

Übersetzung durch Ute Reusch.

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## **Introductory Act to the Act on Limited Liability Companies (Einführungsgesetz zum Gesetz betreffend die Gesellschaften mit beschränkter Haftung – GmbHG- Einführungsgesetz)**

Introductory Act to the Limited Liability Companies Act of 23 October 2008 (Federal Law Gazette I, p. 2026, 2031), as last amended by Article 66 of the Act of 10 August 2021 (Federal Law Gazette I, p. 3436)

### **Section 1 Conversion into euros**

(1) Companies which were entered in the Commercial Register before 1 January 1999 may keep their share capital denominated in deutschmarks; this applies accordingly to companies which were registered for entry in the Commercial Register before 1 January 1999 and were entered by 31 December 2001. With regard to the minimum amount and divisibility of capital, capital contributions and shares and with respect to the extent of voting rights, until such time as a change is made in the capital in accordance with sentence 4, the amounts applicable until such time remain decisive. This also applies where a company has converted its capital into euros; the relationships between those rights which are associated with the shares is not affected by such conversion from deutschmarks into euros. After 31 December 2001, a change in the share capital may only be entered if the capital is converted into euros.

(2) In the case of companies which were registered for entry and were entered in the Commercial Register between 1 January 1999 and 31 December 2001, the share capital and capital contributions may also be denominated in deutschmarks. With regard to the minimum amount and divisibility of capital, capital contributions and shares and with respect to the extent of voting rights, the amounts to be converted into deutschmarks in accordance with the conversion rate irrevocably fixed by the Council of the European Union under Article 123 (4) sentence 1 of the Treaty establishing the European Economic Community are applicable as set out in the Act in the version applicable as from 1 January 1999.

(3) The share capital, shares and other amounts quoted as per the articles of association are converted into euros at the conversion rate which was irrevocably fixed under Article 123 (4) sentence 1 of the Treaty establishing the European Economic Community by way of a shareholder resolution with a simple majority in accordance with section 47 of the Limited Liability Companies Act (*Gesetz betreffend die Gesellschaften mit beschränkter Haftung*); section 53 (2) sentence 1 of the Limited Liability Companies Act does not apply. Section 54 (1) sentence 2 and (2) sentence 2 of the Limited Liability Companies Act does not apply to the registration for entry and entry in the Commercial Register of such conversion. Where further measures are linked to the conversion, in particular a change in capital, the provisions applicable thereto remain unaffected; however, section 58 (1) of the Limited

Liability Companies Act does not apply to a reduction in the share capital with which the nominal values of the shares are made out in an amount in accordance with subsection (1) sentence 4 if a resolution was adopted to simultaneously increase the share capital against cash contributions and these are paid in full before the application for entry in the Commercial Register is filed.

## **Section 2**

### **Transitional provisions regarding Transparency and Disclosure Act (*Transparenz- und Publizitätsgesetz*)**

Section 42a (4) of the Limited Liability Companies Act, as amended by Article 3 (3) of the Transparency and Disclosure Act of 19 July 2002 (Federal Law Gazette I, p. 2681), is to be applied for the first time to the consolidated financial statements and the consolidated management report for the financial year commencing after 31 December 2001.

## **Section 3**

### **Transitional provisions regarding Act to Modernise the Law of Limited Liability Companies and to Combat Abuses (*Gesetz zur Modernisierung des GmbH-Rechts und zur Bekämpfung vom Missbräuchen*)**

(1) The obligation to file with the court an application to register the company's domestic business address in the Commercial Register as required by section 8 of the Limited Liability Companies Act in the version applicable as from the entry into force of the Act of 23 October 2008 (Federal Law Gazette I, p. 2026) on 1 November 2008 also applies to companies which were already entered in the Commercial Register at that point in time, unless the domestic business address has already been notified to the court in accordance with section 24 (2) of the Commercial Register Ordinance (*Handelsregisterverordnung*) and has not changed since that notification. In such cases, the application for registration of the domestic business address is to be filed with the first registration for entry in the Commercial Register relating to the registered company as from 1 November 2008, but by 31 October 2009 at the latest. Where no application for the entry of a domestic business address in the Commercial Register has been filed by 31 October 2009, the court – ex officio, without verification and at no cost – enters as the domestic business in the Commercial Register that business address which has been made known to it as per section 24 (2) of the Commercial Register Ordinance; in such cases the address notified also applies, regardless of the date of its actual entry, as from 31 October 2009 as the company's registered domestic business address if it is retrievable in the electronic information and communication system referred to in section 9 (1) of the Commercial Code (*Handelsgesetzbuch*). If no notification within the meaning of section 24 (2) of the Commercial Register Ordinance has been made to the court, but a domestic business address has become known to it in another manner, then sentence 3 applies with the proviso that this address is to be entered if it is retrievable in the electronic information and communication system referred to in section 9 (1) of the Commercial Code. The same applies where a domestic address which was made known in another manner deviates from an address which was notified at an earlier point in time within the meaning of section 24 (2) of the Commercial Register Ordinance. In derogation from section 10 of the Commercial Code, entries made in accordance with sentences 3 to 5 are not published.

(2) Section 6 (2) sentence 2 no. 3 (a), (c), (d) and (e) of the Limited Liability Companies Act in the version applicable as from 1 November 2008 does not apply to persons who were appointed as directors before 1 November 2008 if their conviction became final and binding before 1 November 2008. This applies accordingly to section 6 (2) sentence 3 of the Limited Liability Companies Act in the version applicable as from 1 November 2008 insofar as the conviction was based on an offence which is comparable to offences within the meaning of sentence 1.

(3) Section 16 (3) of the Limited Liability Companies Act in the version applicable as from 1 November 2008 applies to companies which were formed before 1 November 2008 in the event that the list of shareholders was already incorrect before 1 November 2008 and the

incorrectness can be attributed to the person entitled, as regards the relevant share, at the earliest to legal transactions conducted after 1 May 2009. If, in the case set out in sentence 1, the incorrectness cannot be attributed to the person entitled, then, in derogation from 1 May 2009, the relevant date is 1 November 2011.

(4) Section 19 (4) and (5) of the Limited Liability Companies Act in the version applicable as from 1 November 2008 also applies to capital contributions which were paid before that point in time insofar as they did not effect fulfilment of the obligation to pay capital contributions under the law as it stood before 1 November 2008 on account of an agreement concerning the repayment of capital contributions or on account of a hidden contribution in kind. This does not apply insofar as a final and binding judgment was already issued before 1 November 2008 concerning the claims between the company and the shareholder resulting from the ineffectiveness or an effective agreement has been reached between the company and the shareholder; in such cases, the law as it stood up until 1 November 2008 is decisive.

#### **Section 4**

##### **Transitional provision regarding Accounting Law Modernisation Act (*Bilanzrechtsmodernisierungsgesetz*)**

Section 52 (1) sentence 1 of the Limited Liability Companies Act in conjunction with section 100 (5) and section 107 (4) of the Stock Corporation Act (*Aktiengesetz*), as amended by the Accounting Law Modernisation Act of 25 May 2009 (Federal Law Gazette I, p. 1102), does not apply as long as all the members of the supervisory board and of the audit committee were appointed before 29 May 2009.

#### **Section 5**

##### **Transitional provision regarding Act on the Equal Participation of Women and Men in Executive Positions in the Private and Public Sectors (*Gesetz für die gleichberechtigte Teilhabe von Frauen und Männern an Führungspositionen in der Privatwirtschaft und im öffentlichen Dienst*)**

The determinations under in section 36 sentences 1 and 3 and section 52 (2) sentences 1, 2 and 4 of the Limited Liability Companies Act in the version applicable on 1 May 2015 are to be made for the first time by 30 September 2015 at the latest. The deadline to be determined for the first time in accordance with section 36 sentence 3 and section 52 (2) sentence 4 of the Limited Liability Companies Act in the version applicable on 1 May 2015 may not extend beyond by 30 June 2017.

#### **Section 6**

##### **Transitional provisions regarding Accounting and Reporting Directive Implementation Act (*Bilanzrichtlinie-Umsetzungsgesetz*)**

Section 29 of the Limited Liability Companies Act, as amended by the Accounting and Reporting Directive Implementing Act of 17 July 2015 (Federal Law Gazette I, p. 1245), is to be applied for the first time to annual financial statements and consolidated financial statements for a financial year commencing after 31 December 2015. Section 29 of the Limited Liability Companies Act in the version applicable up until 22 July 2015 continues to apply to annual financial statements and consolidated financial statements for a financial year commencing before 1 January 2016.

#### **Section 7**

##### **Transitional provision regarding Statutory Audit Reform Act (*Abschlussprüfungsreformgesetz*)**

Section 52 (1) of the Limited Liability Companies Act in conjunction with section 100 (5) and section 107 (4) of the Stock Corporation Act, each as amended by the Statutory Audit Reform Act of 10 May 2016 (Federal Law Gazette I, p. 1142), need not be applied as long as all the members of the supervisory board and of the audit committee were appointed before 17 June 2016.

### **Section 8**

**Transitional provision regarding Act to Implement the Fourth EU Money Laundering Directive, to Execute the EU Funds Transfer Regulation and to Restructure the Central Office for Investigations into Financial Transactions (*Gesetz zur Umsetzung der Vierten EU-Geldwäscherichtlinie, zur Ausführung der EU-Geldtransferverordnung und zur Neuorganisation der Zentralstelle für Finanztransaktionsuntersuchungen*)**

Section 8 (1) no. 3 and section 40 (1) sentences 1 to 3 of the Limited Liability Companies Act, as amended by the Act to Implement the Fourth EU Money Laundering Directive, to Execute the EU Money Funds Regulation and to Restructure the Central Office for Investigations into Financial Transactions of 23 June 2017 (Federal Law Gazette I, p. 1822), apply to limited liability companies which are entered in the Commercial Register as at 26 June 2017, with the proviso that the amended requirements concerning the content of the list of shareholders do not need to be complied with until a list has to be submitted on account of a change made pursuant to section 40 (1) sentence 1 of the Limited Liability Companies Act in the version applicable before 26 June 2017.

### **Section 9**

**Transitional provision regarding Act to Strengthen Financial Market Integrity (*Finanzmarktintegritätsstärkungsgesetz*)**

(1) Section 86 and section 87 of the Limited Liability Companies Act in the version applicable as from 1 July 2021 are to be applied for the first time to all audits required by law for the financial year commencing after 31 December 2021. The provisions referred to in sentence 1, in the version applicable up to and including 30 June 2021, are to be applied for the last time to all audits required by law for the financial year commencing before 1 January 2022.  
(2) Section 57f (3) of the Limited Liability Companies Act in the version applicable as from 1 July 2021 is to be applied for the first time to statutory auditors who are elected for the financial year commencing after 31 December 2021.

### **Section 10**

**Transitional provision regarding Act to Supplement and Amend the Regulations concerning the Equal Participation of Women in Executive Positions in the Private and Public Sectors (*Gesetz zur Ergänzung und Änderung der Regelungen für die gleichberechtigte Teilhabe von Frauen an Führungspositionen in der Privatwirtschaft und im öffentlichen Dienst*)**

(1) Sections 36 and 52 (2) of the Limited Liability Companies Act in the version applicable as from 12 August 2021 are to be applied for the first time to determinations of targets made as from 12 August 2021.  
(2) The participation requirement under section 77a (2) of the Limited Liability Companies Act in the version applicable as from 12 August 2021 is applicable as from 1 August 2022 in respect of the appointment of individual or several directors. Existing mandates may be exercised until the planned end of their term.  
(3) The relevant minimum share of women and men in the supervisory board as required by section 77a (3) of the Limited Liability Companies Act in the version applicable as from 12 August 2021 is to be complied with as from 1 April 2022 where individual or several appointments need to be made. If the number of appointments to be made is not sufficient to achieve the minimum share, they are to be made from amongst persons of the under-represented gender so as to successively increase their share. Existing mandates may be exercised until the planned end of their term.

### **Section 11**

**Transitional provisions regarding Act to Implement the Digitalisation Directive (*Gesetz zur Umsetzung der Digitalisierungsrichtlinie*)**

(1) Section 6 (2) sentence 3, section 8 (3) sentence 1, section 39 (3) sentence 1, section 66 (4) and section 67 (3) sentence 1 of the Limited Liability Companies Act in the version applicable as from 1 August 2022 are to be applied for the first time as from 1 August 2023.

(2) Section 58d (2) sentence 4 of the Limited Liability Companies Act in the version applicable as from 1 August 2022 is to be applied for the first time to annual financial statements for the financial year commencing after 31 December 2021. Section 58d (2) sentence 4 of the Limited Liability Companies Act in the version applicable up to and including 31 July 2022 is to be applied for the last time to annual financial statements for the financial year commencing before 1 January 2022.

## **Section 12**

### **Change in the list of shareholders relating to a civil-law partnership**

(1) Where a change is made to the entry relating to a civil-law partnership included in a list of shareholders as required by section 40 (1) sentence 2 half-sentence 2 of the Limited Liability Companies Act in the version applicable until 1 January 2024 in accordance with those provisions which were amended by the Act to Modernise the Law Concerning Partnerships (*Personengesellschaftsrechtsmodernisierungsgesetz*) of 10 August 2021 (Federal Law Gazette I, p 3436), all the shareholders who were previously included in the list of shareholders as well as the civil-law partnership listed in the Companies Register are to affirm vis-à-vis those obligated to submit the amended list of shareholders that the civil-law partnership included in the amended list of shareholders is the same as that which was included in the list of shareholders which was most recently submitted to the Commercial Register.

(2) In the case of a civil-law partnership included in the list of shareholders as required by section 40 (1) sentence 2 half-sentence 2 of the Limited Liability Companies Act in the version applicable until 1 January 2024 together with its shareholders, a change in its shareholders is also deemed to be a change within the meaning of section 40 (1) sentences 1 and 3 of the Limited Liability Companies Act.