

THE REVISED COMPANY LAW – AS OF 1.1.2023

THE MOST IMPORTANT CHANGES



The new regulations are primarily intended to allow more flexibility in:

- Design of the capital structure
- Distribution of dividends
- Holding of the general meeting of shareholders

However, this modernized legal framework generally affects not only stock corporations but also limited liability companies. The new provisions of company law on imminent insolvency are also relevant for co-operatives and associations subject to registration in the commercial register, as well as foundations.



Is there a need to take action on your part?

>> Review your articles of association

Are there provisions in your articles of association that no longer comply with current law? Do you want to benefit from the more flexible structuring options?

>> General Assembly

Do you plan to **hold the meeting online**? This is allowed as of 1.1.2023, including written or electronic resolutions. An amendment to the articles of association is already required to hold virtual general meetings. Furthermore, it is also possible to hold them outside of Switzerland.

>> Share capital in foreign currency

Do you want to keep bookkeeping and accounting in a **foreign currency (for now limited to USD, EUR, GBP, JPY) that is mainly used** for your business activities (so-called functional currency)? A change is possible at the beginning of a business year.

>> Capital band

Companies (which have not waived the limited audit) can now introduce a capital band to make the **distribution of equity more flexible**. The board of directors can increase or decrease the share capital for a maximum period of 5 years (taking into account the protection of creditors). This comprises +/- half of the registered share capital. In this case, the capital band replaces the current authorized capital, which is valid for a maximum of 2 years and only permits a capital increase.

What else changes?

>> Board of Directors

Uncertainties in practice have been replaced with a clear regulation. The board of directors can also pass **resolutions** electronically. The revised law now explicitly specifies the responsibility of the board of directors to monitor liquidity and to ensure solvency. The board of directors must take appropriate measures to **eliminate the loss of capital**.

In the event of over-indebtedness, the board of directors no longer has to notify the court in every case. As long as there is a reasonable belief that the over-indebtedness can be remedied within a reasonable period of time, but no later than 90 days after the audited interim financial statements are available, and that the claims of creditors are not further jeopardized, the notification may be waived.

A company without an auditor must have the last annual financial statements audited in a restricted manner in the event of a corresponding loss of capital (appointment by the board of directors).

And much more.

We will be happy to support you and examine your individual options in order to implement the new regulations at an early stage. **You can contact us here:**

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