

Certain provisions of the Act of August 30, 2019, amending the Commercial Companies Code and Certain other Acts (the "Amendment"), which came into effect on January 1, 2020, introduced a number of changes to commercial law, including mandatory dematerialisation of physical shares in limited companies and partnerships limited by shares.

According to the Amendment, the obligation to dematerialise shares was supposed to enter into force as of the beginning of 2021, while some of the obligations imposed on commercial companies were to be fulfilled by the end of June 2020.

Due to the pandemic and the restrictions regarding the functioning of companies, the effective deadline of dematerialisation has been postponed. According to the Act of May 14, 2020 Amending Certain Acts with regard to Containing the Spread of SARS-CoV-2 (the "Act"), share dematerialisation has been postponed by 2 months, i.e. it will enter into force as late as on March 1, 2021. However, the obligations imposed on companies, which they must fulfil, have been postponed by 3 months. This means that companies will be obliged to fulfil all the formalities by September 30, 2020 at the latest (rather than by June 30, as originally provided for in the Amendment).

In practice, share dematerialisation means replacing physical paper securities (e.g. shares) with electronic entries. As a result, paper-issued shares will no longer be traded.

Both registered and bearer shares will be subject to mandatory dematerialisation. As of March 1, 2021, only entries in shareholder registries will be legally effective, while physical shares will have become void as a matter of law. This means that only individuals disclosed in share registries will be deemed company shareholders (unless the shares have been registered with the securities depository).

Moreover, pursuant to the Amendment, all transactions involving shares will be subject to mandatory notification to, and entry in, the appropriate shareholder registry.

Even though the mandatory share dematerialisation will have come into effect on March 1, 2021, the legislator has imposed a number of obligations to be met by limited companies and partnerships limited by shares already in 2020:

Launching and Maintaining a Website

The Amendment has obliged companies to launch and maintain a shareholder communications website and to disclose its address in the National Court Register (KRS). Thus, companies will have to make all legally required and statutory announcements online. Pursuant to the Amendment, such websites must have been launched **by January 1, 2020** – it being understood that, in practice, the register of entrepreneurs notification ought to be made within seven days following the Amendment's effective date.

Selecting the Entity Maintaining the Registry and Executing the Agreement

Share dematerialisation may be effected through an entry in the securities depository or in the shareholder registry. Such registries may only be operated by entities duly authorised to maintain securities accounts, i.e. brokerages, banks or the Central Securities Depository of Poland (KDPW).

Pursuant to the Act, each non-public limited company and partnership limited by shares is obliged to select an entity maintaining its shareholder registry and to execute an agreement to that effect **by July 30, 2020**, and in the case of the securities depository – a securities depository registration agreement. An appropriate entity is selected by the general shareholders meeting. By virtue of the provisions amended due to the hindered functioning of companies during the pandemic, shareholders may also participate in a general meeting via electronic means of communication.

First Summons to File Physical Shares

Once the dematerialisation form has been selected and the appropriate agreement has been executed, a company must issue **five summons** to its shareholders to file physical shares and to announce such summons on its website (launched and maintained as per Item 1). According to the Act, the first summons ought to be issued **by June September 30, 2020, at the latest, and the next after two weeks, yet no later than one month following the first summons**.

The Amendment is meant to adjust the Polish law to the European Parliament and Council Directive no. 2017/828. Even though the digital revolution will not have reached us until 2021, meeting the new requirements should not be postponed, because, as per the Amendment, failure on the part of the individuals duly authorised to represent the affected companies (including commercial proxies) to oblige **by September 30, 2020**, may entail a fine of up to PLN 20,000.

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