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**SHAREHOLDERS' MEETING REGULATION UNDER THE
COMPANY LAW OF MONGOLIA**

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LEGAL ALERT: SHAREHOLDERS' MEETING REGULATION UNDER THE COMPANY LAW OF MONGOLIA

Under the current Company Law (hereinafter the “Company Law”) of Mongolia, shareholders’ meeting (hereinafter the “Shareholders’ meeting”) is the highest governing body of a company. Articles 59-74 outline a diverse range of regulations, covering Shareholders’ meeting, their authority, notice of meeting, attendance procedures, and criteria for decision validity. Furthermore, Article 70 of the Company Law encompasses the shareholders’ entitlement to lodge complaints regarding the Shareholders’ meeting and resolutions therefrom.

Basic rights of shareholders

- *receive dividend;*
- *attend meetings and vote agenda;*
- *receive a portion of proceedings from the sale of assets remaining after the liquidation of the company;*
- *attend meetings and exercise voting rights in proportion to their share ownership for all matters discussed.*

Shareholders’ meeting

| Shareholders’ meeting | | |
|--------------------------------------|--|--|
| | Annual | Extraordinary |
| Issue resolution on convening | Board of Directors /executive management in the absence/ | Board of Directors /executive management in the absence/ <i>*(i) two or more independent board members, (ii) or shareholders holding 10 or more percent of voting rights is entitled to propose or demand convening shareholders’ meeting</i> |
| Convening period | Four months from the end of fiscal year | In accordance with grounds and timeline under the Company Law |

The shareholders’ meeting represents the entire company structure comprised of all shareholders and is mandatory to convene. Failure to convene the Shareholders’ meeting within

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the legally established timeframe leads to the termination of the authorities vested to the Board of Directors (hereinafter the “BoD”), as defined by the Company Law and the company’s charter, leaving only the authority to convene the Shareholders’ meeting.

In distributing the notice of the Shareholders’ meeting, the responsible person ensures that eligible shareholders are duly informed to attend (Art. 65.1 of the Company Law). In other words, it is necessary to include the information (Art.65.4 of the Company Law) specified in the law in the notice of the meeting, and failure to meet these requirements will render the shareholders’ decisions invalid.

The right to file a complaint regarding the Shareholders’ meeting and resolutions therefrom:

70.1. The shareholder who did not attend the shareholders meeting, or who voted against the decision adopted at such meeting may appeal to a court in respect of the shareholders meeting and resolutions therefrom on the following grounds:

70.1.1. the shareholders meeting was not convened in accordance with the procedure set by this law, and by the relevant authority in conformity therewith, or with the company charter;

70.1.2. the date and place of the shareholders meeting was changed after the decision to convene the shareholders meeting was issued;

70.1.3. matters not included in the agenda of the meeting were discussed.

70.2. The shareholder who did not attend the shareholders meeting of a joint stock company, or voted against the decision adopted at such meeting has the right to submit its complaint to the Financial Regulatory Committee based on the grounds specified in Paragraph 70.1 of this law.

Judicial precedent

In a 2018 dispute at the State Supreme Court, a total of 76% shareholders (hereinafter the “defendant”) of the “C” LLC (hereinafter the “Company”) convened a meeting without formally notifying the 24% shareholder (hereinafter the “plaintiff”), prompting the plaintiff to consider it as violations of the Company Law and the company’s charter. Consequently, the plaintiff filed a claim seeking to invalidate the decision. However, the defendant argued that the claim was unfounded, citing the notice of the Shareholders’ meeting regarding the Company’s liquidation through public media. However, the Civil Court of First Instance ruled to annul the decision to liquidate the Company in accordance with Section 70.1.1 (*70.1.1.the shareholders meeting was not convened in accordance with the procedure set by this law, and by the relevant authority in conformity therewith, or with the company charter*) of the Company Law. Subsequently, the

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Court of Appeal of Civil Affairs of the Capital City upheld the decision made by the Court of First Instance of Civil Affairs, not satisfying the defendant's appeal. Moreover, in the complaint lodged by the defendant, the Supreme Court stated that under Article 26.3 of the Company Law, the board of directors of a company undergoing liquidation, as decided by the shareholders (or in its absence, executive management), is tasked with appointing a liquidation committee. This committee is responsible for outlining the timeframe and procedures for liquidation, as well as presenting the liquidation project indicating the procedure regarding the distribution of the company's assets to shareholders after settling creditors' claims. However, the Supreme Court highlighted that the absence of a list detailing these facts and the procedure for shareholders' acquaintance with it, along with deficiencies such as the failure to provide a shareholder attendance list, date and procedure for notifying the meeting, and deliver notices to 24% of the shareholders as prescribed by law, are deemed violations of the procedures outlined in Articles 60.2 (mandatory provisions for convening the Shareholders' meeting) and 65 (notice of the Shareholders' meeting) of the Company Law. Consequently, the 24% shareholder is deprived of exercising fundamental shareholder rights, including the ability to introduce questions, physically attend the meeting, and vote on matters under discussion. Thus, the complaint to annul Company's decision, based on the improper convening of the Shareholders' meeting not in compliance with the Company Law and company charter, does not contravene Article 70.1.1 (mentioned above) of the Company Law. Hence, the State Supreme Court determined that both the courts of first instance and appellate courts accurately interpreted and applied the law, ensuring compliance with legal requirements for validity. Consequently, the decision and judgment of the both courts were upheld.

In conclusion, it's not uncommon for procedural errors to occur during the notice of meeting process, along with other requirement in compliance with Company Law and company charter or rules. To preempt any potential risks or disputes that may arise in the future, it's advisable to thoroughly familiarize oneself with legal regulations and actively engage in company proceedings protecting own rights and interests.

Sources:

1. Company Law of Mongolia, 2011
2. Resolution of the State Supreme Court No. 001/HT2018/00702 dated May 3, 2008.

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