

# Track Changes

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January 2021

## Amendment to the Czech Business Corporations Act 2021 (Part II)

**An amendment to the Business Corporations Act came into effect in the Czech Republic on 1 January 2021.** This update (Part II) summarises the impact of the new regulation on companies and their shareholders. Part I of our update focused on members of companies' executive bodies and is available [here](#).

The major changes introduced by the amendment regarding companies and their shareholders relate in particular to the monistic system of a joint stock company, registered capital of "low-cap" companies, *per-rollam* decision making, a new type of special share, distribution of profit and other equity funds and dissolution of inactive companies.

### MONISTIC SYSTEM OF A JOINT-STOCK COMPANY

The amendment to the Business Corporations Act **abolished the position of the Statutory Manager within the monistic structure of the internal organisation of the joint-stock company.**

The Management Board is thus responsible for both a company's business management and supervising the company's activities. This should resolve the ambiguities in the interpretation regarding the reciprocal position of the Management Board *vis-à-vis* the Statutory Manager, including disputes over the division of powers and responsibilities between them.

### REGISTERED CAPITAL OF "LOW-CAP" COMPANIES

When founding **a limited liability company with registered capital of less than CZK 20,000 (approx. EUR 750), it will no longer be necessary to open a special bank account** for making contributions. Cash contributions of no more than CZK 20,000 can thus be paid to the contribution administrator directly in cash, without the administrative burden associated with setting up a special bank account.

The aim of this change is to make the process of establishing a new company with a small amount of registered capital less expensive and time-consuming and to enable the establishment of a new company during only one meeting with a notary in simple cases.

## PER-ROLLAM DECISION MAKING

The previous regulation of decision-making *per rollam* (decision-making outside the General Meeting) could constitute a relatively expensive and complicated solution if the respective decision of the General Meeting had to be adopted in the form of a notarial deed. In such a case, each separate statement of the shareholders had to be in the form of a notarial deed, which in the case of multiple shareholders could result in disproportionately high administrative costs.

The amendment introduced a simplification of the entire process. It is now permissible to send to the shareholders only a copy of the notarial deed on the proposed decision. **This eliminates the obligation to make a notarial deed for the individual statement of each shareholder. The signature on each shareholder's statement must be officially verified.**

## NEW TYPE OF SPECIAL SHARE

The amendment to the Business Corporations Act also introduces a new special type of share. This will be a **share linked to an appointing right, on the basis of which a shareholder will be authorised to appoint/dismiss one or more members of the statutory body** of the company. The total number of members appointed in this way may not be greater than the number of members elected by the General Meeting. This type of share is introduced for both limited liability companies and joint stock companies with both dualistic and monistic structures.

## DISTRIBUTION OF PROFIT AND OTHER EQUITY FUNDS

The amendment enables the distribution of profit and other equity funds **until the end of the accounting period following the accounting period for which the financial statements were issued.**

In this case, the amendment confirmed the conclusions of a ruling of the Czech Supreme Court rendered in 2019, in which the Czech Supreme Court stated that the financial statements prepared for the previous accounting period may serve as a basis for the distribution of profit not only for the first six months of the following accounting period but for the entire accounting period.

The rules for profit distribution also apply to the distribution of any other type of a company's equity funds.

## DISSOLUTION OF INACTIVE COMPANIES

The amendment to the Business Corporations Act further aims to eliminate the number of inactive corporations on the Czech market. This should reduce the number of cases of tax fraud, because these inactive business corporations are often used illegally as "*white horses*".

According to the amendment, an inactive business corporation will be dissolved under the following two conditions, which must be fulfilled: (i) the business corporation **breached its obligation to submit the ordinary (annual) or the extraordinary financial statements** (or annual reports that include financial statements) to the collection of deeds of the Commercial Register for at least 2 consecutive financial years and, (ii) such corporation **is impossible to contact**.

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For more information about our services, please contact:



**Tereza Naučová**

Counsel

[tereza.naucova@wolftheiss.com](mailto:tereza.naucova@wolftheiss.com)

T: +420 234 765 257



**Lukáš Mazura**

Associate

[lukas.mazura@wolftheiss.com](mailto:lukas.mazura@wolftheiss.com)

T: +420 234 765 240

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Wolf Theiss  
Schubertring 6  
AT – 1010 Vienna

[www.wolftheiss.com](http://www.wolftheiss.com)