducting regulated activities before the deadline set by the authority, the authority will issue a decision denying the entrepreneur the right to conduct the activities covered by the entry. In such cases, the entrepreneur may obtain another entry in the register in the same scope of business no earlier than three years after the issuance of the decision.

3. Most common types of business activity in Poland

The most common types of business activity are commercial companies, in particular, the limited liability company and the general partnership. According to the Polish Central Statistical Office, as at the end of 2012, limited liability companies accounted for approximately 83 per cent of all commercial companies, with general partnerships accounting for approximately 10 per cent. Further down the list are the joint-stock company, the limited partnership and the limited joint-stock partnership. The smallest group are limited liability partnerships, accounting for approximately 0.5 per cent of all commercial companies in Poland. However, it should be noted that in recent times, the highest growth was reported for the limited partnership and limited joint-stock partnership. The above is due to the ability to optimise taxation in the structures of the two partnerships as revenues are taxed at the level of the partners in these partnerships rather than the partnerships themselves. However, it should be noted that there are plans to amend the Corporate Income Tax Act, by introducing taxation of limited partnerships and limited joint-stock partnerships with corporate income tax, which will decrease the appeal of these types of activity. The amendments are proposed to enter into force on 1 January 2014.

Many natural persons choose to pursue individual business activity. In the private sector, these entities account for 76 per cent of all entrepreneurs. Individual business activity may also be conducted in the form of a civil partnership, i.e. an association of at least two entities for the purpose of conducting for-profit activity. Unlike a corporation, a civil partnership is not a separate legal entity – only its partners are separate legal entities.

Foreign investors also take advantage of the branch office structure, through which they can operate in Poland to the extent they operate in their country of origin.

3.1 Commercial companies

A commercial company is a form of for-profit cooperation between at least two persons, save for the limited liability company and the joint-stock company, which may be established by a single entity, provided that the founder itself is not a one-person limited liability company.

A company is established upon concluding an agreement in which the shareholders agree to pursue a shared goal by making contributions and, potentially, by cooperating in another defined manner.



The activities of commercial companies are regulated by:

3.1.1 the applicable laws,

3.1.2 the shareholders in the articles of association or statute.

In partnerships, utmost importance is attached to the person of the partners, their credentials and work performed. As a rule, they are liable for the obligations of the partnership up to the full value of their assets.

In corporations, the emphasis is on the equity provided by the shareholders, on which the operations of the company are based. The shareholders are not liable for the company's obligations – their risk is limited to the amount of the contribution made, which may not be recovered if the business fails.

3.2 Branch office of a foreign company

A foreign company may conduct business through a branch office in Poland to the extent such activity is conducted in its country of origin.

3.3 Representative office

Having a representative office in Poland enables a foreign entrepreneur to conduct business solely with respect to advertising and promoting its activities.

4. Criteria for selecting the form of conducting business activity

4.1 Investor's country of origin

The investor's country of origin is crucial in determining its ability to conduct business activity in Poland. As stated in detail in point 2.1 above, persons from outside the European Union, Norway, Iceland, Liechtenstein or countries with which the European Community and its member states did not conclude agreements on the freedom of business activity, as well as persons that do not meet the criteria of the Foreigners Act, the Act on Granting Protection to Foreigners in the Republic of Poland, or the Polish Charter Act, may select from among types of business activity limited to the following entities: (i) limited partnerships, (ii) limited joint-stock partnerships, (iii) limited liability companies and (iv) joint-stock companies.

4.2 Type of activity

In principle, business activity may be conducted in any form permitted by the applicable laws. However, in some cases, legislation stipulates the use of a strictly defined form of activity, e.g. in the case of banks, insurance companies and universal pension fund companies, which may operate solely as joint-stock companies.

4.3 Scale of activity

A general rule is to select partnerships (except for limited joint-stock partnerships) for business activity on a smaller scale, and use corporations and the limited joint-stock partnership for larger-scale business ventures. The above is primarily related to the distribution of risk incurred by investors, the need for their personal involvement in running the affairs of the company and the ability to obtain equity from the market.

4.4 An investor's liability for the obligations of the entity through which it conducts business



In a general partnership, all of its partners have unlimited liability for the partnership's obligations. In a limited partnership and limited joint-stock partnership, this rule applies in full to the general partners. The scope of liability may be optimised through appropriate design of the structure of the limited partnership or limited joint-stock partnership (corporation as a sole general partner). The limited partner in a limited partnership is liable up to the amount of the limited sum, while a shareholder in a limited joint-stock partnership is not liable for the partnership's obligations.

On the other hand, in corporations, the shareholders are not liable for the company's obligations. Their risk is limited to the contributions made in the event that the business fails.

4.5 The requirement of personal involvement in the running of affairs

In partnerships, each of the partners is involved in running the affairs of the partnership. However, the articles of association may remove such right from a partner.

The requirement of personal involvement may be limited to a minimum for an investor involved as a limited partner of a limited partnership or a shareholder of a limited joint-stock partnership. By law, a limited partner is not authorised or required to run the partnership's affairs unless the articles of association state otherwise. On the other hand, a shareholder of a limited joint-stock partnership is involved in its affairs solely by participating in the adoption of resolutions by the general meeting.

In corporations, the responsibility of running the affairs lies with a body separate from the shareholders, i.e. the management board. Personal involvement of investors is limited to expressing opinions (in the form of resolutions) on key matters concerning the company in the form of shareholders meetings and general meetings. There is no reason preventing an investor from being involved in managing the company as a management board member.

4.6 Options for obtaining capital

The most popular forms of obtaining capital for business activity include financing investments with bank loans and issuing shares or bonds.

4.6.1 Issuing corporate bonds

Entities authorised to obtain capital by issuing bonds are limited liability companies, joint-stock companies and limited joint-stock partnerships.

As a result of issuing bonds, an entity obtains cash from bondholders. However, it becomes obliged to redeem the bonds by a specific time, together with payment of interest. Therefore, it is a form of debt financing, whose structure is similar to taking out a loan.

The main benefits of issuing bonds include a lower cost of earning capital compared to borrowing costs and an unchanged shareholding structure of the bond issuer (the bondholder does not become a shareholder and does not become able to influence the company).

On 30 September 2009, the Catalyst bond market was launched. Catalyst is an organised platform for trading in debt securities (corporate bonds, treasury bonds and mortgage bonds), composed of four trading platforms, for both retail



and wholesale investors. The transactions are guaranteed by the National Depository for Securities (Polish: KDPW).

The purpose of the Catalyst market is, in particular, to help entrepreneurs to obtain capital, increase their reliability for investors and to promote them.

4.6.2 Issue of shares in a public offering

Joint-stock companies may obtain capital from the market in a public offering carried out on the Stock Exchange or an alternative trading system (NewConnect). Capital is acquired by the company if the interested persons (investors) subscribe for shares and become shareholders required to pay for them.

In order to obtain capital in this manner, a joint-stock company must obtain the status of a public joint-stock company. A public company is a company in which at least one share is dematerialised, i.e. does not exist in the form of a document and is recorded solely on a securities account. In order to become a public company, a joint-stock company must undergo a special procedure that involves drafting certain documents: as a rule, it will be a prospectus (to enter the WSE) or an information document (to enter NewConnect). It is a complex process that requires collecting numerous pieces of information, conducting analyses (to present potential investors with accurate information about the company and its business), and therefore it is relatively expensive. Additionally, upon obtaining the status of a public company, a joint-stock company is required to provide current reports on important events concerning the company, and interim reports containing primarily financial information.

4.7 Taxation of income

An important difference between conducting business as a partnership and a corporation is the method of taxation.

In a partnership, only its partners are subject to taxation, rather than the partnership itself. Therefore, only the income earned by a partner is taxable. Depending on whether the partner is an individual or a legal entity, it is subject to personal income tax (PIT) or corporate income tax (CIT). The above rule may be amended in the event of entry into force of the proposed amendment on the Corporate Income Tax Act, which stipulates that despite not having legal personality, a limited partnership and a limited joint-stock partnership will be subject to corporate income tax. The amendments are proposed to enter into force on 1 January 2014.

The income of a corporation is taxed twice – first, at the level of the company as a payer of corporate income tax, and second, at the level of a shareholder receiving dividend.

4.8 Cost and formalities involved in conducting business activity

In corporations and in limited joint-stock partnerships, the partners must contribute the share capital (in a limited liability company – PLN 5,000, in a joint-stock company – PLN 100,000, and in a limited joint stock partnership – PLN 50,000). In partnerships (save for the limited joint-stock partnership), due to the absence of share capital, the partners may freely determine the amount of their contribution. Furthermore, they can also anticipate that their contribution will involve providing work or services.



The operations of corporations, in particular, the joint-stock company, are more formalised and more complex than in the case of partnerships, which results in increased costs (e.g. the requirement to prepare a notarial deed for each general meeting of shareholders, the cost of maintaining corporate bodies).

SCHEDULES

Forms of conducting business activity in Poland – features

1. Corporations
 - 1.1 limited liability company
 - 1.2 joint-stock company
 - 1.3 limited liability company – joint-stock company (comparison)
2. Partnerships
 - 2.1 general partnership
 - 2.2 limited liability partnership
 - 2.3 limited partnership
 - 2.4 limited joint-stock partnership
3. Individual business activity
4. Civil partnership
5. Branch office of a foreign company – representative office of a foreign company (comparison)



Capital Companies in Poland

General remarks

Polish law recognizes two types of capital companies: limited liability companies (“**LLC**”) and joint-stock companies (“**JSC**”). Both have legal personality separate from their shareholders. A joint-stock company is intended for large-scale business, while a limited liability company can serve as a good form for activity on either a small or large scale, with a limited number of shareholders. Banks, insurance companies and general pension societies must be established in a form of a JSC.

The main differences between LLCs and JSCs are presented in the table below:

Limited Liability Company	Joint-stock Company
Generally recommended for	
<ul style="list-style-type: none">Joint ventures with a limited number of shareholders.Shareholders who want to have direct supervision over the company’s business.Smaller scale of business.	<ul style="list-style-type: none">Joint ventures with many shareholders.Where supervision over the company’s business is to be carried out only by the supervisory board.Large scale of business.Companies contemplating an IPO in the short term.
Obligatory form for	
N/A	banks, insurance companies, general pension societies.
Company’s founders	
<ul style="list-style-type: none">One or more individuals/legal entities.An LLC may not be formed solely by a single-shareholder limited liability company. However, a single-shareholder limited liability company may become a sole shareholder of a limited liability company by acquisition of all of the shares therein.	



Limited Liability Company	Joint-stock Company
Prerequisites for incorporation	
<ul style="list-style-type: none"> • The conclusion of articles of association in a form of a notarial deed. • The contribution by shareholders of: <ul style="list-style-type: none"> a) the entire nominal value of the shares and b) the <i>agio</i> being the excess of the subscription price over the nominal value of the shares. • The appointment of a management board. • The appointment of a supervisory board or auditors' committee (obligatory only if the share capital exceeds PLN 500,000 and the number of shareholders exceeds 25). • Registration in the commercial register. 	<ul style="list-style-type: none"> • The conclusion of a statute in a form of a notarial deed. • The contribution by shareholders of: <ul style="list-style-type: none"> a) at least ¼ of the nominal value of the shares and b) the whole <i>agio</i> being the excess of the subscription price over the nominal value of the shares. • The appointment of a management board. • The appointment of a supervisory board – obligatory. • Registration in the commercial register.
Company in organisation (before registration in the commercial register)	
<p>Represented by the management board or by a proxy appointed by a unanimous resolution of the shareholders.</p>	<p>Prior to the appointment of the management board, a JSC is represented by all shareholders acting jointly or by a proxy appointed upon a unanimous resolution of the shareholders.</p>
Share capital	
<ul style="list-style-type: none"> • The minimum share capital is PLN 5,000. • The nominal value of a share may not be lower than PLN 50. • The share capital can be divided either into shares of equal or unequal nominal value. Shares of equal value are more common; one shareholder can have several shares of equal value. Shares of unequal value are less common; one shareholder can have only one share of unequal value. • The share capital must be paid in full before registration of the LLC. 	<ul style="list-style-type: none"> • The minimum share capital is PLN 100,000. • The nominal value of a share may not be lower than PLN 0.01 (1 Polish zloty = 100 groszy). • The share capital is divided into shares of equal nominal value. • At least ¼ of the share capital must be paid before registration of the JSC. • There is a general obligation to verify the value of contributions in-kind by the statutory auditor, subject to certain exceptions provided for in the



Limited Liability Company	Joint-stock Company
	Commercial Companies Code ("CCC").
Authorized capital	
N/A	<ul style="list-style-type: none"> • May not be larger than $\frac{3}{4}$ of the nominal share capital. • Management Board authorization is limited in time – up to three years following authorization.
Increase of the share capital	
<ul style="list-style-type: none"> • The share capital may be increased by the shareholders under the existing provisions of the articles of association (written form) or through an amendment to the articles of association (notarial deed). • An increase can be made through new contributions or from company funds (supplementary capital or reserve capital). 	<ul style="list-style-type: none"> • The share capital may be increased: <ol style="list-style-type: none"> a) upon a resolution of shareholders through new contributions or from company funds (supplementary capital or reserve capital) b) upon a resolution of the management board (authorized share capital) if authorised by the shareholders. • Resolutions shall be made in a form of a notarial deed.
Shares	
<ul style="list-style-type: none"> • Non-material nature – shareholders are entered in the share register kept by the Management Board. • A transfer/pledge of shares – in writing, with signatures certified by a notary. • A transfer is effective with respect to the company as of the moment when the company receives notification of the transfer. 	<ul style="list-style-type: none"> • Registered or bearer shares. • Bearer share certificates may not be issued before full payment; as proof of partial payment, registered temporary certificates are issued. • The owners of registered shares and temporary certificates are entered in the share register. • Shares are indivisible. They may be issued in collective share certificates. • A transfer of registered shares or temporary certificates – in writing; transfer of possession of the shares or temporary certificates required. • A transfer of bearer shares requires the transfer of possession of the shares.



Limited Liability Company	Joint-stock Company
Rights and obligations of shareholders	
<ul style="list-style-type: none"> • The possibility of establishing preference shares with regard to: <ol style="list-style-type: none"> a) the right of vote – a maximum of 3 votes per share; b) the right to dividend – up to 150% of the dividend designated to non-preference shares; c) the distribution of the company's assets in case of its liquidation. • The articles of association may oblige the shareholders to make additional payments in proportion to their shareholding (Polish: dopłaty). Such payments do not increase the company's share capital, are transferred to the company's reserve capital, and can be subsequently returned to the shareholders. 	<ul style="list-style-type: none"> • The possibility of establishing preference shares with regard to: <ol style="list-style-type: none"> a) the right of vote – a maximum of 2 votes per share; b) the right to dividend – up to 150% of the dividend designated to non-preference shares; this restriction does not apply to such shares for which the right to vote has been excluded (non-voting shares); c) the distribution of the company's assets in case of its liquidation. • The statute may limit the voting rights of shareholders possessing more than 1/10 of the total number of votes. The limitation may only apply to the exercise of the voting rights attached to shares above the limit of votes provided for in the statute.
Management Board	
<ul style="list-style-type: none"> • One or more persons. • Term of office – no time limits. • Non-compete obligation – by law. 	<ul style="list-style-type: none"> • One or more persons. • Term of office – up to five years. • Non-compete obligation – by law.
Supervision	
<ul style="list-style-type: none"> • Each shareholder individually. Individual supervision can be restricted or excluded by the articles of association if a supervisory board was established in the LLC. • Supervisory Board: <ol style="list-style-type: none"> a) The supervisory board or the audit committee are optional. Obligatory if the share capital exceeds PLN 500,000 and the number of shareholders exceeds 25 b) At least three members 	<ul style="list-style-type: none"> • No individual supervision by a shareholder. • Supervisory board: <ol style="list-style-type: none"> a) Obligatory b) At least three members or, in the case of public companies, at least five members c) No right to give the management board any binding instructions on how to manage the company d) Upon demand of the shareholders representing at least 1/5 of the



Limited Liability Company	Joint-stock Company
<ul style="list-style-type: none"> c) No right to give the management board any binding instructions on how to manage the company d) Term of office – one year, unless the articles of association provide otherwise. • The right of a shareholder or shareholders representing at least 1/10 of the share capital to request that a registry court appoint an auditor to examine the accounts and operations of the company. 	<p>share capital, the election of the supervisory board shall be made by the next general meeting of shareholders by way of separate groups' voting. A member of the supervisory board so appointed can be authorized to perform individual supervision. Such an SB member is bound by the non-compete obligation</p> <ul style="list-style-type: none"> e) Term of office – no longer than five years. • No right of any shareholder to request that a registry court appoint an auditor to examine the accounts and operations of the company.
General Meeting of Shareholders	
<ul style="list-style-type: none"> • Minutes drawn up by a notary only if the articles are being amended, otherwise in writing. • Held in the company's registered office or in any other place on the territory of Poland, if so provided by the articles of association. 	<ul style="list-style-type: none"> • Minutes drawn up by a notary. • Held in the company's registered office or in any other place on the territory of Poland, if so provided by the statute. Shareholders may participate in general meetings by means of electronic communication, if the statute provides so.
Exclusion from the company	
<p>Right to seek expulsion of a shareholder by the court.</p>	<p>Forced buyout of shares (95% - 5%).</p>
Company liability	
<p>The Company is liable for its debts and obligations with its whole property without any limitations.</p>	
Shareholders and Management Board liability	
<ul style="list-style-type: none"> • The shareholders are not liable for the obligations and debts of the company. • The members of the management board are jointly and severally liable for the obligations of the company if recovery against the company was not effective. 	<ul style="list-style-type: none"> • The shareholders are not liable for the obligations and debts of the company. • No liability of the management board for the obligations of the company. • Liability of the management board for damage caused to the company time –



Limited Liability Company	Joint-stock Company
<p>However, any member of the management board may release himself from liability by showing that a petition for declaration of bankruptcy was filed or arrangement proceedings were instituted in due time, or that a failure to file a petition for declaration of bankruptcy or institute arrangement proceedings was not due to his fault, or that the creditor suffered no damage even though no petition for bankruptcy was filed or no arrangement proceedings were instituted.</p> <ul style="list-style-type: none">• Liability of the management board for damage caused to the company time-barred after three years from the date on which the company learnt of the damage and of the person liable to redress it. However, in any case, the claim shall be time-barred after ten years from the date of the event which caused the damage.	<p>barred after three years from the date on which the company learnt of the damage and of the liability of the management board for damage caused to the company time-barred after three years from the date on which the company learnt of the damage and of the person liable to redress it. However, in any case, a claim shall be time-barred after five years from the date of the event which caused the damage.</p>



Limited liability company
Preferred form of business activity
<ul style="list-style-type: none">• Joint ventures with a limited number of shareholders.• Shareholders who want:<ul style="list-style-type: none">a) to have direct supervision over the company's business;b) to limit their risk (liability) to assets involved in the company as contributions (lack of shareholder's liability for the company's obligations with his personal assets).• Smaller scale of business.
Business name
<ul style="list-style-type: none">• Can be chosen freely, however should contain an additional designation „spółka z ograniczoną odpowiedzialnością”.• The abbreviated designations „spółka z o.o.” or „sp. z o.o.” may be used in business dealings.
Legal status of the company
Commercial company.
Legal personality
It has legal personality.
Relevant register
Entrepreneurs' register of the National Court Register (KRS).
Competent registry court
District court competent for the registered office of the company.
Shareholders
<ul style="list-style-type: none">• One or more entities from among:



- a) natural persons,
 - b) legal persons,
 - c) organizational units without legal personality to which the applicable laws have granted legal capacity.
- A limited liability company may not be formed solely by another single-shareholder limited liability company. However, a single-shareholder limited liability company may become a sole shareholder of a limited liability company by acquisition of all of the shares therein.

Duration of the company

- Definite term (including the time required to perform a specific task) or indefinite term.
- It becomes a separate legal entity from the moment of conclusion of the articles of association – so called limited liability company in organization. It gains legal personality upon entry into the National Court Register.

Articles of association of the company

- Must be prepared in a form of a notarial deed or will be invalid otherwise.
- The articles of association should specify, as a minimum:
 - a) the business name and registered office of the company,
 - b) the corporate purpose of the company,
 - c) the amount of the share capital,
 - d) whether the shareholder may hold more than one share,
 - e) the number and nominal value of shares taken up by individual shareholders,
 - f) duration of the company, if definite.
- Amending the provisions of the articles of association requires the resolution of the shareholders' meeting taken by a 2/3 majority, unless the articles of association provide for stricter requirements. A resolution which would result in broader scope of shareholders' duties or a restriction of rights attached to shares or rights conferred upon particular shareholders requires the consent of all shareholders concerned.
- The articles of association may also be concluded using the articles of association form available in the IT system (<https://ems.ms.gov.pl>). Conclusion of the articles of association using the form requires the articles of association form to be filled, after prior registration (creation of account), in the IT system of the Ministry of Justice.

Actions required to establish a company

- Adopting the articles of association in a form of a notarial deed.
- The contributions by shareholders of the entire share capital and the share premium (difference between the price at which the shares are acquired and their nominal value).



- The appointment of a management board.
- The appointment of a supervisory board or auditors' committee – obligatory only when all of the following circumstances occur jointly:
 - a) share capital exceeds PLN 500,000,
 - b) number of shareholders exceeds 25.
- Registration in the entrepreneurs' register of the National Court Register (KRS) within 6 months from the conclusion of the articles of association.
- Since January 1, 2012 there is an additional procedure of registration of the limited liability company – through the Internet (e-registration) – conclusion of the articles of association using the electronically available articles of association form (it is not necessary to conclude articles of association in a form of notarial deed).

Company in organization (prior to registration in KRS)

Represented by the management board or by a proxy appointed by a unanimous resolution of the shareholders.

Average time required to register

The average time required to register a limited liability company is approximately 6 weeks.

Shareholders' contributions

- A non-transferable right or performance of work or services cannot be the object of a contribution.
- In the event that a shareholder made a defective in-kind contribution, he shall compensate the company for the difference between the value assumed in the articles of association and the sales value of the contribution. The articles of association of the company may provide that, in such circumstances, the company shall also have other rights.
- Where a shareholder pays for his shares in the company fully or partially with an in-kind contribution, the articles of association shall specify in detail the object of the in-kind contribution and the identity of the shareholder making such contribution, as well as the number and nominal value of shares taken up in exchange for the contribution.

Shareholders' share in profits and losses

- A shareholder shall have the right to participate in profit shown in the annual financial statements and intended for distribution according to a resolution of the shareholders' meeting.
- Profit attributable to shareholders shall be distributed in proportion to the number of shares held. The articles of association may provide for a different method of profit distribution.
- Shareholders do not participate directly in covering the losses of the company. However,



profit to be paid to shareholders in a given year shall be diminished by uncovered losses.

Share capital

- The minimum share capital is PLN 5,000.
- The nominal value of a share may not be lower than PLN 50.
- The company's share capital:
 - a) is divided into shares of equal or unequal nominal value – determined by the articles of association,
 - b) if a shareholder may hold more than one share, all shares in the share capital are equal and indivisible,
 - c) shall be fully paid prior to the registration of the company in the National Court Register.

Increase of the share capital

- Modes of increasing the share capital:
 - a) under the unchanged provisions of the articles of association (statement on subscription of new shares in writing; subscription of shares only by the existing shareholders in proportion to the shares held),
 - b) by amendment of the articles of association (form of a notarial deed; in this mode the shareholders may subscribe for shares disproportionately to the number of the shares held and a new shareholder may enter the company).
- Manners of covering the increased share capital:
 - a) making new contributions by the shareholders,
 - b) employing the company's funds (accumulated on spare or reserve capital created from the profit of the company) – new shares attributed only to the existing shareholders in proportion to the shares held; new shares do not need to be subscribed for.

Shares

- Non-material nature - shareholders are entered in the share register kept by the management board.
- A share purchase agreement/pledge agreement:
 - a) in writing with signatures certified by a notary or will be invalid otherwise,
 - b) effective with respect to the company as of the notification by the seller or purchaser (providing the company with a proof of conclusion of the agreement is necessary).



Selected rights and obligations of shareholders

- The possibility of establishing preference shares with regard to:
 - a) the right to vote – a maximum of 3 votes per share,
 - b) the right to dividend – up to 150% of the dividend designated to non-preference shares,
 - c) the distribution of the company's assets in case of its liquidation.
- Additional payments of shareholders to the company:
 - a) have to be expressly provided for in the articles of association in order for the shareholders' meeting being able to adopt them,
 - b) imposed by the resolution of the shareholders' meeting in proportion to shares held by each shareholder, within the specified limits,
 - c) do not increase the company's share capital, but are transferred to the company's reserve capital,
 - d) may be returned to shareholders on the basis of the resolution of the shareholders' meeting.

Management board

- Consists of one or more members (only natural persons with full capacity for legal actions).
- Term of office – no time limits; the articles of association may provide for an appointment for an indefinite period of time.
- Non-competition obligation – by law.

Supervision

- Shareholder's right of individual supervision over the company:
 - a) conferred upon each shareholder,
 - b) in case the supervisory board is established, the right may be restricted or excluded by the articles of association,
 - c) the right of a shareholder (shareholders) representing at least one-tenth of the share capital to request that a registry court appoint an auditor to examine the accounts and operations of the company cannot be excluded.
- The supervisory board/auditors' committee:
 - a) obligatory (one of them) only when the share capital exceeds PLN 500,000 and the number of shareholders exceeds 25;
 - b) shall comprise at least 3 members;
 - c) is not entitled to issue binding instructions to the management board concerning



- running the company's affairs;
d) term of office – one year, unless the articles of association provide otherwise.

Shareholders' meeting

- Minutes of the shareholders' meeting:
 - a) as a principle – in writing,
 - b) amendment of the articles of association – a form of a notarial deed.
- The venue of the shareholders' meeting:
 - a) location where the company has its registered office,
 - b) other place within the territory of Poland – only if permitted by the articles of association.

Tax

The company is a taxpayer of the corporate income tax (CIT at the rate of 19%) and VAT.

Liability of the company

The company is liable for its debts and obligations with its whole property without any limitations.

Liability of the shareholders

Shareholders do not bear any liability for the company's obligations. Their risk is limited to funds involved in the company by virtue of contributions or additional payments.

Liability of the members of the management board for the company's obligations

- Joint and several liability towards the company's creditors:
- due to submission of false information in the statement on coverage of share capital (if contributions made were incomplete, non-existent, in-kind contribution was overvalued, etc.) – for a period of 3 years following the registration of the company or registration of the increase of the share capital,
 - due to ineffective execution from the assets of the company, unless:
 - a) in a proper time request from a declaration of bankruptcy was submitted or bankruptcy procedure is initiated,
 - b) the failure to file an application for declaration of bankruptcy or to initiate arrangement



- proceedings was not due to fault of a member of the management board,
- c) despite failure to file an application for declaration of bankruptcy or to initiate arrangement proceedings the creditor has not incurred any loss.

Exclusion of shareholder

- Action (suit) for exclusion of a shareholder from the company:
 - a) principle: exclusion has to be claimed by all remaining shareholders, holding together more than 50% of shares,
 - b) the articles of association may provide that smaller number of shareholders (however holding always more than 50% of shares) may submit a demand for exclusion – all the remaining shareholders shall be sued in such a case.
- The court may order the exclusion only for valid reasons.

Transformation/merger/division

- The following actions must be taken to transform a civil partnership into a limited liability company:
 - a) convert the articles of association of a civil law partnership into the articles of association of a limited liability company (including a fulfilment of other requirements related to formation of a limited liability company),
 - b) enter the limited liability company in the National Court Register.
- A limited liability company:
 - a) may merge with another commercial company and partnerships,
 - b) may be divided into two or more companies,
 - c) may be converted into any other commercial partnership or corporation (general partnership, limited liability partnership, limited partnership, limited joint-stock partnership, joint-stock company).



GENERAL PARTNERSHIP
Preferred form of business activity
<ul style="list-style-type: none">• Relatively small-scale business activity (microbusinesses, small businesses) conducted by at least two entities.• Model partnership – regulations on general partnerships apply accordingly to limited liability partnerships and limited partnerships and, to a certain extent, to limited joint-stock partnerships.
Business name
<ul style="list-style-type: none">• Should contain the surname or business name of at least one of the partners and an additional designation of the legal form "spółka jawna" (general partnership).• The abbreviated designation "sp. j." may be used in business dealings.
Legal status of the partnership
Commercial partnership.
Legal personality
<p>It has no legal personality but it does have:</p> <ul style="list-style-type: none">• legal capacity – may acquire rights and incur obligations on its own behalf (e.g. under agreements, as a result of acts of unfair competition, unjust enrichment, damage inflicted as a result of business operations),• judicial capacity (may be a party to court proceedings) and procedural capacity (may appear before a court independently to defend its interests).
Relevant register
Entrepreneurs' register of the National Court Register (KRS).
Competent registry court
District court competent for the registered office of the partnership.



Minimum capital requirement
There is no minimum capital requirement.
Founders/Partners
<ul style="list-style-type: none">• At least two founders from among:<ul style="list-style-type: none">a) natural persons,b) legal persons,c) organisational units without legal personality to which the applicable laws have granted legal capacity.• A general partnership may be established by and between different types of entities, e.g. a natural person and a legal person.
Duration of the partnership
<ul style="list-style-type: none">• Definite term (including the time required to perform a specific task) or indefinite term.• It enters into effect upon entry into the National Court Register.
Articles of association of a general partnership
<ul style="list-style-type: none">• Must be prepared in writing or will be invalid otherwise. Furthermore, if a partner's contribution to the partnership is:<ul style="list-style-type: none">a) real property, the articles of association should be concluded in the form of a notarial deed,b) a business (or its organised part), the articles of association should be concluded in writing, with notarised signatures.• The articles of association should specify, as a minimum:<ul style="list-style-type: none">a) the business name and registered office of the partnership,b) the type of contribution made by each partner and its value,c) the corporate purpose of the partnership,d) duration of the partnership, if stated.• Amending the articles of association - also in writing or invalid otherwise, upon approval by all of the partners, unless the articles of association stipulate other terms of amending the articles of association (e.g. by a specified majority of votes).



Actions required to establish a general partnership

- The partners conclude articles of association (in person or through authorised representatives).
- The partnership is submitted to the competent registry court by one of the partners. The application includes forms to be submitted to the tax office, statistical office and the Social Security Office (the last one solely if the partnership intends to have employees).
- The above application should be accompanied by notarised specimen signatures of the persons authorised to represent the partnership.
- The registry court enters the partnership in the National Court Register – as of this moment the partnership is established.

Average time required to register

- The average time required to register a general partnership is approximately 3-4 weeks.
- Until it is entered in the National Court Register, the partnership does not formally exist and cannot conduct business activity.

Partners' contributions

- Partners may contribute:
 - a) property,
 - b) rights, e.g. economic copyrights,
 - c) services.
- A partner's share in the partnership's capital:
 - a) corresponds to the amount of the actual contribution made,
 - b) may be decreased upon approval by the remaining partners.
- The articles of association may state that a partner's share in the capital equals zero (e.g. when the contribution involves providing services). However, the rules for calculating a partner's liquidation share must be specified.
- Partners are neither authorised nor required to increase the agreed contribution.

Partners' share in profits and losses

- Distribution of profits among partners:
 - a) may be set forth in the articles of association,
 - b) in the absence of relevant contractual provisions – each partner has an equal share, regardless of the type and value of their contribution.



- A partner cannot be fully excluded from participating in the partnership's profits.
- Partners have the right to demand distribution and disbursement of all of the profits at the end of each financial year.
- Partners have the right to demand annual disbursement of 5 per cent interest (or any other amount of interest, as specified in the articles of association) on their share in the capital:
 - a) even if the partnership has incurred a loss,
 - b) the articles of association may eliminate this right.
- The partnership's loss, which leads to decreasing the current carrying amount of contributions – profit is first allocated towards supplementing a partner's depleted share.
- The articles of association may exempt a partner from participating in losses.

Right to represent the partnership

- Each partner may represent the partnership individually unless the articles of association set forth different rules for representing the partnership.
- A partner may be deprived of the right to represent the partnership:
 - a) by the articles of association,
 - b) by a court decision (only for valid reasons).
- Commercial proxy (specific commercial authorisation):
 - a) approval by all partners authorised to run the partnership's affairs is required to establish a commercial proxy,
 - b) a decision of one partner authorised to run the partnership's affairs is required to revoke it.

Running the partnership's affairs

- The partnership's affairs cannot be entrusted solely to parties other than the partners.
- The right and obligation of each partner to conduct the partnership's affairs.
- Partners are not compensated for running the partnership's affairs.
- Conduct of the partnership's affairs may be entrusted to one or more partners (to the exclusion of others):
 - a) under the articles of association,
 - b) pursuant to a resolution of the partners.
- A partner authorised to run the partnership's affairs does not require a resolution to perform an urgent action, which, if omitted, could result in serious damage for the partnership.
- Scope of authorisation to run the partnership's affairs:
 - a) day-to-day management – may be conducted by any partner not excluded from



running the partnership's affairs, with the stipulation that the articles of association may state that a resolution of the partners is required,

- b) activities beyond day-to-day management – approval by all partners, including partners prevented from running the partnership's affairs, is required.
- Before an individual partner handles a matter falling within the scope of day-to-day management, any of the remaining partners may oppose its handling – in such cases, a prior resolution of the partners is required.
- If a resolution is required in matters not exceeding the partnership's ordinary activities, a unanimous vote by all partners authorised to run the partnership's affairs is required.
- The right to run the partnership's affairs (and a partner's exemption from that obligation) may be taken away from a partner for valid reasons, under a binding court decision.

Tax

- The partnership:
 - a) does not pay income tax on the income it earns,
 - b) is a VAT taxpayer.
- Income tax applies to individual partners:
 - a) natural persons – personal income tax (PIT),
 - b) legal persons – corporate income tax (CIT).

Liability of the partnership

The partnership bears unlimited liability for its obligations up to the full value of all of its assets.

Liability of the partners

- A partner's liability for the partnership's obligations – description:
 - a) unlimited – with respect to all of the partnership's obligations,
 - b) personal – up to the full value of all of the partner's assets,
 - c) joint and several – a creditor may request that an entire claim be satisfied from one, several or all of the partners.
 - d) subsidiary – a creditor may enforce claims against a partner if enforcement from the partnership's assets proves ineffective. However, a lawsuit may be filed against a partner at an earlier time, i.e. before enforcement from the partnership's assets is found to be ineffective.
- Liability for obligations incurred before entering the partnership in the register:
 - a) is borne by all persons that acted on behalf of the partnership after it was founded



but before it was entered in the register,

- b) is unlimited,
 - c) is personal,
 - d) is joint and several,
 - e) is primary (not subsidiary).
- Any person acceding to a partnership is liable for the obligations of the partnership incurred before the date of accession.
 - Contribution of a business to the partnership by a sole trader partner:
 - a) the remaining partners are liable for the obligations incurred in running that business before the date of establishing the partnership;
 - b) their liability is limited to the value of the contributed business.

A partner's accession to/exit from the partnership

- A new entity may enter into all of the rights and obligations of a current partner provided that:
 - a) such an option is clearly stipulated in the articles of association, and
 - b) it is approved in writing by all the remaining partners (the articles of association may provide different provisions regarding partners' approval).
- Joint and several liability of an existing partner and acceding partner for:
 - a) the obligations of the exiting partner related to participating in the partnership,
 - b) the obligations of the partnership.
- Termination by a partner of the articles of association concluded for an indefinite term – six months before the end of the financial year.
- Accession to the partnership by a new partner is possible solely upon amending the articles of association:
 - a) unless the articles of association provide otherwise - upon approval by all existing partners,
 - b) if the articles of association eliminate the requirement to obtain unanimous approval from all partners - upon approval by the majority of the partners' votes as stated in the articles of association.

Transformation/merger

- The following actions must be taken to transform a civil partnership into a general partnership:
 - a) convert the articles of association of a civil partnership into the articles of association of a general partnership,
 - b) enter the general partnership in the National Court Register.



- A general partnership:
 - a) may be converted into any other commercial partnership or corporation (limited liability partnership, limited partnership, limited joint-stock partnership, limited liability company, joint-stock company),
 - b) may merge with another partnership solely by forming a corporation,
 - c) may merge with corporations (if a corporation acquires the general partnership or if the merging entities form a new corporation),
 - d) is not subject to division.



LIMITED LIABILITY PARTNERSHIP

Preferred form of business activity

- Business activity conducted solely by persons who have the right to practise a freelance profession (e.g. physician, architect, securities broker). Freelance professionals may choose another form of business activity as well.
- May be formed for the purpose of practising more than one freelance profession.

Business name

- Should contain the surname of at least one of the partners and an additional designation "i partner" (and partner) or "i partnerzy" (and partners) or "spółka partnerska" (limited liability partnership) and a specification of the freelance profession practised in the partnership.
- The abbreviated designation "sp. p." may be used in business dealings.
- A business name with designation "i partner" (and partner) or "i partnerzy" (and partners) or "spółka partnerska" (limited liability partnership) and the abbreviation "sp. p." may be used exclusively by a limited liability partnership.

Legal status of the partnership

Commercial partnership.

Legal personality

It has no legal personality, but it does have:

- legal capacity – may acquire rights and incur obligations on its own behalf (e.g. under agreements, as a result of acts of unfair competition, unjust enrichment, damage inflicted as a result of business operations),
- judicial capacity (may be a party to court proceedings) and procedural capacity (may appear before a court independently to defend its interests).

Relevant register

Entrepreneurs' register of the National Court Register (KRS).



Competent registry court
District court competent for the registered office of the partnership.
Minimum capital requirement
There is no minimum capital requirement.
Founders/Partners
<ul style="list-style-type: none">• At least two natural persons who have the right to practise freelance professions specified in the legal provisions.• The partners of a limited liability partnership are called "partnerzy".
Duration of the partnership
<ul style="list-style-type: none">• Definite term (including the time required to perform a specific task) or indefinite term.• It enters into effect upon entry into the National Court Register.
Articles of association of a professional partnership
<ul style="list-style-type: none">• Must be prepared in writing or will be invalid otherwise. Furthermore, if a partner's contribution to the partnership is:<ul style="list-style-type: none">a) real property, the articles of association should be concluded in the form of a notarial deed,b) a business (or its organised part), the articles of association should be concluded in writing, with notarised signatures.• The articles of association should specify, as a minimum:<ul style="list-style-type: none">a) the specification of the freelance profession practised by the partners within the partnership,b) the business name and registered office of the partnership,c) the type of contribution made by each partner and its value,d) the corporate purpose of the partnership,e) duration of the partnership, if stated,f) if the partnership is represented only by some of the partners, full names of those partners,g) full names of the partners who bear unlimited liability for the obligations of the partnership, if the articles of association provide so.• Amending the articles of association - also in writing or invalid otherwise, upon approval by



all of the partners, unless the articles of association stipulate other terms of amending the articles of association (e.g. by a specified majority of votes).

Actions required to establish a limited liability partnership

- The partners conclude articles of association (in person or through authorised representatives).
- The partnership is submitted to the competent registry court by one of the partners. The application includes forms to be submitted to the tax office, statistical office and the Social Security Office (the last one solely if the partnership intends to have employees) as well as documents certifying each partner's authorisation to practise a freelance profession.
- The above application should be accompanied by notarised specimen signatures of the persons authorised to represent the partnership.
- The registry court enters the partnership in the National Court Register - as of this moment the partnership is established.

Average time required to register

- The average time required to register a limited liability partnership is approximately 3-4 weeks.
- Until it is entered in the National Court Register, the partnership does not formally exist and cannot conduct business activity.

Partners' contributions

- Partners may contribute:
 - a) property,
 - b) rights, e.g. economic copyrights,
 - c) services.
- A partner's share in the partnership's capital:
 - a) corresponds to the amount of the actual contribution made,
 - b) may be decreased upon approval by the remaining partners.
- Partners are neither authorised nor required to increase the agreed contribution.

Partners' share in profits and losses

- Distribution of profits among partners:
 - a) may be set forth in the articles of association,
 - b) in the absence of relevant contractual provisions – each partner has an equal share,



regardless of the type and value of their contribution.

- A partner cannot be fully excluded from participating in the partnership's profits.
- Partners have the right to demand distribution and disbursement of all of the profits at the end of each financial year.
- Partners have the right to demand annual disbursement of 5 per cent interest (or any other amount of interest, as specified in the articles of association) on their share in the capital:
 - a) even if the partnership has incurred a loss,
 - b) the articles of association may eliminate this right.
- The partnership's loss, which leads to decreasing the current carrying amount of contributions - profit is first allocated towards supplementing a partner's depleted share.
- The articles of association may exempt a partner from participating in losses.

Right to represent the partnership

- Each partner may represent the partnership individually.
- Restriction of the right of representation pursuant to articles of association – partner may represent the partnership only acting jointly with another partner or commercial proxy.
- A partner may be deprived of the right to represent the partnership only for important reasons:
 - a) pursuant to a resolution adopted by a majority of $\frac{3}{4}$ of votes, in the presence of at least $\frac{2}{3}$ of the total number of partners, while the articles of association may provide for more stringent requirements for adopting the resolution, or
 - b) pursuant to a final and non-appealable court decision.
- Commercial proxy (specific commercial authorisation):
 - a) approval by all partners authorised to run the partnership's affairs is required to establish a commercial proxy,
 - b) a decision of one partner authorised to run the partnership's affairs is required to revoke it.
- Articles of association may provide that the conduct of the affairs and representation of the partnership shall be exclusively entrusted to the management board:
 - a) to which provisions on the management board in the limited liability company shall accordingly apply,
 - b) which is composed of one or more members.
- Members of the management board:
 - a) persons appointed from among the partners or from other persons,
 - b) appointed and removed by a unanimous resolution of partners or in a different manner provided for in the articles of association.
- Mandate of a member of management board expires upon the lapse of period the member was appointed for, upon death, resignation or removal from the management board.



- If the articles of association provide for a common term of office of members of the management board – the mandate of a member of the management board appointed prior to the lapse of a given term of office of the management board expires at the same time as mandates of the remaining members of the management board unless the articles of association provide otherwise.
- In case of limited liability partnerships that prepare financial statements and the articles of association do not provide otherwise:
 - a) a mandate of a member of the management board expires on the date of approval of the financial statement for the first full financial year in which the person served on the management board,
 - b) in the event of appointment of a member of the management board for a term of office longer than one year, the mandate of such member expires on the date of approval of the financial statement for the last full financial year in which the person served on the management board.
- The power of a member of the management board to conduct the affairs of the company and represent the company:
 - a) embraces all actions of the company, whether in court or out of court,
 - b) may not be restricted with a legal effect with respect to third parties.
- Where the management board is composed of more than one member:
 - a) manner of a representation of the limited liability partnership is set forth in the articles of association,
 - b) where the articles of association do not incorporate any provisions to that effect, two members of the management board acting jointly or one member of the management board acting together with a commercial proxy shall be authorized to make statements on behalf of the partnership.
- Members of the management board are bound by the statutory prohibition of conduct of a business competitive to business activity of the partnership, in particular (without consent of the partnership's partners) they are not allowed to be partners in other competitive partnerships.

Running the partnership's affairs

- The partnership's affairs cannot be entrusted solely to parties other than the partners, except when the management board is appointed (management board is described in the column above).
- The right and obligation of each partner to conduct the partnership's affairs.
- Partners are not compensated for running the partnership's affairs.
- Conduct of the partnership's affairs may be entrusted to one or more partners (to the exclusion of others):
 - a) under the articles of association,
 - b) pursuant to a resolution of the partners.
- A partner authorised to run the partnership's affairs does not require a resolution to perform



- an urgent action, which, if omitted, could result in serious damage for the partnership.
- Scope of authorisation to run the partnership's affairs:
 - a) day-to-day management – may be conducted by any partner not excluded from running the partnership's affairs, with the stipulation that the articles of association may state that a resolution of the partners is required,
 - b) activities beyond day-to-day management – approval by all partners, including partners prevented from running the partnership's affairs, is required.
 - Before an individual partner handles a matter falling within the scope of day-to-day management, any of the remaining partners may oppose its handling – in such cases, a prior resolution of the partners is required.
 - If a resolution is required in matters not exceeding the partnership's ordinary activities, a unanimous vote by all partners authorised to run the partnership's affairs is required.
 - The right to run the partnership's affairs (and a partner's exemption from that obligation) may be taken away from a partner for valid reasons, under a binding court decision.

Tax

- The partnership:
 - a) does not pay income tax on the income it earns,
 - b) is a VAT taxpayer.
- Personal income tax (PIT) applies to individual partners.

Liability of the partnership

The partnership bears unlimited liability for its obligations up to the full value of all of its assets.

Liability of the partners

- A partner's liability for the partnership's obligations – description:
 - a) personal – up to the full value of all of the partner's assets, limited to the partnership's obligations directly related to practising of a freelance profession by such partner, unless that partner agreed in the articles of association on his/her wider liability,
 - b) joint and several – a creditor may request that an entire claim be satisfied from one, several or all of the partners,
 - c) subsidiary – a creditor may enforce claims against a partner if enforcement from the partnership's assets proves ineffective. However, a lawsuit may be filed against a partner at an earlier time, i.e. before enforcement from the partnership's assets is found to be ineffective.
- Lack of a partner's liability:



- a) for a partnership's obligations arising in connection with the practising of a freelance profession within the partnership by the remaining partners or
- b) for obligations of the partnership resulting from actions or omissions of persons employed by the partnership under an employment contract or on the basis of a different legal relationship, if those persons reported to another partner when performing services related to the objects of the partnership.
- The articles of association may provide the liability of a specified partner for without exemption all of the partnership's obligations, including those related to activity of other partners within their profession.
- Liability for obligations incurred before entering the partnership in the register:
 - a) is borne by all persons that acted on behalf of the partnership after it was founded but before it was entered in the register,
 - b) is unlimited,
 - c) is personal,
 - d) is joint and several,
 - e) is primary (not subsidiary).
- Any person acceding to a partnership is liable for the obligations of the partnership incurred before the date of accession.

Liability of the members of the management board

- Liability towards the partnership in case of fault for damage caused by an act or omission contrary to law or provisions of the articles of association.
- If the execution against the company carried out by creditors proves ineffective, members of the management board shall be jointly and severally liable for the company's liabilities.

A partner's accession to/exit from the partnership

- A new person may enter into all of the rights and obligations of a current partner provided that:
 - a) such an option is clearly stipulated in the articles of association, and
 - b) it is approved in writing by all the remaining partners (the articles of association may provide different provisions regarding partners' approval),
 - c) the new person has the right to practise a freelance profession.
- Joint and several liability of an exiting partner and acceding partner for:
 - a) the obligations of the exiting partner related to participating in the partnership,
 - b) the obligations of the partnership.
- Termination by a partner of the articles of association concluded for an indefinite term – six months before the end of the financial year.
- Accession to the partnership by a new partner is possible solely upon amending the articles



of association:

- a) unless the articles of association provide otherwise - upon approval by all existing partners,
 - b) if the articles of association eliminate the requirement to obtain unanimous approval from all partners - upon approval by the majority of the partners' votes as stated in the articles of association.
- Where a partner loses the authorization to practise a freelance profession – obligation to leave the partnership no later than at the end of the financial year in which such partner lost such authorization.

Transformation/merger

- The following actions must be taken to transform a civil partnership into a limited liability partnership:
 - a) convert the articles of association of a civil partnership into the articles of association of a limited liability partnership (including fulfilment of other requirements related to formation of limited liability partnership),
 - b) enter the limited liability partnership in the National Court Register.
- A limited liability partnership:
 - a) may be converted into any other commercial partnership or corporation (general partnership, limited partnership, limited joint-stock partnership, limited liability company, joint-stock company),
 - b) may merge with another partnership solely by forming a corporation,
 - c) may merge with corporations,
 - d) is not subject to division.



**FURTEK KOMOSA
ALEKSANDROWICZ**

ul. Krolewska 16, 00-103 Warsaw, Poland
T: +48 22 581 44 00 **F:** +48 22 581 44 10
E: kontakt@fka.pl **W:** www.fka.pl
KRS: 0000278271 **NIP:** 525-22-25-600 **REGON:** 017438631

LIMITED PARTNERSHIP
Preferred form of business activity
Business activity of any scale.
Business name
<ul style="list-style-type: none">• Should contain the surname of at least one of the general partners and an additional designation "spółka komandytowa" (limited partnership).• The abbreviated designation "sp. k." may be used in business dealings.• Where the general partner is a legal person, the business name of the limited partnership should contain the full business name of this legal person and an additional designation "spółka komandytowa" (limited partnership). This shall not preclude the inclusion of the surname of the general partner who is a natural person.
Legal status of the partnership
Commercial partnership.
Legal personality
It has no legal personality but it does have: <ul style="list-style-type: none">• legal capacity – may acquire rights and incur obligations on its own behalf (e.g. under agreements, as a result of acts of unfair competition, unjust enrichment, damage inflicted as a result of business operations),• judicial capacity (may be a party to court proceedings) and procedural capacity (may appear before a court independently to defend its interests).
Relevant register
Entrepreneurs' register of the National Court Register (KRS).
Competent registry court
District court competent for the registered office of the partnership.



Minimum capital requirement

There is no minimum capital requirement.

Founders/Partners

- At least two founders from among:
 - a) natural persons,
 - b) legal persons,
 - c) organisational units without legal personality to which the applicable laws have granted legal capacity.
- A limited partnership may be established by and between different types of entities, e.g. a natural person and a legal person.
- There are two types of partners:
 - a) general partners bearing unlimited liability (at least one),
 - b) limited partners (at least one) liable to the amount specified in the articles of association (i.e. limited liability amount).

Duration of the partnership

- Definite term (including the time required to perform a specific task) or indefinite term.
- It enters into effect upon entry into the National Court Register.

Articles of association of a limited partnership

- Must be prepared in a form of a notarial deed or will be invalid otherwise.
- The articles of association should specify, as a minimum:
 - a) the business name and registered office of the partnership,
 - b) the type of contribution made by each partner and its value,
 - c) the corporate purpose of the partnership,
 - d) duration of the partnership, if stated,
 - e) scope of the liability of each limited partner expressed in quota (limited liability amount)
- Amending the articles of association – also in a form of a notarial deed or invalid otherwise, upon approval by all of the partners, unless the articles of association stipulate other terms of amending the articles of association (e.g. by a specified majority of votes).



Actions required to establish a limited partnership

- The partners conclude articles of association (in person or through authorised representatives).
- The partnership is submitted to the competent registry court by one of the partners. The application includes forms to be submitted to the tax office, statistical office and the Social Security Office (the last one solely if the partnership intends to have employees).
- The above application should be accompanied by notarised specimen signatures of the persons authorised to represent the partnership.
- The registry court enters the partnership in the National Court Register – as of this moment the partnership is established.

Average time required to register

- The average time required to register a limited partnership is approximately 3-4 weeks.
- Until it is entered in the National Court Register, the partnership does not formally exist and cannot conduct business activity.

Partners' contributions

- Partners may contribute:
 - a) property,
 - b) rights, e.g. economic copyrights,
 - c) services.
- The obligation of the limited partner to perform work or services for the partnership and payment for services performed upon incorporation of the partnership cannot constitute the limited partner's contribution to the partnership unless the value of his other contributions to the partnership is at least equal to the limited liability amount.
- Where the general partner is a company, and the limited partner is a shareholder thereof, the object of the limited partner's contribution cannot comprise his shares in that company.
- Where the limited partner's contribution to the partnership is, in whole or in part, an in-kind performance or duty, the articles of association shall specify the object of such duty or performance (in-kind contribution), its value and the partner who made the in-kind contribution.
- Limited partner cannot be released from the obligation of contribution, but unless the articles of association provide otherwise, the value of contribution of a limited partner may be lower than the limited liability amount.
- A partner's share in the partnership's capital:
 - a) corresponds to the amount of the actual contribution made,
 - b) may be decreased upon approval by the remaining partners.



- Partners are neither authorised nor required to increase the agreed contribution.

Partners' share in profits and losses

- Distribution of profits among partners:
 - a) may be set forth in the articles of association,
 - b) in the absence of relevant contractual provisions – each general partner has an equal share, regardless of the type and value of their contribution, and each limited partner has a share proportional to contribution actually made to the partnership by limited partner.
- A partner cannot be fully excluded from participating in the partnership's profits.
- Profit for a given financial year falling to a limited partner shall be allocated, in the first place, for supplementing his contribution actually made up to the value of the agreed contribution.
- In case of doubt, a limited partner shall participate in loss only up to the value of the agreed contribution.
- Partners have the right to demand distribution and disbursement of all of the profits at the end of each financial year.
- Partners have the right to demand annual disbursement of 5 per cent interest (or any other amount of interest, as specified in the articles of association) on their share in the capital:
 - a) even if the partnership has incurred a loss,
 - b) the articles of association may eliminate this right.
- The partnership's loss, which leads to decreasing the current carrying amount of contributions – profit is first allocated towards supplementing a partner's depleted share.
- The articles of association may exempt a partner from participating in losses.

Right to represent the partnership

- Representation of partnership by partners:
 - a) each general partner is entitled to represent the partnership individually,
 - b) a limited partner may represent the partnership only in the capacity of a proxy (including as a commercial proxy).
- A partner may be deprived of the right to represent the partnership:
 - a) by the articles of association,
 - b) by a court decision (only for valid reasons).
- Limitation of the right of representation under the articles of association – general partner may be entitled only to joint representation with other general partner or proxy (including commercial proxy).
- Commercial proxy (specific commercial authorisation):
 - a) approval by all general partners authorised to run the partnership's affairs is required to



establish a commercial proxy,

- b) a decision of one general partner authorised to run the partnership's affairs is required to revoke it.

Running the partnership's affairs

- The partnership's affairs cannot be entrusted solely to parties other than the partners.
- The right and obligation to conduct the partnership's affairs:
 - a) each general partner,
 - b) limited partners have neither right nor obligation to conduct the partnership's affairs, unless the articles of association provide otherwise.
- Partners are not compensated for running the partnership's affairs.
- Conduct of the partnership's affairs may be entrusted to one or more partners (to the exclusion of others):
 - a) under the articles of association,
 - b) pursuant to a resolution of the partners.
- A general partner authorised to run the partnership's affairs does not require a resolution to perform an urgent action, which, if omitted, could result in serious damage for the partnership.
- Scope of authorization to run the partnership's affairs:
 - a) day-to-day management – may be conducted by any general partner not excluded from running the partnership's affairs, with the stipulation that the articles of association may state that a resolution of the general partners is required,
 - b) activities beyond day-to-day management – approval by all general partners and – unless the articles of association provide otherwise – also limited partners, is required.
- Before an individual general partner handles a matter falling within the scope of day-to-day management, any of the remaining general partners may oppose its handling – in such cases, a prior resolution of the general partners is required.
- If a resolution of general partners is required in matters not exceeding the partnership's ordinary activities, a unanimous vote by all general partners authorised to run the partnership's affairs is required.
- The right to run the partnership's affairs may be taken away from a general partner for valid reasons, under a binding court decision.
- In the event of transfer of all rights and duties of a limited partner, the right to conduct the partnership's affairs shall not be transferred to the acquirer.

Tax

- The partnership:
 - a) does not pay income tax on the income it earns,



<ul style="list-style-type: none">b) is a VAT taxpayer.• Income tax applies to individual partners:<ul style="list-style-type: none">a) natural persons – personal income tax (PIT),b) legal persons – corporate income tax (CIT).
Liability of the partnership
<p>The partnership bears unlimited liability for its obligations up to the full value of all of its assets.</p>
Liability of the partners
<ul style="list-style-type: none">• A partner's liability for the partnership's obligations - description:<ul style="list-style-type: none">a) unlimited – with respect to all of the partnership's obligations,b) personal – up to the full value of all of the partner's assets, with an exception that limited partner is liable to the limited liability amount (please see bullet below),c) joint and several – a creditor may request that an entire claim be satisfied from one, several or all of the partners,d) subsidiary – a creditor may enforce claims against a partner if enforcement from the partnership's assets proves ineffective. However, a lawsuit may be filed against a partner at an earlier time, i.e. before enforcement from the partnership's assets is found to be ineffective.• The scope of the partner's liability:<ul style="list-style-type: none">a) in case of a general partner – with all his assets,b) in case of a limited partner – up to the amount of limited liability amount, whereas he is free from the liability within the contribution made to the partnership.• Where the limited partner's surname or business name is incorporated into the business name of the partnership, the limited partner shall bear the same liability towards third parties as the general partner.• Liability for obligations incurred before entering the partnership in the register:<ul style="list-style-type: none">a) is borne by all persons that acted on behalf of the partnership after it was founded but before it was entered in the register,b) is unlimited,c) is personal,d) is joint and several,e) is primary (not subsidiary).• Any limited partner acceding to a partnership is liable for the obligations of the partnership incurred before the date of accession and after the date of partnership's registration.• In the event of execution of a deed of a limited partnership with an entrepreneur conducting



a business enterprise in his own business name and on his own account, the limited partner shall also be liable for the obligations arising in the conduct of the business enterprise and existing at the time of entry of the partnership in the register.

A partner's accession to/exit from the partnership

- A new entity may enter into all of the rights and obligations of a current partner provided that:
 - a) such an option is clearly stipulated in the articles of association, and
 - b) it is approved in writing by all the remaining partners (the articles of association may provide different provisions regarding partners' approval).
- Joint and several liability of an exiting partner and acceding partner for:
 - a) the obligations of the exiting partner related to participating in the partnership,
 - b) the obligations of the partnership.
- Termination by a partner of the articles of association concluded for an indefinite term – six months before the end of the financial year.
- Accession to the partnership by a new partner is possible solely upon amending the articles of association:
 - a) unless the articles of association provide otherwise – upon approval by all existing partners,
 - b) if the articles of association eliminate the requirement to obtain unanimous approval from all partners – upon approval by the majority of the partners' votes as stated in the articles of association.

Transformation/merger

- The following actions must be taken to transform a civil partnership into a limited partnership:
 - a) convert the articles of association of a civil partnership into the articles of association of a limited partnership (together with fulfilment of another requirements relating to formation of a limited partnership),
 - b) enter the limited partnership in the National Court Register.
- A limited partnership:
 - a) may be converted into any other commercial partnership or corporation (general partnership, limited liability partnership, limited joint-stock partnership, limited liability company, joint-stock company),
 - b) may merge with another partnership solely by forming a corporation,
 - c) may merge with corporations,
 - d) is not subject to division.



LIMITED JOINT-STOCK PARTNERSHIP

Preferred form of business activity

- The business endeavors where the personal commitment of an active partner (general partner), for example who has know-how, is combined with the provider of capital (shareholder), who is a passive partner and decides to involve his surplus capital, hoping for a higher return comparing to other equity investments.
- For shareholders (general partners) who want to protect the partnership against a hostile takeover.
- For the entities that are willing to minimize the fiscal burdens and, simultaneously, to exclude personal liability of the shareholders for the partnership's obligations. Minimizing the tax burden consists of:
 - a) the lack of double taxation, because the income of the limited joint-stock partnership, as a partnership, is not subject to separate taxation, but taxation occurs solely at the level of the shareholders; the amendment to the Act on Corporate Income Tax is proposed, which, as of 1 January 2014 would also subject to taxation the limited joint-stock partnership (the project is at the stage of inter-ministerial consultations),
 - b) the possibility to defer taxation of the profits of the shareholder who is not a general partner until the payment of dividend,
 - c) the allocation of the profit to investments (left in the partnership), which is not subject to taxation.

Business name

- Can be chosen freely, however should contain the surname or business name of at least one of the general partners and an additional designation of the legal form "spółka komandytowo-akcyjna" (limited joint-stock partnership).
- The abbreviated designation "S.K.A." may be used in business dealings.

Legal status of the partnership

Commercial partnership.



Legal personality

It has no legal personality but it does have:

- legal capacity – may acquire rights and incur obligations on its own behalf (e.g. under agreements, as a result of acts of unfair competition, unjust enrichment, damage inflicted as a result of business operations),
- judicial capacity (may be a party to court proceedings) and procedural capacity (may appear before a court independently to defend its interests).

Relevant register

Entrepreneurs' register of the National Court Register (KRS).

Competent registry court

District court competent for the registered office of the partnership.

Founders/Partners

- General partner – one or more entities from among:
 - a) natural persons,
 - b) legal persons,
 - c) organizational units without legal personality to which the applicable laws have granted legal capacity.
- Shareholder – one or more entities from among:
 - a) natural persons,
 - b) legal persons,
 - c) organizational units without legal personality to which the applicable laws have granted legal capacity.



Duration of the partnership

- Definite term (including the time required to perform a specific task) or indefinite term.
- It enters into effect upon entry into the National Court Register.

Statute of the partnership

- Must be prepared in a form of a notarial deed or will be invalid otherwise.
- The statute should specify, as a minimum:
 - a) the business name and registered office of the partnership,
 - b) the corporate purpose of the partnership,
 - c) the type of contribution made by each of the general partners and its value,
 - d) duration of the partnership, if stated,
 - e) the share capital amount, the manner in which it is collected, the nominal value of the shares and the number of shares with indication whether the shares are registered or bearer shares,
 - f) the number of shares of a given class and the rights attached thereto, if shares of different classes are to be issued,
 - g) the surnames and first names (business names) of the general partners and their registered offices, addresses or addresses for correspondence,
 - h) the organization of the general meeting of shareholders and of the supervisory board, if the law or the statute provide for a supervisory board.
- Amending the provisions of the statute requires the consent of all general partners and the resolution of the general meeting of shareholders taken by a $\frac{3}{4}$ majority. All these activities should be made in a form of a notarial deed.

Actions required to establish a partnership

- Adopting the statute of the partnership in a form of notarial deed.
- Subscription of all shares by the shareholders.



- Making contributions by the shareholders:
 - a) shares acquired for cash – the obligation to pay at least ¼ of their nominal value,
 - b) shares acquired for in-kind contributions or for in-kind contributions and cash – the requirement to cover the share capital at least at PLN 12,500; the obligation to cover the shares acquired for in-kind contributions in full within one year from the registration of the partnership,
 - c) the share premium (the difference between the issue price and the nominal value of the shares) must be fully paid before registration of the partnership.
- The appointment of a supervisory board – obligatory only if the total number of shareholders exceeds 25.
- The entry of the partnership in the register of entrepreneurs of the National Court Register (KRS).

Average time required to register

- The average time required to register a limited joint-stock partnership is approximately 6 weeks.
- Until it is entered in the National Court Register, the partnership does not formally exist and cannot conduct business activity.

Partners' contributions

- The general partner's contribution to the limited joint-stock partnership may be allocated to the share capital or other funds.
- The making of the contribution to the share capital by the general partner does not exclude his unlimited liability for the obligations of the partnership.
- If in-kind contributions are envisaged, the founders shall draw up a written report which shall detail in particular:
 - a) the in-kind contributions and the number and class of shares and other entitlements to participate in the profits or in distribution of the partnership's assets for such in-kind contributions,
 - b) the persons who make the in-kind contributions,
 - c) the employed method of valuation of the in-kind contributions.



Partners' share in profits and losses

- A general partner and a shareholder participate in the profits of the partnership in proportion to their contributions made to the partnership, i.e. proportionally to the value of their contributions, regardless of the type of capital or fund they have been allocated to.
- If the general partner's contribution consists of his work in the form of representation of the partnership and conducting its business, for which he receives remuneration, he is not entitled to participate in the profits of the partnership in proportion to the value of this work.
- The statute may provide for a different method of profit distribution.

Share capital

- The minimum share capital is PLN 50,000.
- The nominal value of a share may not be lower than PLN 0.01.
- The share capital is divided into shares of equal nominal value.
- Mandatory verification by the auditor of the value of in-kind contributions made by shareholders and general partners to the share capital. The obligation is excluded in respect of contributions, the value of which has already been reliably established (e.g. in the financial statement).

Increase of the share capital

- May occur by virtue of a resolution of the general meeting of shareholders through new shareholders contributions or the partnership's funds (spare or reserve capital created out of the partnership's profits).
- The resolution of the general meeting of shareholders on the share capital increase requires the consent of all general partners under the pain of nullity.
- The shareholders may be deprived of pre-emptive rights in full or in part – a resolution of the general meeting of shareholders adopted by a majority vote of 4/5 is necessary.



Shares

- The registered shares or bearer shares.
- The issuance of share certificates to shareholders:
 - a) the bearer share certificates may not be issued before full payment is made; as a proof of partial payment, registered temporary certificates shall be issued;
 - b) the registered share certificates may be issued before full payment – an exception: the shares subscribed for in-kind contributions shall remain in the partnership until the date of approval by the earliest ordinary general meeting of shareholders of the financial statement for the financial year in which such shares have been paid for.
- Share register:
 - a) is kept obligatorily by the general partners entitled to run the partnership's affairs,
 - b) contains the entries of registered shares and temporary certificates,
 - c) may be kept in paper or in electronic form.
- The shares are indivisible. They may be issued in collective share certificates.
- The transfer of shares:
 - a) the transfer of a registered share or a temporary certificate requires: (i) a written declaration either in the share certificate or in the temporary certificate, or in a separate instrument, and (ii) the transfer of possession of the share or the temporary certificate,
 - b) the transfer of a bearer share requires the transfer of possession of the bearer share certificate.

Selected rights and obligations of the shareholders

- The possibility of establishing preference shares with regard to:
 - a) the right of vote – a maximum of 2 votes per share,
 - b) the right to dividend – up to 150% of the dividend designated to non-preference shares,
 - c) the distribution of the partnership's assets in case of its liquidation.
- The statute may limit the voting rights of shareholders possessing more than 1/10 of the total number of votes. The limitation may only apply to the exercise of the voting rights attached to shares above the limit of votes provided for in the statute.



Right to represent the partnership

- The general partners represent the partnership as statutory representatives, unless they were deprived of the right to represent under the statute or a final and non-appealable court judgment.
- The shareholders may represent the partnership only as proxies.

Running the partnership's affairs

- Running the partnership's affairs rests with general partners, with the exception of matters falling within the competence of the general meeting for shareholders or the supervisory board, pursuant to the provisions of the Commercial Companies Code or the statute.
- The shareholders do not have the right to run the partnership's affairs.

Supervision

- No individual supervision right of a shareholder over the partnership.
- The supervisory board:
 - a) the creation of a supervisory board is obligatory, if there are more than 25 shareholders,
 - b) shall comprise at least 3 members; in the case of public partnerships – at least 5 members,
 - c) is not entitled to issue binding instructions to the general partners concerning running the partnership's affairs,
 - d) upon demand of the shareholders, representing at least 1/5 of the share capital, the election of the supervisory board shall be made by the next general meeting of shareholders by way of separate groups' voting, even if the statute provides for a different procedure for appointing the supervisory board,
 - e) the term of office – a maximum of 5 years.

General meeting of shareholders

- The minutes of the general meeting of shareholders shall be drawn up in a form of a notarial deed.



- The venue of the meetings:
 - a) location where the partnership has its registered office,
 - b) other place within the territory of Poland – only if permitted by the statute.
- Participation in the general meeting of shareholders:
 - a) possibility to participate by means of electronic communication, if the statute provides so,
 - b) possibility to vote by correspondence, if the general meeting's bylaws provide so.

Tax

- The partnership:
 - a) does not pay income tax on the income it earns,
 - b) is a VAT taxpayer.
- Income tax applies to individual partners/shareholders:
 - a) natural persons - personal income tax (PIT),
 - b) legal persons - corporate income tax (CIT).

Liability of the partnership

The partnership bears unlimited liability for its obligations up to the full value of all of its assets.

Liability of the partners

- The general partners bear unlimited liability for partnership's obligations up to the full value of all of their assets, jointly and severally with the partnership.
- The shareholders are not liable for the obligations of the partnership. The shareholders' risk arising from the participation in the partnership is limited to the capital invested in the subscription or purchase of shares.

Exclusion from the partnership

The squeeze-out of shares of shareholders representing no more than 5% of the share



capital by not more than 5 shareholders holding jointly not less than 95% of the share capital.

Transformation/merger

- The following actions must be taken to transform a civil partnership into a limited joint-stock partnership:
 - a) convert the articles of association of a civil partnership into the statute of a limited joint-stock partnership (including a fulfilment of other requirements related to formation of a joint-stock company),
 - b) enter the limited joint-stock partnership in the National Court Register.
- A limited joint-stock partnership:
 - a) may be converted into any other commercial partnership or corporation (general partnership, limited liability partnership, limited partnership, limited liability company, joint-stock company),
 - b) may merge with another partnership solely by forming a corporation,
 - c) may merge with corporations (if a corporation acquires the limited joint-stock partnership or if the merging entities form a new corporation),
 - d) may merge with the European company,
 - e) is not subject to division.



INDIVIDUAL BUSINESS ACTIVITY
Preferred form of business activity
Small-scale business activity (individually).
Business name
<ul style="list-style-type: none">• Business name of a natural person should contain his/her name and surname (obligatory).• May also contain other components freely chosen.
Legal personality
Natural person conducting a business activity has: <ul style="list-style-type: none">• legal capacity,• capacity to undertake legal actions,• judicial capacity (capacity to be a party in court proceedings and capacity to conduct court proceedings).
Relevant register
Central Business Activity Record and Information (CEIDG).
Minimum capital requirement
There is no minimum capital requirement.
Founders/Partners
Natural person.
Duration
Unlimited.



Actions required to commence business activity
<ul style="list-style-type: none">• Filing an application to the Central Business Activity Record and Information (CEIDG).• Entrepreneur may commence business activity after filing an application for registration.
Average time required to register
1 day
Representation
Entrepreneur conducting individual business activity acts on his own behalf. However, he may appoint a proxy to conduct his affairs. Granting of a power of attorney shall be disclosed in the Central Business Activity Record and Information (CEIDG).
Tax
Income of a person conducting individual business activity is subject to personal income tax (PIT).
Liability
Full liability with all personal assets.



JOINT-STOCK COMPANY
Preferred form of business activity
<ul style="list-style-type: none">• Joint ventures with many shareholders.• Where supervision over the company's business is to be carried out only by the supervisory board.• Large scale of business.• Companies contemplating an IPO.• Obligatory form for banks, insurance companies, general pension societies.
Business name
<ul style="list-style-type: none">• Can be chosen freely, however should contain an additional designation "spółka akcyjna".• The abbreviated designation "S.A." may be used in business dealings.
Legal status of the company
Commercial company.
Legal personality
It has legal personality.
Relevant register
Entrepreneurs' register of the National Court Register (KRS).
Competent registry court
District court competent for the registered office of the company.
Founders
<ul style="list-style-type: none">• One or more entities from among:<ul style="list-style-type: none">a) natural persons,b) legal persons,c) organizational units without legal personality to which the applicable laws have



granted legal capacity.

- A joint-stock company may not be formed solely by a single-shareholder limited liability company. However, a single-shareholder limited liability company may become a sole shareholder of a joint-stock company by acquisition of all of the shares therein.

Duration of the company

- Definite term (including the time required to perform a specific task) or indefinite term.
- It becomes a separate legal entity from the moment of conclusion of the statute of the joint-stock company – so called joint-stock company in organization. It gains legal personality upon entry into the National Court Register.

Statute of the company

- Must be prepared in a form of a notarial deed or will be invalid otherwise. .
- The statute should specify, as a minimum:
 - a) the business name and registered office of the company,
 - b) the corporate purpose of the company,
 - c) duration of the company, if definite,
 - d) the amount of the share capital and the amount of the capital paid up prior to the registration,
 - e) the nominal value and number of shares with indication whether the shares are registered shares or bearer shares,
 - f) the number of shares of a given class and the rights attached thereto, if shares of different classes are to be issued,
 - g) full names or business names of the founders,
 - h) the number of members of the management board and the supervisory board or, alternatively, at least the minimum or maximum number of members thereof and the entity authorised to appoint members of these authorities,
 - i) the journal for the company's announcements, if the company intends to publish its announcements in other journals apart from the Court and Economic Journal (Monitor Sądowy i Gospodarczy).
- Moreover, in order to be legally effective with respect to the company, the statute shall also contain provisions on:
 - a) number and types of entitlements to participate in the company's profit or distribution of the company's assets and of rights related thereto,
 - b) any and all obligations towards the company resulting from shares held, except for the obligation to pay for shares,
 - c) conditions and manner of share redemption,
 - d) any restrictions on share transferability,
 - e) personal rights conferred upon shareholders,



- f) at least the estimated total costs incurred or charged to the company in connection with its establishment.
- Amending the provisions of the statute requires the resolution of the general meeting of shareholders taken by a $\frac{3}{4}$ majority, provided that a resolution which would result in a broader scope of shareholders' duties or a restriction of rights attached to shares or rights conferred upon particular shareholders shall require the consent of all shareholders concerned.

Actions required to establish a company

- Adopting the statute of the company in a form of a notarial deed.
- Subscription of all shares in the company by the shareholders.
- Making contributions by the shareholders: :
 - a) shares acquired for cash – the obligation to pay at least $\frac{1}{4}$ of their nominal value,
 - b) shares acquired for in-kind contributions or for in-kind contributions and cash – the requirement to cover the share capital at least at PLN 25,000; the obligation to cover the shares acquired for in-kind contributions in full within one year from the registration of the company,
 - c) the share premium (the difference between the issue price and the nominal value of the shares) must be fully paid before registration of the company.
- The appointment of a management board.
- The appointment of a supervisory board.
- The entry of the company in the register of entrepreneurs of the National Court Register (KRS).

Company in organization (prior to registration in KRS)

Until the appointment of the management board, the company is represented by all founders acting jointly or a proxy appointed by a unanimous resolution of the founders.

Average time required to register

The average time required to register a joint-stock company is approximately 6 weeks.

Shareholders' contributions

- A non-transferable right or performance of work or services cannot be the object of a contribution.
- In the event that a shareholder made a defective in-kind contribution, he shall compensate the company for the difference between the value assumed in the statute of the company and the sales value of the contribution. The statute of the company may provide that, in such circumstances, the company shall also have other rights.
- If in-kind contributions are envisaged, the founders shall draw up a written report which



shall detail in particular:

- a) the object of in-kind contributions, as well as the number and classes of shares and other entitlements to participate in the company's profit or in the distribution of the company's assets in exchange for such in-kind contributions,
- b) the persons making in-kind contributions,
- c) the employed method of valuation of the in-kind contributions.

Such report, as a rule, should be audited by a statutory auditor.

Shareholders' share in profits and losses

- Shareholders shall have the right to participate in profit shown in the annual financial statement, which was audited by a statutory auditor, and intended for distribution according to a resolution of the general meeting of shareholders.
- Profit shall be distributed in proportion to the number of shares. Where shares are not fully paid up, profit shall be distributed in proportion to the payments made for shares.
- The statute may provide for a different method of profit distribution.
- Shareholders do not participate directly in covering of the losses of the company. However, profit to be paid to shareholders in a given year shall be diminished by uncovered losses.

Share capital

- The minimum share capital is PLN 100,000.
- The nominal value of a share may not be lower than PLN 0.01.
- The share capital is divided into shares of equal nominal value.
- Mandatory verification by the auditor of the value of in-kind contributions made to the company. The obligation is excluded in respect of contributions, the value of which has already been reliably established (e.g. in the financial statement).

Increase of the share capital

- Modes of increasing the share capital:
 - a) on the basis of shareholders' resolution through new contributions or from the company's funds (spare or reserve capital created from the profit of the company),
 - b) on the basis of the management board's resolution (within the so called authorized share capital); the management board has to be explicitly authorized to do so by the resolution of the general meeting of shareholders adopted by a majority of $\frac{3}{4}$ of votes.
- The shareholders may be deprived of pre-emptive rights in full or in part - a resolution of the general meeting of shareholders adopted by a majority vote of $\frac{4}{5}$ is necessary (also in case of increasing the share capital under the management board's resolution within the authorised capital – however the statute may authorize the management board to deprive the shareholders of the pre-emptive rights in full or in part with a consent of the



supervisory board, without the resolution of the general meeting of shareholders).

Shares

- The registered shares or bearer shares.
- The issuance of share certificates to shareholders:
 - a) the bearer share certificates may not be issued before full payment is made; as a proof of partial payment, registered temporary certificates shall be issued;
 - b) the registered share certificates may be issued before full payment – an exception: the shares subscribed for in-kind contributions shall remain in the partnership until the date of approval by the earliest ordinary general meeting of shareholders of the financial statement for the financial year in which such shares have been paid for.
- Share register:
 - a) is kept obligatorily by the management board,
 - b) contains the entries of registered shares and temporary certificates,
 - c) may be kept in paper or in electronic form.
- The shares are indivisible. They may be issued in collective share certificates.
- The transfer of shares:
 - a) the transfer of a registered share or a temporary certificate requires: (i) a written declaration either in the share certificate or in the temporary certificate, or in a separate instrument, and (ii) the transfer of possession of the share or the temporary certificate,
 - b) the transfer of a bearer share requires the transfer of possession of the bearer share certificate.

Selected rights and obligations of shareholders

- The possibility of establishing preference shares with regard to:
 - a) the right of vote – a maximum of 2 votes per share,
 - b) the right to dividend – up to 150% of the dividend designated to non-preference shares; this restriction does not apply to shares without the right of vote (so called non-voting shares),
 - c) the distribution of the company's assets in case of its liquidation.
- The statute may limit the voting rights of shareholders possessing more than 1/10 of the total number of votes. The limitation may only apply to the exercise of the voting rights attached to shares above the limit of votes provided for in the statute.

Management board

- Consists of one or more members (only natural persons with full capacity for legal actions).



<ul style="list-style-type: none">• Term of office – a maximum of 5 years.• Non-competition obligation – by law.
Supervision
<ul style="list-style-type: none">• No individual supervision right of a shareholder over the company.• The supervisory board:<ul style="list-style-type: none">a) obligatory establishment of the supervisory board,b) shall comprise at least 3 members; in the case of public companies – at least 5 members,c) is not entitled to issue binding instructions to the management board concerning running the company's affairs,d) upon demand of the shareholders, representing at least 1/5 of the share capital, the election of the supervisory board shall be made by the next general meeting of shareholders by way of separate groups' voting, even if the statute provides for a different procedure for appointing the supervisory board,e) the term of office – a maximum of 5 years.
General meeting of shareholders
<ul style="list-style-type: none">• The minutes of the general meeting of shareholders shall be drawn up in a form of a notarial deed.• The venue of the meetings:<ul style="list-style-type: none">a) location where the company has its registered office,b) other place within the territory of Poland – only if permitted by the statute.• Participation in the general meeting of shareholders:<ul style="list-style-type: none">a) possibility to participate by means of electronic communication, if the statute provides so,b) possibility to vote by correspondence, if the general meeting's bylaws provide so.
Tax
The company is a taxpayer of the corporate income tax (CIT at the rate of 19%) and VAT.
Liability of the company
The company bears unlimited liability for its obligations up to the full value of all of its assets.
Liability of the shareholders



The shareholders are not liable for the obligations of the company. The shareholders' risk arising from the participation in the company is limited to the capital invested in the subscription or purchase of shares.

Liability of the members of the management board for the company's obligations

- Liability towards the company's creditors for submission of false information:
 - a) false information on making payments for the shares, required by statute, in-kind contributions at the formation of the company or at the increase of its capital,
 - b) joint and several liability for all the company's obligations for a period of 3 years following the registration of the company or registration of the increase in the share capital.
- Liability towards the creditors for the damage caused as a result of failure to request for a declaration of bankruptcy within the period of two weeks following the day on which the grounds for the declaration of bankruptcy occurred.

Exclusion from the company

The squeeze-out of shares of shareholders representing no more than 5% of the share capital by not more than 5 shareholders holding jointly not less than 95% of the share capital.

Transformation/merger/division

- The following actions must be taken to transform a civil partnership into a limited joint-stock partnership:
 - a) convert the articles of association of a civil law partnership into the statute of a joint-stock company (including a fulfilment of other requirements related to formation of a joint-stock company),
 - b) enter the joint-stock company in the National Court Register.
- A joint-stock company:
 - a) may merge with another commercial company and partnerships,
 - b) may merge with the European company,
 - c) may be divided into two or more companies. If the share capital is not covered in full division is not allowed.
 - d) may be converted into any other commercial partnership or corporation (general partnership, limited liability partnership, limited partnership, limited joint-stock partnership, limited liability company).



CIVIL LAW PARTNERSHIP
Preferred form of business activity
Relatively small-scale business activity conducted by at least two entities.
Business name
Does not act under business name within the meaning of civil law. Partners may determine in the civil law partnership agreement the name, which shall be disclosed in the Central Business Activity Record and Information (CEIDG).
Legal personality
<ul style="list-style-type: none">• Civil law partnership is not a separate legal entity. Only its partners are such entities.• However, civil law partnership is subject to VAT and excise tax as if it were a separate entity.
Relevant register
Partners being natural persons – entry in the Central Business Activity Record and Information (CEIDG).
Minimum capital requirement
There is no minimum capital requirement.
Founders/Partners
<ul style="list-style-type: none">• At least two founders from among:<ul style="list-style-type: none">a) natural persons,b) legal persons,c) organisational units without legal personality to which the applicable laws have granted legal capacity.• Partners are entrepreneurs within the scope of business activity conducted in civil law partnership.



Duration of the partnership

- Definite term (including the time required to perform a specific task) or indefinite term.
- Formed upon conclusion of the civil law partnership agreement; the agreement may specify different moment for commencement of the civil partnership activity.

Civil law partnership agreement

- Written form for evidential purposes.
- Civil law partnership agreement should specify, as a minimum:
 - a) common economic purpose, for which the partnership is established;
 - b) indication of each partner's actions serving the intended purpose.
- Amending the civil law partnership agreement upon consistent statements of intent of all of the partners.

Actions required to commence an activity

- Conclusion of the civil law partnership agreement in a written form.
- Submission of the agreement to:
 - a) competent tax office and
 - b) Central Statistical Office.
- Filing of an update application to the CEIDG (with regard to the assigned NIP (tax) and REGON (statistical) numbers).
- The civil law partnership agreement is subject to tax on civil law transactions. Partners of the partnership shall pay thereof. They have to declare and pay the tax within 14 days from a conclusion of the civil law partnership agreement.

Average time required to register

Up to 1.5 month (including tax, Central Statistical Office and Social Security Office registrations).

Civil law partnership's assets

- The civil law partnership's assets – movables, immovables and economic rights:
 - a) contributed by partners as a contribution,
 - b) acquired by partners within the civil law partnership.
- The civil law partnership's assets:



- a) constitute a joint co-ownership between partners,
- b) cannot be divided in the course of the civil law partnership duration.

Partners' share in profits and losses

- Distribution of profits among partners:
 - a) may be set forth in the civil law partnership agreement,
 - b) in the absence of relevant contractual provisions – each partner has an equal share, regardless of the type and value of his/her contribution.
- The civil law partnership agreement may exempt a partner from participating in losses.
- A partner cannot be fully excluded from participating in the partnership's profits.
- A partner's share in profits provided for in the agreement sets, in the case of doubt, also his/her share in losses.

Representation of the partnership

- Unless otherwise agreed each partner may represent the partnership individually.
- Partner's deprivation of a right to represent:
 - a) under the civil law partnership agreement,
 - b) pursuant to a resolution of partners.

Running the partnership's affairs

- The right and obligation of each partner to conduct the partnership's affairs.
- Scope of authorization to run the partnership's affairs:
 - a) day-to-day actions of partnership,
 - b) every urgent action, which, if omitted, could result in a serious damage for the partnership (regardless of its scope, even without a prior resolution of partners).
- Before an individual partner handles a matter falling within the scope of day-to-day management, any of the remaining partners may oppose its handling - in such cases, a prior resolution of the partners is required.

Tax

- Partnership's partners, but not a partnership, are taxpayers of income tax.
- The civil law partnership may be a taxpayer of VAT and excise tax. Partners are liable for tax obligations due to VAT and excise tax.



Liability

- Joint and several liability of all partners for obligations arising within the partnership.
- Liability covers assets in joint co-ownership between partners, as well as personal assets of each partner.

A partner's accession to/exit from the partnership

- Accession to the partnership of a new partner – upon amending of the civil law partnership agreement and contributing by a new partner his contribution.
- Partner's termination of the civil law partnership agreement:
 - a) in case the agreement was concluded for an indefinite period of time – 3 months in advance at the end of the financial year (this term shall expire at the end of the financial year), the agreement may provide for a shorter notice period,
 - b) for important reasons – even without notice and regardless of whether the agreement was concluded for definite or indefinite period of time, the agreement may not exclude the right to terminate thereof for important reasons.



**FURTEK KOMOSA
ALEKSANDROWICZ**

ul. Krolewska 16, 00-103 Warsaw, Poland
T: +48 22 581 44 00 **F:** +48 22 581 44 10
E: kontakt@fka.pl **W:** www.fka.pl
KRS: 0000278271 **NIP:** 525-22-25-600 **REGON:** 017438631

BRANCH	AGENCY
Preferred form of business activity	
Conducting business activity on both small (microbusinesses, small businesses) and large scale (banks).	Conducting business activity only within the scope of advertisement and promotion.
Business name	
Name of branch: original name of foreign entrepreneur with the indication of entrepreneur's legal form translated into Polish and added words "oddział w Polsce", e.g. "Dulce sociedad anónima spółka akcyjna Oddział w Polsce".	Name of agency: original name of foreign entrepreneur with the indication of entrepreneur's legal form translated into Polish and added words "przedstawicielstwo w Polsce", e.g. "Dulce sociedad anónima spółka akcyjna Przedstawicielstwo w Polsce".
Legal personality	
<ul style="list-style-type: none">• Branch is not an entity separate from foreign entrepreneur and does not have:<ul style="list-style-type: none">a) legal personality,b) legal capacity,c) judicial capacity (capacity to be a party in court proceedings and capacity to conduct court proceedings in defense of its interests).• Branch Foreign entrepreneur, represented in a branch by an authorised person, has all of the aforesaid capacities.	<ul style="list-style-type: none">• Agency is not an entity separate from foreign entrepreneur and does not have:<ul style="list-style-type: none">a) legal personality,b) legal capacity,c) judicial capacity (capacity to be a party in court proceedings and capacity to conduct court proceedings in defense of its interests).• Agency Foreign entrepreneur, represented in an agency by an authorised person, has all of the aforesaid capacities.
Relevant register	
Entrepreneurs' register of the National Court Register (KRS).	Register of Foreign Entrepreneurs' Agencies kept by the Minister of Economy.
Minimum capital requirement	
There is no minimum capital requirement.	



Founders/Partners	
Foreign entrepreneur.	
Duration	
Unlimited.	
Actions required to commence an activity	
<ul style="list-style-type: none"> Foreign entrepreneur's application to KRS. Branch may commence activity after having been entered into the entrepreneurs' register. 	<ul style="list-style-type: none"> Foreign entrepreneur's application to the Register of Foreign Entrepreneurs' Agencies kept by the Minister of Economy. Agency may commence activity after having been entered into the Register of Foreign Entrepreneurs' Agencies.
Average time required to register	
1,5 – 2 months	1,5 month
Representation	
Foreign entrepreneur appoints a person authorised to his representation.	
Tax	
<ul style="list-style-type: none"> Cash flows between a foreign entrepreneur and his branch/agency are not subject to income tax on the territory of Poland. Foreign entrepreneur having a branch/agency is subject to income tax in respect of income earned in Poland, unless international agreements on avoidance of double taxation provide otherwise. 	
Liability	
Full liability of a foreign entrepreneur.	
Reporting obligations	
Foreign entrepreneur has to keep separate account books in Polish, in accordance with provisions on accountancy.	



FURTEK KOMOSA
ALEKSANDROWICZ

We cordially invite you to contact us:

Edyta Jusiel, attorney at-law
Partner at the Corporate Department
ejusiel@fka.pl

Diana Tavera
Marketing & Business Development Manager
dtavera@fka.pl

FKA Furtek Komosa Aleksandrowicz
ul. Królewska 16, 00-103 Warsaw, Poland
T: +48 22 581 44 00 **F:** +48 22 581 44 10
E: contact@fka.pl **W:** www.fka.pl

www.fka.pl