

DUDKOWIAK KOPEĆ & PUTYRA

Limited Liability Company formation in Poland

Guide for the foreign investors on the procedure and costs of incorporation of Polish Limited Liability Company (LLC) for the investment purposes.

LLC as investment vehicle in Poland

There are two categories of companies in Poland: corporate companies and partnerships.

Only corporate companies are popular among foreign entities investing in Poland as they provide separate legal personality and liability limitation of the investors. Due to above mentioned reasons investors in Poland usually choose between two available types of corporate companies:

- Limited Liability Company (LLC), (Sp. z o.o.) and
- Joint Stock Company (JSC), (S.A.).

In general LLCs are considered to be more flexible in terms of corporate structure and easier to run on day-to-day basis. They are suitable for investments of various scales (small, medium and large). Foreign investors most usually choose LLCs, unless: their business requires JSC form (e.g. bank, insurance company); investment includes IPO or other type of capital raising; there is large number of shareholders involved; or the investment is of very large scale.

JSCs are generally intended for large-scale investments, as a result they are definitely less flexible and much more formal in terms of corporate structure and day-to-day operations. On the other hand, they are perfect vehicles for capital rising, as they are eligible for listing in Warsaw Stock Exchange, they may issue participation certificates, usability certificates, subscription warrants and convertible bonds, etc.

In this brochure we present to you basic features of Polish Limited Liability Company.

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Foreign Investment Practice of **Dudkowiak Kopeć Putyra Law Firm** is one of the oldest practices that in early 90's boosted the Firm to the recent level.

For over **25 years** Dudkowiak & Kopeć is advising to multinational corporations in their investment ventures in Poland. We successfully completed numerous greenfield and brownfield investments in various sectors i.e Real Estate, FMCG, Energy, Aviation, Mining, IT and e-commerce, Food and agriculture, Banking and Payment service.

Recently the **Foreign Investment Practice headed by Mr Michał Dudkowiak** in its everyday business course advises on:

- legal form for investment
- structure of investment
- securities of investment
- regulatory framework
- investment tax effects
- representation & negotiation

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| Required documents | 6 | It should be pointed out that these stages relate to the traditional way of registering the limited liability company. For some time now in Poland a limited liability company can be registered by electronic means, this procedure significantly differs from the traditional procedure of registering the limited liability company. |
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Why Poland ?

Poland is a perfect place for investment and business expansion. The World Bank's forecast in 2018 showcase Poland as a **strong economy despite Brexit turbulences and the European refugee crisis**. The government of Poland is eager to boost the economy by providing incentives for foreign investors, especially those within the aerospace, electronics and renewable energy industries.

The 2018 Ernst & Young European Attractiveness Survey shows that Poland leaped to **5th place in top 20 european destination countries by FDI projects**. According to Economic Survey for 2018 made by OECD, economic growth in Poland remains strong and **the unemployment rate is at a record low level**.

Investors consider our country as **one of the most attractive investment destinations in Europe**. Tourists, in turn, are enchanted by Polish hospitality and friendliness, Poland's cultural heritage and the country's natural wealth.

Consumer market

Poland's **38-million strong consumer market** is one of the biggest in Europe. The country's favourable localisation, in the centre of Europe, where the main communication routes intersect make it possible to export goods to all European countries and thus reach over 500 million consumers. Poland's major trade partners are, among others, Germany, Russia, France, Hungary, Ukraine, Spain and China.

Well-educated Polish economists, engineers, IT specialists and scientists are **highly sought-after and appreciated** employees who find employment in IT companies, R&D centres and scientific institutes. Every year sees a greater number of graduates leave Polish universities, among them graduates from faculties which are most popular among companies investing in advanced technologies. In the academic year 2016/2017 Polish higher education institutions generated **387,000 graduates**. The number of people who start doctoral studies is on the rise.

Advantages

- ▶ 38 MLN Consumer Market
- ▶ Roboosting Economy
- ▶ Access to European Markets
- ▶ Relatively Low Cost Employment
- ▶ Well-educated Local Workforce
- ▶ Independent and stable currency
- ▶ Biggest beneficiary from the EU budget
- ▶ Location at the very heart of Europe
- ▶ Record low unemployment rate
- ▶ Membership in NATO
- ▶ Political stability
- ▶ Steadily improving conditions for doing business

The Polish economy undergoes a **significant growth** which has solid institutional foundations and draws heavily on the country's democratic mechanisms thanks to which the country's economic system is considered to be **the best and most transparent economies among all the post-socialist states**. All the factors together with the country's international safety guaranteed by Poland's **membership in NATO and the EU** make Poland a credible and important business partner for foreign investors. Among the most important challenges to be faced by the country in the foreseeable future there are issues connected with the adoption of the single European currency and all criteria which the country has to meet in order to enter the eurozone.

Q&A - Polish LLC

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|---|--|
| Who may found the LLC ? | One or more legal persons or private individuals |
| What is the minimum share capital ? | 5.000 PLN = approx. 1250 EUR The share capital may be covered by cash or in-kind contributions |
| What is the minimum shares nominal value ? | 50 PLN |
| Board of Directors | Composition: one or more individual persons Representation: to be freely determined by the Articles of Association External liability: subsidiary liability of Directors for debts of LLC if the insolvency motion was not filled within the 1-month deadline |
| Shareholders liability | Shareholders do not hold liability for debts and obligations of LLC |
| What are the shares sales restrictions ? | Share sale restrictions may be introduced by the Articles of Association. Sale of shares of LLC will always require notarial signature. |
| What types of shares may the LLC issue to the shareholders ? | Only the registered shares may be issued by the LLC |
| What special rights may be associated with the shares ? | Preferred voting rights: maximum 3 votes / share Preferred dividend rights: maximum 150 % of dividend |
| How to Increase the share capital ? | Regular: requires change of Articles of Association at the Notary Fast track: Articles of Association may provide flexible measures of share capital increase (e.g. up to certain, even very high level, solely by Directors decision) |
| Supervision and Supervisory Board | Supervision right: each shareholder is entitled to direct supervision Supervisory Board: is not obligatory as long as the LLC does not exceed share capital of 500.000 PLN and 25 shareholders Supervisory Board composition: at least 3 members |
| Annual auditing by certified auditor | In LLC there is no obligation to carry out annual audit by certified auditor, unless (2 conditions of 3 are met): <ul style="list-style-type: none">- over 50 employees,- assets from the balance > 2,5 mln EUR- net revenues > 5 mln EUR |

Q&A - Polish LLC

Shareholders Meetings

Shareholders Meeting: do not need to be carried out in front of the Notary, unless related to amendment of Articles of Association

Measures of capital raising

LLC may issue bonds
Shares of LLC are not eligible for being listed on Stock Exchange

Expulsion of shareholders from the LLC

Court expulsion: a shareholder may request the court to exclude other shareholders from the company for a justified reason

Required documents

Shareholder who is individual person.

- If the shareholder is **attending the Notary** in Poland:
 - he will only need the **ID or passport**
- If the shareholder is **not attending the Notary** in Poland and we will be acting his behalf:
 - we will need **the Power of Attorney to incorporate the LLC signed in front of the Notary + Apostille (or legalization)**.

Shareholder who is a legal person

- If the Director of the shareholder is **attending the Notary** in Poland:
 - he will only need the **ID or passport**
- If the Director of the shareholder is **not attending the Notary** in Poland and we will be acting his behalf:
 - we will need **the Power of Attorney to incorporate the LLC signed in front of the Notary + Apostille (or legalization)**.
- In addition to above, in order to incorporate the LLC on behalf of other company, we will always need:
 - **the company extract from your local company registry confirming goodstanding of the company, list of directors and rules of representation + Apostille (or legalization)**.

Other documents

- The Directors and the Shareholders of you future LLC will be also requested to provide many other KYC, AML and corporate statements, however those, in general, will not need to be signed in front of the Notary.

Registration stages

| | OPTION I Fiduciary company incorporation via online registration system | Time required | OPTION II Regular company incorporation | Time required |
|----------------|---|--|---|---|
| Stage 1 | At clients instruction we incorporate and register the company in the National Court Register by S24 system via Internet | 1 - 7 days | Collecting documents for conclusion of the Memorandum and Articles of Association at the Notary (POAs + Apostille/ legalization) | depends on the client |
| Stage 2 | We appoint a new management board of company as indicated by the client | 1 day | We conclude the Memorandum and Articles of Association before the Polish Notary in a form of notarial deed | 1 - 7 days |
| Stage 3 | Your company is ready for operations, it is fully registered in the National Court Registry and has all tax and statistical numbers (NIP and REGON), however further stages shall be completed as soon as possible | Fully ready for operations after 8 days | We appoint a management board of company | 1 day |
| Stage 4 | Collection of documents required for sale of shares (POAs + Apostille/ legalization) | depends on the client | Your company is partially ready for operations, it exists but it is NOT registered the National Court Registry and it does NOT have the tax and statistical numbers (NIP and REGON) | Partially ready for operations after approx. 2 - 4 weeks |
| Stage 5 | Upon the POAs we conclude the shares sale agreement in front of the Notary | 1 - 7 days | Collecting documents for application to the National Court Register | depends on the client |
| Stage 6 | Your company is now owned by you and further stage has only declaratory | | Filling the registration application to the National Court Register | 1 - 3 months |
| Stage 7 | Submitting the application on the transfer of shares to the National Court Register | 1 - 3 months | Your company is ready for operations, it is fully registered in the National Court Registry and has all tax and statistical numbers (NIP and REGON), however further stages shall be completed as soon as possible | Fully ready for operations after approx. 2 - 3 months |

Fees - Option I

| | |
|---------------|---|
| Set fee | We recommend the company to become incorporated under Chapter 22 and represent the client in the registration process for the fee of 10,000 PLN + VAT if applicable. |
| Services | Preparing the full and correct corporate chart capital - this includes the incorporation and not exceed 500 PLN + VAT if applicable. |
| Annual office | We may provide to you an additional assistance for a company registration process this service is charged 400 PLN + VAT if applicable per half year. |

Fees - Option II

To learn our offer - email to
info@dudkowiak.com

| | |
|---------------|---|
| Annual office | We may provide to you an additional assistance for a company registration process this service is charged 400 PLN + VAT if applicable per half year. |
|---------------|---|

Further services

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|--------------|---|
| Offing rates | We charge hourly for the services provided by our staff. Our rates start with an electronic system which provides records the time spent on each of particular project. The system also records expenses. Please ask our billing manager for the most recent hourly rates. |
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Achievements

Prizes and awards

The participation of our attorneys in execution of various international projects has been repeatedly appreciated by our Clients. Their recommendations were reflected in the awards granted by international organizations and industry magazines. Thanks to the loyalty of our Clients, we were selected and awarded in areas such as M&A, litigation, finance and banking law, competition law, antitrust law and international business. In 2017 we were named as M&A Law Firm in Spotlight by Legal500.

- ▶ Mergers and acquisitions - Law Firm of the Year 2016
Acquisition International Magazine 2016
- ▶ Economic law - Law Firm of the Year 2016
Corporate LiveWire Legal Awards 2016
- ▶ Cross-border services - Law Firm of the Year 2016
Corporate LiveWire Legal Awards 2016



- ▶ International Business - Law Firm of the Year 2016
Global Law Experts 2016
- ▶ Banking and Finance - Law Firm of the Year 2015
Wealth and Finance Magazine 2015
- ▶ Competition and Antitrust - Law Firm of the Year 2015
Corporate LiveWire Legal Awards 2015
- ▶ International Business - Polish Law Firm of the Year 2015
CorpINTL 2015
- ▶ General Practice - Law Firm of the Year 2015
Acquisition International Magazine 2015
- ▶ Litigation - Polish Law Firm of the Year 2014
Global Law Experts 2014
- ▶ Mergers & Acquisitions - Law Firm of the Year 2014
Acquisition International Magazine 2014
- ▶ Bill of Exchange Law - Law Firm of the Year 2013
Global Law Experts 2013
- ▶ Insurance Law - Law Firm of the Year 2013
Global Law Experts 2013

„Fast, sharp and with vigour in a broad range of legal topics. From M&A via debtor management to energy industry regulation advisory a convincing appearance.”

Dennis Schwindt
COO in HMS Bergbau AG

„Quick, very reliable and extremely skilled law office, having customer-oriented approach”

Jukka Halttunen
CEO of MUSEKO OU in review for Legal500

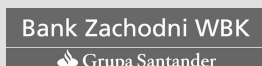
They trusted us:

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