

# Hungarian corporate law – Swifter, easier, cheaper?

The Companies Act and the Company Registration Act were adopted in early 2006 and entered into force on July 1, 2006. Less than one year later, in June 2007, the first bill aimed at substantially amending them has been adopted by the Hungarian legislature. Since the express purpose of the amendments is to render companies' entering into the market swifter, easier and cheaper, the Amending Act mainly affects the Companies Registration Act, but is also intended to bring essential changes to the Company Act.

In fact, the Amending Act will cause many changes that will make life easier for shareholders and managers, and will definitely extend the opportunities for attorneys, who will now be enabled to offer all-in-one-shop corporate services to their clients. On the other side, for state bodies involved in corporate administration, the "new world" will unquestionably constitute a series of challenges.

## Faster is better

The two major challenges are exclusive administration of corporate matters and one-business-hour express registration, both to be introduced on July 1, 2008. As of this date, e-submission of applications to the Court of Registry will be the only way of dealing with corporate registration, and hard copy filing will no longer be possible. Even more radically, as of the above date, the decision on the registration of a start-up company will be taken within one business hour, if the only condition of having the company's deed of foundation drafted on the basis of a statutory standard contract form is met. Only public companies limited by shares (nyrt) will be excluded from such express registration.

Originally, the amending bill planned to introduce to Hungarian law a brand new way of company foundation: registration for sale purposes. Attorneys would have had the right to establish and register, on their own behalf and on their own seat, one-man private limited companies (kft) and private companies limited by shares (zrt), which would have been set up for sale to anyone interested in having a Hungarian registered company on an extremely short notice. The sale of this "ready made" or "off the shelf" company to the business-oriented owner would have been registered within one business hour. This section was ultimately deleted from the amending bill, but express registration provides for the purpose of hasty incorporation.



Sooner than the above, swifter, easier and cheaper corporate administration is planned to be implemented through a series of measures that are also designed to broaden the attorneys' scope of competences, and are expected to become effective this September.

## Have a seat

Such is, for example, "seat service." It has long been a practice that attorneys offered their clients to register the seat of their newly established companies for the attorney's address, although the seat is statutorily defined as the place of central business administration, a kind of action that a law office cannot offer. Hence, up until today this has been a quasi-legal practice accepted by judges. Now, the Amending Act formally confirms this practice by re-defining "seat," which will no longer mean the place of central administration, but merely the company's registered office, and introducing the attorney's "seat service" as a lawful activity, provided that the attorney undertakes to assume control of and preserve all business and official documents addressed to the company.

As another dramatic change, the Amending Act acknowledges a signature specimen countersigned by an attorney as valid, in this way eliminating the notaries' monopoly in this field. Furthermore, the Amending Act goes so far as to set aside the compulsory submission of specimen signatures, by rendering it merely a possibility that companies can choose.

## No more contradiction

The registration procedure becomes simpler by removing a contradiction between corporate and banking regulations that has caused ambiguity in Hungary for a long while: According to the Companies Act, founders have been obliged to pay the equity capital to the bank account of the start-up company prior to even submitting the application for registration to the Court of Registry, whilst, pursuant to a government decree, banks can open accounts for a company only after its registration. The



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Amending Act dissolves this legal inconsistency: the bank's certificate on the payment of equity capital is no longer required in the registration procedure, and the bank account of the company needs to be opened only after registration of the company.

The Amending Act includes the internet in providing for new ways of relieving the administrative burden on companies. At present, companies are obliged to fulfil all their disclosure obligations (e.g. notice on merger or de-merger, notice on the transformation of the company into another corporate form) in the Hungarian Companies Gazette ("Cégek Közlöny"). Pursuant to the Amending Act, companies will be allowed to fulfil their disclosure obligation by merely uploading an appropriate notice to their webpage and keeping this webpage continuously available. Simultaneously with the disclosure on the webpage, companies will nevertheless be obliged to send the notice to all of their known creditors by e-mail.

## Going abroad

Besides triggering a more flexible corporate registration, the Amending Act sets forth changes in the non-procedural fields of company law, as well. For example, Hungarian companies will be allowed to conduct or replace their fundamental business activity outside Hungary, in any other member state of the European Union, without the statutory need to be reestablished in that other country.

Last, but probably most importantly, the Amending Act regulates the reduction of the statutorily prescribed minimum equity capital of limited liability companies (from HUF 3 million to HUF 500,000 for a kft) and private companies limited by shares (from HUF 20 million to HUF 5 million for a zrt), whereas for public companies limited by shares (nyrt) the statutory minimum will remain the present HUF 20 million. Behind this reduction hides the long-awaited recognition by the legislator of compulsory minimum equity capital not being appropriate for its intended purpose of protecting the creditor's interests amid complex market conditions.

Beside limiting, but still preserving the role of compulsory minimum equity, the Amending Act offers many more suitable ways to protect the creditor's interests. Most significantly, mortgages established on shares will be shown on company excerpts (but options will remain unindicated on company excerpts), since mortgages on shares will statutorily be established by their registration in the Company Register.

At this stage, most of the above-described changes are planned to enter into force on September 1, 2007. Exceptions are the changes requiring more elaborate and costly preparations, such as the introduction of universal e-corporate administration mentioned above. The latter will definitely cause difficulties to the Court of Registry and to many attorneys: We cannot escape rendering e-communication as the only way of dealing with the Court of Registry, yet, in practice, reconstructing the entire corporate registration on an e-basis will be a rather difficult job to even start with.

No question that the implementation of this provision will catapult Hungarian corporate administration into the 21st century. Now, the query remains when this blastoff will eventually happen: Pursuant to the Amending Act, said day will be July 1, 2008, but it is fair to assume that we all should keep our fingers crossed for that deadline.

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