

JOINT-STOCK COMPANIES-AS A SUBJECT OF CIVIL LAW

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Annotation:

In this article, the establishment, formation, and bylaws of joint-stock companies, the founders of the company, the registration of the company with the state, the shares of the company, and the corporate governance bodies of the company are discussed in detail.

Keywords: joint-stock company, shares, establishment, bylaws, founders, shareholders, nominal value of shares, prospectus, balance sheet, ordinary and preferred shares, etc.

The democratic development of our country, which is based on the citizenship of the population, is defined as the fundamental task of ensuring the rule of law. It has taken the necessary measures to implement these tasks.

As a result of the economic, social, political, and legal reforms being implemented in our country, citizens are provided with wide opportunities, and various types of legal relationships, especially in cases where a legal entity is established or not established, are expanding through entrepreneurial activities.

In the process of market reforms being implemented in our country, almost all major enterprises of various industries and sectors are being transformed into joint-stock companies and corporations. Especially, as emphasized by our first President, the late I.A. Karimov, "Organizing corporate governance system in a proper manner is one of the important strategic directions of today."¹

The ongoing reforms in the years of independence have given great attention to the development of entrepreneurial activities in today's world. Our President Sh. Mirziyoyev has also emphasized that in the current period, measures are being taken to eliminate shortcomings in entrepreneurial activities and to remove artificial barriers. Attracting foreign investors to joint-stock companies, modernizing production, technical and technological re-equipment, creating conditions for the production of high-quality and competitive products, as well as facilitating their active participation in foreign markets, and reducing state assets and shares in the authorized capital of joint-stock companies to increase the state's participation in the economy are the main goals of the economic reforms being implemented in our country.

In this regard, our esteemed President Sh. Mirziyoyev stated, "It requires a critical analysis of the state of affairs in terms of attracting foreign investments, particularly direct foreign investments, and the achievement of the goal of attracting foreign investments correctly. In this case, it is emphasized that the volume of investments has reached 30%."

Writing this article aims to explore and further enhance the effective implementation of activities in the field of corporate governance of joint-stock companies, as well as strengthening and expanding the legal

¹ Karimov I.A. "We must work consistently towards new heights, strengthening the achievements."/A lecture of the Cabinet of ministers at a meeting dedicated to the results of the social and economic development of our country in 2005 and the important priorities of deepening economic reforms in 2006. / "People's word" February 11, 2006.

guarantees of shareholders' rights in joint-stock companies. Analyzing the legal foundations, nature, and characteristics of relationships, as well as identifying issues related to corporate governance, is one of the main objectives of our scientific work.

Article 64 of the Civil Code of the Republic of Uzbekistan is dedicated to joint-stock companies. According to this article, a joint-stock company is considered to be an association of shareholders with a specified share capital, and the participants (shareholders) of the joint-stock company are liable within the limits of the value of their shares for the obligations of the company and are responsible for the damage caused by the company's activities.

Shareholders who have not fully paid for their shares are jointly liable with their shares' unpaid portion for the obligations of the joint-stock company.

It is necessary to clarify the name of the company in the name of the joint-stock company, as well as its legal status as a joint-stock company.

The legal status of a joint-stock company and the rights and obligations of shareholders are determined by this Code and other laws.²

According to Law No. 370 of the Republic of Uzbekistan dated May 6, 2014 "on the protection of Joint-Stock Companies and shareholders' rights", the Joint-Stock Company is called a Joint-Stock Company, the charter fund (authorized capital) is a commercial organization distributed on a certain number of shares confirming the rights of shareholders in relation to the Joint-Stock Company.³

The company's legal entities, as separate entities, possess independent assets, including the property allocated to its statutory fund (capital), and have the right to acquire and exercise legal and proprietary rights, assume obligations, act as claimants and defendants in court proceedings.

Upon registration in the state register, the company acquires legal entity status. If the company's charter does not provide otherwise, it is established for an indefinite period.

The company is entitled to open bank accounts within the territory of the Republic of Uzbekistan and abroad.

The company may have a full name specified in its organizational and legal form and may also have an abbreviated name.

Article 64 of the Civil Code of the Republic of Uzbekistan specifies the requirements for establishing a joint-stock company, its legal status and obligations, including the rights and obligations of shareholders in relation to the company's civil transactions. The rights and obligations of shareholders in the company's public relations are determined by this Code and other laws.

The establishment or reorganization (merger, division, separation, transformation) of a joint-stock company is possible through the decision of its founders (founder). The decision to establish the company is adopted based on the formation of the constituent assembly. In the case of a company established by a single founder, the decision to establish the company is adopted individually by the founder.

The founders of the company conclude a mutual founders' agreement, which specifies the procedure for conducting joint activities related to the establishment of the company, the amount of the company's

² Civil Code of the Republic of Uzbekistan. (With amendments and additions until March 1, 2021). National database of legislative acts of the Republic of Uzbekistan www.lex.uz (official source). Tashkent " legal literature publish" 2021.

² <https://lex.uz/docs/111189>

³ <https://lex.uz/docs/2382409>

statutory fund (capital), the types of shares to be paid for, the amount of the fee to be paid for them, and the rights and obligations of the founders regarding the establishment of the company.

The decision on the establishment of the company should also reflect the decisions of the founders regarding the election of the company's management bodies, the approval of its charter, and other matters related to the organization and governance of the company.

When a state organization becomes a joint-stock company, the decision to establish a joint-stock company is adopted by the authorized body empowered to dispose of state property.

If the number of participants in a limited liability company is less than 50, the company's liability is limited, and the number of founders and participants in the company is not limited.

Who can be the founders of the company? What individuals can be the founders of the company? Who cannot be the founders?

Founders of the Society

The legal and natural persons who have signed the founding agreement for the establishment of the company are recognized as the founders (founder) of the company.

Unless otherwise provided by law or by the decision of the President of the Republic of Uzbekistan or the Cabinet of Ministers of the Republic of Uzbekistan, state bodies cannot be the founders (shareholders) of the company.

The founders of the company are jointly responsible until the company is registered in the state register, based on the obligations related to the establishment of the company. The founders are temporarily liable for the actions of the founders in connection with the establishment of the company until the general assembly of shareholders approves them.

What is the governing body of the company? What authorities are granted to it? What is the company's charter? What issues are included in it?

We refer to the Law of the Republic of Uzbekistan dated May 6, 2014, No. 370 "On Protection of the Rights and Interests of Shareholders and Shareholder Companies" for our answers to these questions.

The establishment of a joint-stock company entails the following authorities:

- Adoption of a decision on the establishment of the company and approval of its charter.
- Approval of agreements concluded by the founders during the establishment process.
- Determination of the order of payment for shares by the founders.
- Specification of the types and quantities of issued shares.
- Election of the supervisory board and audit commission (auditor).
- Appointment of the executive body of the company (manager, director, etc.).
- If the company consists of a single founder, the establishment process is not carried out.

The company's charter serves as the founding document of the company and must contain the following information:

- ✓ The full (and, if applicable, abbreviated) name of the company, its registered address (postal address), and email address.
- ✓ The field of activity (main directions) and purpose of the company's operations.
- ✓ The amount of the charter fund (charter capital).
- ✓ The number of company shares, their nominal value, and types (ordinary, preferred).

✓ The structure of the company's management, the number of members of the supervisory board, audit commission, and executive body, the procedure for forming these bodies, and their authorities.

✓ The company's charter may stipulate the allocation of the largest portion of the charter fund (charter capital) to one shareholder.

According to the requirements of the shareholder or any interested person, the company's charter, including amendments and additions made to the charter, must be made available to them within three working days. The company is obliged to provide them with a certified copy of the charter.

Please note that the translation provided is a general interpretation of the text, and for accurate legal purposes, it is recommended to consult an official translation or legal expert.

"Registration of Companies in the State Register"

The procedure for registering businesses in the state register is regulated by the Decree No. PD-2646 dated October 28, 2016, of the Cabinet of Ministers of the Republic of Uzbekistan, "On Measures to Improve the System of Registering and Accounting for Entrepreneurial Entities," and the Order No. 66 dated February 9, 2017, which specifies the procedure for registering businesses in the state register.

According to the legislation of the Republic of Uzbekistan, state fees are charged for the registration and re-registration of businesses based on the rates specified in the Law "On State Duty."⁴

When state duties and fees are paid through state electronic payment systems, the service providers responsible for registering businesses in the state register, as specified in the cooperation regulations, retain a percentage of the payment amount, which is allocated in accordance with the established procedure.

To register businesses, the applicant selects the "registration of business" service and fills out an application in the prescribed manner for registration in the state register. The completion of the application by the applicant is carried out step by step. The applicant provides the requested information in the application and selects the information recommended by the System from the general information database. The applicant has the right to suspend or continue the application process at any desired stage.

Information available in state information resources and the applicant's actual personal information obtained from the Unified Identification System are automatically filled in by the System. The System stores the information entered in each step of the application.

Upon completion of the application, the selected business name is reserved by the System for 60 calendar days from the date of the applicant's application.

If the applicant fails to submit the completed application to the registering authority within the specified period, the designation of the selected business name by the applicant is canceled by the System. In this case, other information provided by the applicant is stored for their viewing, editing, and continuation of the application process in the user's personal account or "personal account of the entrepreneur."

The following are added to the application form for registration in the state register through the System:

- ✓ Foundation documents in the state language;
- ✓ Power of Attorney - when it is submitted;
- ✓ Distribution balance - during division and separation.

⁴ <https://lex.uz/docs/-4680944>

The Power of Attorney and Distribution Balance are prepared by legal entities being reorganized in accordance with the established procedure, taking into account all their obligations to creditors and debtors, including those discussed by the parties, and the rules on legal succession.

If the Distribution Balance does not determine the legal successor's right of inheritance, then newly established legal entities become jointly and severally liable for the obligations of the reorganized legal entity to its creditors.

The applicant submits foundation documents in accordance with the requirements of legal documents, based on their own discretion, in the form of official or other forms recognized by law.

For Legal Entities:

The notification in the form of a certificate (hyperlink) with reference to the registration and founding documents is automatically signed with the electronic digital signature of the responsible employee of the registering authority, and it is sent to the "Personal Cabinet of the Entrepreneurship Subject" and to the email address indicated in the application.

Society's Shares:

Shares are securities of the issuer with the name of the shareholder specified, and they can be ordinary or preferred depending on their type.

A share represents a fraction of ownership. If a share is attributed to several individuals based on the general property right, all these individuals are considered as shareholders and they exercise their rights confirmed by the share through their general representative.

Each type of share provides the respective rights and obligations to each shareholder who owns that type of share.

Ordinary shares cannot be converted into preferred shares, corporate bonds, or other securities.

Shares are attributed to a legal or natural person based on ownership rights or other proprietary rights, and that legal or natural person is recognized as the shareholder of the share.

Ordinary shares are voting shares, and they grant the right to the owner to receive dividends and participate in the management of the company.

Preferred shares are privileged shares that grant the owner, in addition to the definite right to receive dividends, the right to receive the first portion of the amounts allocated to shares upon liquidation of the company. Preferred shares do not grant voting rights to their owners.

Of course, every organization needs its own management bodies to carry out its activities, establish internal regulations, and manage its affairs.

The management bodies of a joint-stock company include the following:

- General meeting of shareholders;
 - Supervisory board;
 - Executive body.
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- ❖ The general meeting of shareholders is the highest governing body of the company.
 - ❖ The chairman of the supervisory board ensures the general meeting of shareholders unless there are exceptional circumstances, in which case one of the members of the supervisory board assumes this

responsibility. The company determines the time for the annual general meeting of shareholders as a mandatory event specified in the company's charter.

❖ The annual general meeting of shareholders is held within the deadlines specified in the company's charter, but not later than six months after the end of the financial year. If at the time of the general meeting of shareholders, which requires participation in decision-making, more than fifty percent of the total voting shares with the right to vote belong to shareholders who have registered, the general meeting of shareholders is considered valid (quorum is present).

❖ The general meeting of shareholders exercises the powers provided by the law and the company's founding documents. The supervisory board of the company provides overall guidance for the company's activities.

❖ In a company where the number of shareholders with voting shares is less than thirty, the tasks of the supervisory board and the responsibility for the general meeting of shareholders may be assigned to the company's charter. The members of the supervisory board are elected for a period of three years in accordance with the law and the company's charter.

The company's management bodies and the director, as well as the heads of departments and territorial divisions working under the labor contract with the company, may not be members of the supervisory board of the company.

The executive body of the company organizes the implementation of the decisions of the general meeting of shareholders and the supervisory board of the company.

The director (chief executive) of the company acts on behalf of the company, represents its interests, signs documents on behalf of the company, appoints the head of the company's branch or representative office, approves staffing, issues mandatory orders for the performance of all employees of the company, and provides instructions.

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