



## New limited liability company law as well as modifications in public company law

*(The new law is expected to come into effect as of 2008.)*

### Limited liability company

- The foundation and retention of a limited liability company with only 1 person is allowed. Formerly a minimum of 2 persons was required. (*Art. 772 Par. 1 SCO*).
- The registered capital of at least CHF 20'000 must be fully paid-in (*Art. 777c SCO*). Formerly a minimum of 50% paid-in registered capital was sufficient. Payments in kind in place of cash payments are possible.
- Registered capital is no longer subject to an upper limit (*Art. 773 SCO*). Formerly this limit was maximum CHF 2 million. The solidarity of liabilities among partners is dispensed with through complete payment of the registered capital. This is a material advantage.
- The regulation concerning residence of the managing directors has been rescinded. Now the company can be represented by only one general manager or director who is domiciled in Switzerland. (*Art. 814 III SCO*). The managing director or directors must not necessarily be a partner. The administration of the business can newly be assigned to third parties.
- The ownership of several registered shares per partner is possible. Formerly each partner retained a single share. Now the nominal value of a registered share must amount to at least CHF 100 (*Art. 774 Par. 2 and 772 Par. 2 SCO*).
- The obligation to transfer registered shares and the transfer itself can now be carried out simply in writing. Public certification is no longer necessary. (*Art. 785 SCO*). The requirement of consent of the other partners to a transfer of registered shares can be countermanded in the statutes.
- Subsequent payment obligations and obligations of additional payments (delivery/receipt obligations, pre-emption and purchase rights) can now be set at a maximum of twice the nominal value of each registered share.
- The procedure for an increase of capital now corresponds in large part to that for a public company. (*Art. 781 SCO*).
- Accounting regulations are now analogue to those of publicly-traded companies (shares), including the obligation to prepare a financial statement and an audit report.
- For the auditing agency the regulations for publicly-traded companies are applicable (*Art. 818 SCO*). Auditory obligation:
  - Orderly audit now only for large limited liability companies
  - Restricted audit for most limited liability companies
  - Waiver of audit is allowed if all partners agree.
- The obligation of annual notification of the partner roster, the registered shares and their paid in status is rescinded.

***Limited liability companies entered in the commercial registry must adapt their statutes and rules of procedure within two years following the enactment of the new regulations.***



## Modifications in public company law

- A public company can now be founded as a sole proprietorship (*Art. 625 SCO*).
- Newly obligatory is the indication of legal form in the company name, e.g. Example **AG**.
- Abolishment of qualifying shares
- Auditory obligations vary depending on size and significance of the company.
  - Public companies (*Art. 727 Par. 1 Num. 1 SCO*) must designate a government inspected auditing company as auditing agency.
  - Other large companies (*Art. 727 Par. 1 Num. 2 and 3 SCO*) require an approved auditing expert (*Art. 727b SCO*).
  - Smaller firms (*Art. 727a Par. 1 SCO*) require merely a restricted audit by an approved auditor (*Art. 727c SCO*), or can do without an audit under certain circumstances (*Art. 727 Par. 2 et sqq. SCO*), (Waiver of restricted audit if less than 10 full time positions are employed on yearly average).
- The regulation concerning the nationality and residence of members of the supervisory board has been rescinded. The company can now be represented by only one member of the supervisory board or a director who is domiciled in Switzerland (*Art. 718 Par. 3 SCO*).

Quelle: [www.gruenden.ch](http://www.gruenden.ch) – kompakt; Newsletter 2006/1 Commercial Registry Bureau Canton Zurich