

Shareholders' Rights in a Russian Joint-Stock Company



Further information

If you would like further information on any aspect of the issues described in this note please contact a person mentioned below or the person with whom you usually deal.

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Contents

1. SHAREHOLDERS WITH AT LEAST ONE VOTING SHARE	1
2. SHAREHOLDERS WITH AT LEAST ONE PER CENT OF A COMPANY'S VOTING SHARES	1
3. SHAREHOLDERS WITH AT LEAST TWO PER CENT OF A COMPANY'S VOTING SHARES	2
4. SHAREHOLDERS WITH AT LEAST 10% OF A COMPANY'S VOTING SHARES	2
5. SHAREHOLDERS WITH AT LEAST 25% OF A COMPANY'S VOTING SHARES	2
6. SHAREHOLDERS WITH AT LEAST 25% OF A COMPANY'S VOTING SHARES + ONE VOTING SHARE	2
7. SHAREHOLDERS WITH AT LEAST 30% OF A COMPANY'S VOTING SHARES	3
8. SHAREHOLDERS WITH AT LEAST 30% OF A COMPANY'S VOTING SHARES + ONE VOTING SHARE	3
9. SHAREHOLDERS WITH AT LEAST 50% OF A COMPANY'S VOTING SHARES + ONE VOTING SHARE (SIMPLE MAJORITY HOLDING)	3
10. SHAREHOLDERS WITH AT LEAST 70% OF A COMPANY'S VOTING SHARES + ONE VOTING SHARE	3
11. SHAREHOLDERS WITH AT LEAST 75% OF A COMPANY'S VOTING SHARES (QUALIFIED MAJORITY HOLDING)	3
12. SHAREHOLDERS WITH AT LEAST 75% OF A COMPANY'S VOTING SHARES + ONE VOTING SHARE	4
13. SHAREHOLDERS WITH AT LEAST 95% OF A COMPANY'S VOTING SHARES + ONE VOTING SHARE	4
14. THE RIGHTS OF SHAREHOLDERS THAT OWN 100% OF THE VOTING SHARES OF THE COMPANY	4
15. SHAREHOLDERS' AGREEMENT	4

Shareholders' Rights in a Russian Joint-Stock Company

This note provides a brief summary of the shareholders' rights in a Russian Joint-Stock Company according to Federal Law on Joint-Stock Companies dated 26 December 1995 No. 208-FZ as amended (the "JSC Law").

- 1. SHAREHOLDERS WITH AT LEAST ONE VOTING SHARE**
- Shareholders with at least one voting share have the following rights:
- 1.1 to have access to a company's documents, including:
- (a) charter and registration documents;
 - (b) internal regulations;
 - (c) annual reports and financial statements;
 - (d) minutes of general shareholder and board of directors' meetings;
 - (e) notifications on conclusion of shareholders' agreements; and
 - (f) documents of title to the assets on the balance of the company
- 1.2 to receive a compensation in the case of share capital decrease by way of decrease in the nominal value of shares (where a relevant decision is taken by the shareholders)
- 1.3 to receive dividends, if declared
- 1.4 to receive a part of any distribution of a company's assets during liquidation proceedings
- 1.5 to receive notice of shareholders' meetings
- 1.6 to participate in a company's general meetings
- 1.7 (in a closed joint-stock company only) unconditional pre-emption rights in respect of any shares to be sold to third parties
- 1.8 (in an open joint-stock company only) pre-emption rights with regard to additional shares and securities convertible into shares distributed by the company in any public offering
- 1.9 pre-emption rights with regard to additional shares and securities convertible into shares distributed by the company by way of private offering if such shareholder did not take part in the shareholders' meeting or voted against and they have right to acquire the shares pro rata to their existing shareholdings
- 1.10 to initiate court proceedings to challenge any decision adopted by the company's shareholders in a general meeting if such decision violates the JSC Law, other Russian laws or the company's charter and:
- (a) such shareholder did not take part in the general meeting or voted against the decision; and
 - (b) such decision violates its rights and (or) legal interests
- 1.11 to initiate court proceedings to challenge:
- (a) a "major transaction" with the value 25% or more of the balance sheet value of the company's assets concluded in violation of the JSC Law; or
 - (b) a "related party transaction" concluded in violation of the JSC Law
- 1.12 to initiate court proceedings against:
- (a) any member of a company's board of directors;
 - (b) such company's general director including temporary general director;
 - (c) any member of the company's executive body; and
 - (d) the company's managing organisation or manager,
- for any damage caused to such shareholder due to non-compliance with the squeeze-out procedure established by laws
- The rights listed in this clause formally belong to all shareholders owning at least one share, but are designed to protect shareholders who cannot block decisions that require a simple or qualified majority. Such rights include the right to require the company to redeem a shareholder's shares if such shareholder voted against or did not take part in the shareholders' meeting regarding:
- (a) reorganisation of the company;
 - (b) approval of a "major transaction" with the value more than 50% of the balance sheet value of the company's assets; or
 - (c) amendments to the company's charter or the adoption of a new charter if this may lead to any restrictions of their shareholders' rights.
- 2. SHAREHOLDERS WITH AT LEAST ONE PER CENT OF A COMPANY'S VOTING SHARES**
- Shareholders owning at least one per cent of a company's voting shares have the following rights:
- 2.1 to initiate court proceedings against:
- (a) any member of a company's board of directors;
 - (b) such company's general director including a temporary general director;

- (c) any member of the company's executive body; and
- (d) the company's managing organisation or manager,

for any damage caused to the company by their actions

2.2 to obtain a list of the names and number of the shareholders from a company's share register and the number, category and nominal value of the shares belonging to them

2.3 to receive a list of the persons having the right to participate in the company's general meeting.

3. **SHAREHOLDERS WITH AT LEAST TWO PER CENT OF A COMPANY'S VOTING SHARES**

Shareholders owning at least two per cent of a company's voting shares have the following rights:

3.1 to add points to the agenda of a company's annual general meeting

3.2 to nominate candidates for a company's:

- (a) board of directors;
- (b) general director;
- (c) executive body; and
- (d) internal auditor, audit commission or counting commission,

before an annual general meeting.

3.3 to nominate candidates for a company's board of directors or general director if the agenda contains the issue on the election of members of the board of directors or general director before an extraordinary general meeting

3.4 to nominate candidates for the following bodies of a company (companies) established in the course of reorganisation of the company in the form of a merger, division or a spin-off:

- (a) board of directors;
- (b) general director;
- (c) executive body;
- (d) internal auditor or audit commission.

4. **SHAREHOLDERS WITH AT LEAST 10% OF A COMPANY'S VOTING SHARES**

Shareholders owning at least 10% of a company's voting shares have the following rights:

4.1 to request that the board of directors convene an extraordinary general meeting and to challenge in court any refusal to convene such a meeting

4.2 to put questions on the agenda of such extraordinary general meeting that cannot be modified by the board of directors

4.3 to request that a company's internal audit commission investigate the financial and economic activities of such company.

5. **SHAREHOLDERS WITH AT LEAST 25% OF A COMPANY'S VOTING SHARES**

A 25% shareholding grants the shareholder the right of access to accounting documents and minutes of the executive collegial body.

6. **SHAREHOLDERS WITH AT LEAST 25% OF A COMPANY'S VOTING SHARES + ONE VOTING SHARE**

Shareholders owing at least 25% of a company's voting shares + one voting share have the right to block the following decisions requiring approval by a supermajority of the shareholders:

6.1 distribution of shares or securities convertible into shares by way of private offering

6.2 distribution of more than 25% of company's issued ordinary shares or securities convertible into more than 25% of company's issued ordinary shares in any public offering

6.3 decrease of a company's charter capital by way of a decrease in the nominal value of the shares

6.4 revisions and amendments to the charter of the company or the adoption of a new charter

6.5 reorganisation of the company

6.6 liquidation of the company

6.7 appointment of a liquidation commission

6.8 approval of a company's interim and final liquidation balances

6.9 any decision on the number, nominal value and type of authorised shares and the rights provided by such shares

6.10 any purchase of issued shares where provided by the JSC Law

6.11 approval of a "major transaction" with the value of more than 50% of the balance sheet value of the company's assets.

7. SHAREHOLDERS WITH AT LEAST 30% OF A COMPANY'S VOTING SHARES

The presence of such shareholders assures the quorum for a repeated general meeting (held when original quorum of 50% has not been achieved at a regular general meeting), as the quorum for such repeated meeting is 30% of the company's voting shares.

8. SHAREHOLDERS WITH AT LEAST 30% OF A COMPANY'S VOTING SHARES + ONE VOTING SHARE

A shareholder which itself or together with its affiliates has acquired more than 30% of an open joint-stock company's voting shares is subject to the requirement to make a mandatory offer to buy the shares of other shareholders.

9. SHAREHOLDERS WITH AT LEAST 50% OF A COMPANY'S VOTING SHARES + ONE VOTING SHARE (SIMPLE MAJORITY HOLDING)

The presence of such shareholder assures the quorum for a general meeting, as the quorum for such meeting is 50% + one voting share. Such shareholders can:

- 9.1 approve "major transactions" with the value in the range between 25% and 50% of the balance sheet value of the company's assets (inclusive)
- 9.2 approve a "related party" transaction if it is not itself the related party
- 9.3 decide all other questions governed by a simple majority at a general meeting, including:
 - (a) election of a company's board of directors and internal audit commission and the appointment of a company's external auditor;
 - (b) decrease of a company's charter capital by way of decrease of the total number of the shares, including the acquisition of such shares by the company itself as provided by the JSC Law;
 - (c) increase of a company's charter capital by way of an increase in the nominal value of the shares or by additional issuance of shares (unless it falls within the scope of the board of directors' responsibility under the company's charter);
 - (d) appointment of a company's executive body (unless it falls within the scope of the board of directors' responsibility under the company's charter);
 - (e) declaration of dividends; and

- (f) approval of annual reports and financial statements.

A shareholder which together with its affiliates has acquired more than 50% of an open joint-stock company's voting shares is subject to the requirement to make a mandatory offer to buy the shares of other shareholders.

A 50% shareholding + one share grants the shareholder the right to block the passing of any decision at the general meeting by not-attending this meeting since in this event the meeting will be deemed as inquorate.

10. SHAREHOLDERS WITH AT LEAST 70% OF A COMPANY'S VOTING SHARES + ONE VOTING SHARE

A 70% shareholding + one share grants the shareholder the right to block the passing of a decision at a reconvened general meeting by not-attending this meeting, where the first general meeting was inquorate since the quorum for the reconvened meeting is 30%.

11. SHAREHOLDERS WITH AT LEAST 75% OF A COMPANY'S VOTING SHARES (QUALIFIED MAJORITY HOLDING)

Such shareholders may approve:

- 11.1 distribution of shares or securities convertible into shares by way of private offering
- 11.2 distribution of shares amounting to more than 25% of the issued ordinary shares or securities convertible into more than 25% of the issued ordinary shares in any public offering
- 11.3 decrease of a company's charter capital by way of decrease in the nominal value of the shares
- 11.4 revisions and amendments to a company's charter, including the adoption of a new charter
- 11.5 reorganisation of a company
- 11.6 liquidation of a company, the appointment of a liquidation commission and the approval of interim and final liquidation balances
- 11.7 number, nominal value and type of shares that a company may issue and the rights provided by such shares
- 11.8 purchase of issued shares when provided by the JSC Law
- 11.9 a "major transaction" with the value more than 50% of the balance sheet value of the company's assets.

12. **SHAREHOLDERS WITH AT LEAST 75% OF A COMPANY'S VOTING SHARES + ONE VOTING SHARE**

A shareholder which itself or together with its affiliates has acquired more than 75% of a company's voting shares is subject to the requirement to make a mandatory offer to buy the shares of other shareholders.

13. **SHAREHOLDERS WITH AT LEAST 95% OF A COMPANY'S VOTING SHARES + ONE VOTING SHARE**

A shareholder which itself or together with its affiliates has acquired more than 95% of an open joint-stock company's shares by way of voluntary or mandatory offers to other shareholders made in accordance with the JSC Law has the right to force a buy-out of the shares owned by the minority shareholders.

14. **THE RIGHTS OF SHAREHOLDERS THAT OWN 100% OF THE VOTING SHARES OF THE COMPANY**

Any person holding 100% of a company's shares can exercise all the powers conferred on such company in general meeting and may take such decisions by way of a written resolution.

15. **SHAREHOLDERS' AGREEMENT**

Since July 2009 shareholders of Russian joint-stock companies may set themselves certain internal rules in relation to the performance of rights attached to the shares that they own, including issues regarding voting at a general meeting of shareholders, obligations to sell or buy shares at a predefined price and other similar matters.

According to the JSC Law, a shareholders' agreement is not a public constitutional document of a company, but is private and does not require any state registration. Nevertheless, in certain cases the company itself and an authorised state agency must be notified of the fact that such a shareholders' agreement exists.

Despite the fact that a shareholders' agreement is binding for its parties only, any commercial agreement entered into by a party to a shareholders' agreement may be ruled invalid by a court if it is proved that the other party to such commercial agreement was aware or ought to have been aware of restrictions imposed by the shareholders' agreement.

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