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Act No. 47/2008 respecting Amendment of Acts on Public Limited Companies and Private Limited Companies (Simplification of Rules on the Payment of Share Capital by Other Means than Cash et al.)

ACT No. 47/2008

respecting Amendment of Acts on Public Limited Companies and Private Limited Companies (Simplification of Rules on the Payment of Share Capital by Other Means than Cash et al.)

THE PRESIDENT OF ICELAND

makes known:- The Althingi (Legislative Assembly) has passed the present Act and I have ratified it by means of my approval:-

Act respecting Public Limited Companies, No. 2/1995, with Subsequent Amendments

Art. 1

Following upon Art. 6 of the Act there come three new Articles, Art. 6 a – Art. 6 c, worded as follows:-

a. (Art. 6 a)

The founders or the Board of Directors may decide that a specialized report shall not be prepared according to clauses 1 – 3, para. 1, Art. 6 or para. 1, Art. 37 on account of the payment of share capital by means of a security or a money-market instrument which has been admitted to trading on a regulated securities market, provided that the price of the security or the instrument be based on the weighted average price at that market during the immediate past six months prior to the payment of the share capital.

In case the value of a security or a money-market instrument has for special reasons changed to a considerable extent at the time when it is to be used for the payment of share capital the founders or the Board of Directors shall reassess the value of the payment and then a specialized report shall be prepared in accordance with clauses 1 – 3, para. 1, Art. 6 or para. 1 of Art. 37.

b. (Art. 6 b)

The founders or the Board of Directors may decide that a specialized report shall not be prepared according to clauses 1 – 3, para. 1, Art. 6 or para. 1 of Art. 37 on account of the payment of share capital in valuables other than cash if the value of the payment is directly revealed in an audited, legally prescribed annual account for the latest fiscal year and the entry of assets is undertaken in accordance with the Act on Annual Accounts.

In case new circumstances result in the fact that the value of payment as per para. 1 has changed to a considerable extent within the time payment shall be effected to the Company the founders or the Board of Directors shall reassess the value of the payment and then a specialized report shall be prepared in accordance with clauses 1 – 3, para. 1, Art. 6 or para. 1 of Art. 37.

In case no assessment is undertaken upon the increase of share capital in accordance with para. 2 shareholders controlling a minimum of 5% of the share capital at the time the increase of share capital is decided upon may require of the founders or the Board of Directors that the value of payment be reassessed and that a specialized

report be prepared in accordance with para. 1, Art. 37. Such requirement may be made until the payment has been effected to the Company.

c. (Art. 6 c)

In case a specialized report has not been prepared in accordance with Art. 6 a or Art. 6 b the founders or the Board of Directors of the Company shall instead prepare a statement which shall specify the following:-

1. Description of payment.
2. The value of the payment, the basis of the assessment of the value and the method of assessment.
3. A declaration to the effect that the value of the payment be at least equivalent to the nominal value of the shares to be issued plus a conceivable surcharge on account of excessive price.
4. A declaration to the effect that no new circumstances of importance have arisen concerning the original assessment of value.

Upon establishment a statement shall attach to the Memorandum of Association. Upon the increase of the share capital the statement shall be contained in the call to the shareholders' meeting or be attached thereto. The statement shall be sent to the Register of Limited Companies within a month as of the time payment was effected to the Company and published in accordance with Art. 151.

In case a Board of Directors decide upon the increase of the share capital in accordance with authority from a shareholders' meeting the payment will not be considered payment of share capital until the Register of Limited Companies has been sent notification of when a decision of the increase of the share capital was made as well as information in accordance with clauses 1 – 4 of para. 1. The notification shall be published in accordance with Art. 151. A statement in accordance with para. 1 may in such an instance be limited to a notification that no new circumstances of importance concerning the assessment of value have arisen.

Art. 2

A new sentence worded as follows is added to para. 2, Art. 8 of the Act:- The provisions of Art. 6 a – Art. 6 c shall be heeded as applicable.

Art. 3

Clause 2, para. 2, Art. 9 of the Act shall be worded as follows:- In which Municipality in this Country the Company shall be considered to have its domicile.

Art. 4

The 2nd sentence, para. 1, Art. 10 of the Act shall be worded as follows:- The documentation referred to in Art. 6, cf., however, Art. 6 a – Art. 6 c, shall also accompany the subscription list.

Art. 5

The 2nd sentence, para. 1, Art. 37 of the Act shall be worded as follows:- The provisions of Art. 5 – 6, Art. 6 a – Art. 6 c and Art. 7 – 8 shall apply hereto as applicable.

Art. 6

The words "eighteen months" in the 2nd sentence, para. 2, Art. 55 of the Act shall be replaced by:- five years.

Art. 7

The words "Art. 6 – 8" twice in para. 2 of Art. 133 of the Act shall be replaced by:- Art. 6, 7 and 8.

Art. 8

The words “para. 2, Art. 6” in clause 1, para. 3 of Art. 148 of the Act shall be replaced by:- para. 2, Art. 6, cf., however, Art. 6 a – Art. 6 c.

Act respecting Private Limited Companies, No. 138/1994, with Subsequent Amendments

Art. 9

Following upon Art. 6 of the Act there come two new Articles, Art. 6 a and Art. 6 b, which are worded as follows:-

a. (Art. 6 a)

The founders or the Board of Directors may decide that a declaration by a State Authorized Public Accountant or an Attorney-at-Law, to the effect that a report in accordance with para. 2, Art. 5, be correct, need not accompany a Memorandum of Association, cf. para. 1, Art. 6, or documentation on the increase of the share capital, cf. para. 2, Art. 26, when share capital is paid by means of security or a money-market instrument, provided that the security or the instrument be assessed at the weighted average of the price at a regulated securities market during the immediate past six months prior to the payment of the share capital.

In case the value of a security or a money-market instrument has for special reasons changed to a considerable extent at the time when it is to be used for the payment of share capital the founders or the Board of Directors shall reassess the value of the payment. Then a report shall be prepared in accordance with para. 2, Art. 5 and a declaration by a State Authorized Public Accountant or an Attorney-at-Law shall attach thereto.

b. (Art. 6 b)

The founders or the Board of Directors may decide that a declaration by a State Authorized Public Accountant or an Attorney-at-Law, to the effect that a report in accordance with para. 2, Art. 5, be correct, need not accompany a Memorandum of Association, cf. para. 1, Art. 6, or documentation on the increase of share capital, cf. para. 2, Art. 26, when share capital is paid by means of valuables other than cash if the value of the payment is directly revealed in an audited, legally prescribed annual account for the latest fiscal year and the entry of assets is undertaken in accordance with the Act on Annual Accounts.

In case new circumstances result in the fact that the value of payment as per para. 1 has changed to a considerable extent within the time payment shall be effected to the Company the founders or the Board of Directors shall reassess the value of the payment. Then a report shall be prepared in accordance with para. 2, Art. 5, and a declaration from a State Authorized Public Accountant or an Attorney-at-Law shall attach thereto.

In case no assessment is undertaken upon the increase of share capital in accordance with para. 2 shareholders controlling a minimum of 5% of the share capital at the time the increase of share capital is decided upon may require of the founders or the Board of Directors that the value of payment be reassessed and that a report be prepared in accordance with para. 2, Art. 5 to which a declaration by a State Authorized Public Accountant or an Attorney-at-Law shall attach. Such requirement may be made until the payment has been effected to the Company.

Art. 10

Clause 2, para. 2, Art. 7 of the Act shall be worded as follows:- In which Municipality in this Country the Company shall be considered to have its domicile.

Art. 11

The 2nd sentence, para. 1, Art. 26 of the Act shall be worded as follows:- The provisions of Art. 5 – 6 and also Art. 6 a and Art. 6 b shall apply hereto as applicable.

Art. 12

The 2nd sentence, para. 1, Art. 107 of the Act shall be worded as follows:- The provisions of Art. 6, Art. 6 a – Art. 6 c and Art. 7 – 8 of Act No. 2/1995 on Public Limited Companies apply as applicable.

Art. 13

By means of the present Act reference is made to unbinding provisions of Directive 2006/68/EC of the European Parliament and Council of 6 September 2006 amending Council Directive 77/91/EEC as regards the formation of Public Limited Liability Companies and the maintenance and alteration of their capital.

The Government are authorized to confirm on behalf of Iceland the decision by the Joint EEA Committee No. 95/2007 of 6 July 2007 on amendment to Annex XXII (Company Law) to the EEA Convention of 2 May 1992.

Art. 14

The present Act enters into force forthwith.

Given at Bessastadir on 29 May 2008

Olafur Ragnar Grimsson

(L.S.)