



DOING BUSINESS IN UKRAINE 2018

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1. UKRAINE'S OVERVIEW

Ukraine is a sovereign state in Eastern Europe. Excluding Crimea, Ukraine has a population of about 42.5 million, making it the 32nd most populous country in the world. Its capital and largest city is Kiev. Ukrainian is the official language and its alphabet is Cyrillic. The dominant religions in the country are Eastern Orthodoxy and Greek Catholicism. Ukraine is currently in a territorial dispute with Russia over the Crimean Peninsula, which Russia annexed in 2014. Including Crimea, Ukraine has an area of 603,628 km² (233,062 sq mi), making it the largest country entirely within Europe and the 46th largest country in the world.

1.1. Administrative Divisions (Regional Structure)

Ukraine is a unitary state divided into:

- 24 oblasts (regions);
- the Autonomous Republic of Crimea (illegally and temporarily annexed by the Russian Federation in 2014); and
- the cities of Kyiv and Sevastopol (each of which is deemed a separate administrative unit; Sevastopol was illegally and temporarily annexed by the Russian Federation in 2014).

Each oblast and both Kyiv and Sevastopol have a governor who is appointed by the President.

The Autonomous Republic of Crimea has its own constitution, Parliament and government, but remains subordinate to the central Government of Ukraine.

Following the Russian annexation of Crimea and the City of Sevastopol in March 2014:

- a special Law of Ukraine assigned the status of temporarily occupied territories to these regions of Ukraine and established a special regime for conducting business transactions in these regions and between these regions and mainland Ukraine; and
- Crimea and the City of Sevastopol were declared, with effect from September 2014 and for the following 10-year period, a Free Economic Zone with a special tax and customs clearance regime and a number of other features aimed at protecting the businesses affected by the annexation and the future economic development of these regions upon the termination of the occupation.

1.2. Government and Political and Legal Systems

Ukraine follows a civil law system, under which the Constitution of Ukraine (the “Constitution”) provides the framework for its legislative system.

The principal body of legislation consists of:

- laws adopted by the Parliament of Ukraine;
- and international agreements of Ukraine duly ratified, or acceded to, by the Parliament.

Laws are implemented through various normative acts that are adopted by the relevant government bodies (ie, the President, the Cabinet of Ministers, Ministries and State Committees).



The current Constitution was adopted on 28 June 1996 and heralded a new period in the development of the Ukrainian legislative system.

The Constitution:

- established the general guidelines for national policy and a foundation for the development of a democratic state; and
- has enormous value as a legislative act as its provisions apply directly and entitle any individual to seek protection of his/her rights within the judicial system.

In general, all laws and normative acts are adopted on the basis of, and in strict compliance with, the Constitution. The Constitution itself mandates the preparation and implementation of a comprehensive program of legislative developments by providing for the adoption of new laws and, as deemed necessary, the amendment of existing laws.

The legal system of Ukraine comprises three major layers of normative acts:

- the Constitution;
- laws adopted by the Parliament and international agreements of Ukraine duly ratified, or acceded to, by the Parliament; and
- other normative acts.

Pursuant to the Constitution, Ukraine has three branches of state power:

- the legislative branch, represented by the Parliament;
- the executive branch, represented by the Cabinet of Ministers of Ukraine (the “Cabinet of Ministers”) and headed by the Prime Minister;
- and the judicial branch, represented by a multilevel system of courts, the highest being the Supreme Court.

The President:

- is the head of state and the commander-in-chief of armed forces;
- has significant authority over the executive branch;
- is elected every five years; and
- possesses such powers as the dissolution of the Parliament in specific cases and the appointment of the Prosecutor General.

Under the constitutional reforms dated 21 February 2014 adopted by the Parliament following the Revolution of Dignity, effective from 2 March 2014, the earlier constitutional reforms of 8 December 2004 were reinstated with certain amendments and the distribution of executive powers among the President and the Cabinet of Ministers was yet again shifted in favor of the Cabinet of Ministers. Some of the key constitutional rights of the President (for example, the right to appoint the Prime Minister) were returned to the Parliament, thereby reverting the political system of Ukraine from a presidential-parliamentary republic to a parliamentary-presidential republic.

The Parliament:

- is the supreme legislative body in Ukraine;
- comprises 450 people’s deputies:
 - half of whom are elected through proportional representation
 - the other half are elected directly and individually by a majority vote in each voting district
- is elected for a five-year term;



- has the power to adopt laws and resolutions and approve the state budget of Ukraine;
- ratifies, or accedes to, international agreements in the form of laws of Ukraine;
- approves Prime Minister candidates; and
- appoints the Chair of the National Bank of Ukraine, the Head of the Security Service of Ukraine and several other senior government officers.

In Ukraine, a bill becomes a law once it gains a majority (226 deputies) of the votes in the Parliament (except for certain types of laws requiring a supermajority of 300 votes), and is signed into law by the President.

The Cabinet of Ministers:

- is the highest body within the executive branch;
- implements laws once they are adopted;
- is led by the Prime Minister;
- is responsible before the President and the Parliament; and
- is accountable to the Parliament.

The Ukrainian court system exercises independent judicial power in Ukraine and consists of:

- courts of general jurisdiction; and
- the Constitutional Court of Ukraine

The courts of general jurisdiction:

- are responsible for civil, criminal, commercial and administrative cases as well as cases on administrative offenses;
- have the following three-tier structure:

1. the Supreme Court;

2. Appellate courts:

- general appellate courts
- commercial appellate courts
- administrative appellate courts

3. Local courts:

- general courts (consider civil and criminal cases as well as cases on administrative offenses)
- commercial courts
- administrative courts.

Pursuant to the judicial reform of June 2016, there will no longer be standalone highest specialized courts in Ukraine, other than:

- the Highest Intellectual Property Court; and
- the Highest Anticorruption Court, which are yet to be created.

1.3. Economy

Ukraine:

- benefits from a consumer market of approximately 42.42 million people;
- enjoys:
 - an opportune geographical location
 - a mild climate
 - fertile land
 - a rich natural resource base
 - a highly educated labor force
 - a well-developed transport infrastructure



- a long-established tradition of scientific research and development.

Despite the fact that Ukraine has significant potential for growth, following the Russian annexation of Crimea and the occupation of the Donbas region by Russian troops and Russian-backed separatists, the country faced serious economic and financial challenges and remains in need of investment in all sectors of industry, with many industrial plants either located in occupied territories or otherwise unable to meet the current consumer demand.

Following independence in 1991, export restrictions have been significantly reduced on various categories of products produced in Ukraine. The core export categories include:

- ferrous and non-ferrous metals and metal products;
- chemical products;
- fertilizers;
- plastics and rubber;
- agricultural products and foodstuffs;
- engineering goods;
- various types of machinery and equipment (including various types of transport vehicles);
- textiles; and
- a wide variety of raw materials.

1.4. Foreign Relations

Ukraine:

- is a constituent member of the UN and various other multilateral organizations, including the IMF, IBRD, IFC, MIGA, EBRD, BSTDB, EIB, OSCE and the Council of Europe;
- has become party to more than 400 multilateral treaties and over 2,000 bilateral agreements since gaining its independence in 1991;
- joined the WTO in 2008;
- cooperates with the OECD, the European Union and NATO;
- has stated its intention to ultimately join the European Union within the next decade and to continue cooperation with NATO in various areas; and
- has signed and ratified the Cooperation Agreement with NATO, which is now in force.

Ukraine seeks to further deepen EU-Ukraine relations. The political part of the EU-Ukraine Association Agreement was signed on 21 March 2014. The economic part of the EU-Ukraine Association Agreement (the “Deep and Comprehensive Free Trade Agreement”) was signed on 27 June 2014 as part of the Association Agreement (“AA”).

The AA establishes major rules for political dialog and cooperation in numerous areas such as energy, transport and public finance management. The Deep and Comprehensive Free Trade Agreement significantly integrates the EU and Ukrainian markets by banning trade restrictions. The AA entered into force on 1 September 2017.

2. FOREIGN INVESTMENT IN UKRAINE

2.1. Laws on Foreign Investment

The Law of Ukraine On Investment Activity, adopted on 18 September 1991, establishes the general principles for investment activity in the territory of Ukraine, irrespective of the nationality of the



investor. The particularities of making foreign investments in Ukraine are regulated by the Law of Ukraine On the Regime of Foreign Investment (the “Foreign Investment Law”), adopted on 19 March 1996.

Under the Foreign Investment Law, the term “foreign investment” refers to all forms of value invested by foreign investors into objects of investment activity in accordance with the applicable Ukrainian legislation for the purposes of obtaining profit or a social effect. Pursuant to the Commercial Code of Ukraine (the “Commercial Code”), adopted on 16 January 2003, and the Foreign Investment Law, any Ukrainian company qualifies as an “enterprise with foreign investment” if foreign investment in its charter capital amounts to at least 10%.

Foreign investors are entitled to certain privileges and guarantees under the Foreign Investment Law as outlined below:

Protection against changes in legislation	Foreign investors are guaranteed protection against changes in foreign investment legislation for a period of ten years, although certain changes in other areas of Ukrainian legislation and their implementation have, in fact, limited the applicability of the above guarantee to changes in Ukrainian legislation on matters relating to nationalization, expropriation and similar.
Protection against nationalization	Foreign investments may not be nationalized. State bodies may not expropriate foreign investments, with the exception of emergency measures (such as national disasters, accidents, epidemics, etc.), and then only on the basis of the decisions of bodies authorized to that effect by the Cabinet of Ministers of Ukraine.
Guarantee for compensation and reimbursement of losses	Foreign investors have the right to be reimbursed for their losses, including lost profits and moral damages incurred as a result of the action, the failure to act or the improper performance on the part of state or municipal bodies of Ukraine or their officials with regard to their obligations to foreign investors or enterprises with foreign investment as required by law. All expenses and losses of foreign investors must be reimbursed at the current market rate and/or on the basis of a well-founded valuation certified by an independent auditor or auditing firm.
Guarantee in the event of the termination of investment activity	Foreign investors are guaranteed the right to remit their revenue and withdraw their investments from Ukraine free from export duties within six months of the termination of their investment activity.
Guarantee of profit repatriation	After the payment of taxes, duties and other mandatory payments, foreign investors are guaranteed the right to the unimpeded and immediate transfer abroad in a foreign currency of all profits and other proceeds legally earned as a result of their investment activity (subject to applicable currency exchange regulations).

Before 26 July 2016, the prerequisite to enjoying privileges and guarantees under the Foreign Investment Law was the registration of investments with the relevant state authorities. Today, all foreign investments, including those which were registered before 26 July 2016 and those which were not registered before or after 26 July 2016, are equally entitled to the privileges and guarantees under the Foreign Investment Law. Legal entities with foreign investments should now submit



statistical reports as provided by law.

Under the Customs Code of Ukraine adopted on 13 March 2012, enterprises with foreign investments are exempted from paying import duties on their foreign investors' in-kind contributions to their charter capitals (except for goods for sale or use for purposes not directly related to business activities). However, in the event that the corresponding assets are alienated by such enterprises earlier than three years from the date of them being added to the balance of the enterprise, then the enterprise will be required to pay the applicable import duty on general grounds.

Two categories of restrictions apply to foreign investment activity in Ukraine: The first relates to general restrictions on investment activity, which are applied both to foreign and domestic investors. Pursuant to applicable Ukrainian legislation, certain types of business activity may be pursued only by state-owned enterprises (eg, the rocket industry, banknotes and certain blank forms of securities certificates, etc.). The second category relates to certain restrictions applicable only to foreign investors. For example, foreign citizens and legal entities are prohibited from owning agricultural land in Ukraine and are only authorized to own land designated for non-agricultural use under the current version of the Land Code of Ukraine.

Specifics of investment activities are set out in the Laws of Ukraine On Public-Private Partnership, On Concessions, On General Principles of Creation and Functioning of Special (Free) Economic Zones, etc.

2.2. Making Investments

A foreign investor may make a cash contribution to a Ukrainian legal entity either through special investment accounts opened by the foreign investor with a Ukrainian commercial bank or by transferring funds from abroad directly to the bank account of its Ukrainian subsidiary.

Options investors generally have when making both portfolio and direct investments in Ukraine	Open an investment bank account in Ukraine and transfer funds in a foreign currency from abroad to this investment account.
	Transfer funds in a foreign currency from abroad directly to an account of a resident in Ukraine.
	Convert funds in a foreign currency kept in an investment account at a Ukrainian commercial bank into Ukrainian currency for further investment.
	Transfer funds in Ukrainian and foreign currencies from their investment account to an account of a resident in Ukraine or an investment account of another foreign investor.

2.3. Divestiture

The Foreign Investment Law provides that in the event of the termination of its investment activity, a foreign investor has the right, within six months of the date of the termination of such activity, to recover its investment in kind or in the currency of the investment to the amount of the actual



contribution (taking into account any possible reduction of charter capital), without the payment of any fees or duties. A foreign investor has the right to recover the benefits from its investments in cash or in kind on the basis of the actual market value of the investment at the moment of termination of the investment activity, unless otherwise stipulated by applicable Ukrainian legislation or international agreements to which Ukraine is a party.

2.4. Investment Incentives

All enterprises with foreign investment are taxed on their profits on par with other Ukrainian domestic enterprises, with the exception of certain state guarantees for foreign investments and the duty-free import of in-kind contributions to charter capitals of enterprises with foreign investment (see Section 2.1 above). The Foreign Investment Law also contemplates the possibility of the establishment of a priority regime with respect to certain projects with the participation of foreign investors, which will be implemented pursuant to state programs promoting key sectors of the economy, the social sphere and territories.

In addition, current Ukrainian legislation provides for the establishment of free economic zones. The legal status of foreign investments into such zones is regulated by separate legislation on free economic zones, under which foreign investors may be granted additional privileges and benefits.

2.5. Dispute Resolution

In the event of a dispute arising with respect to a foreign investment, a foreign investor may seek recourse through a number of institutions. As a general matter, the Foreign Investment Law provides that a dispute arising between a foreign investor and the state of Ukraine must be settled in Ukrainian courts, unless otherwise provided for by international treaties, while all other disputes involving a foreign investor must be settled in Ukrainian courts or in courts of arbitration (including international arbitration courts).

Furthermore, the Law of Ukraine On Foreign Economic Activity adopted on 16 April 1991 (the “LFEA”) allows parties to a commercial dispute to select a forum for its resolution. In accordance with Article 38 LFEA, disputes between parties regarding foreign economic activity may be resolved by Ukrainian courts, the International Commercial Arbitration Court, the Maritime Arbitration Commission of the Chamber of Commerce and Industry of Ukraine, or by other dispute resolution bodies chosen by the parties to the dispute. In addition, the Law of Ukraine On the International Commercial Arbitration Court adopted on 24 February 1994, specifically provides that both foreign investors and Ukrainian enterprises with foreign investment have the right to resolve disputes between themselves and third parties in international commercial arbitration courts.

As a party to the 1966 Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention or the Washington Convention), Ukraine shall recognize and enforce the awards of the International Centre for Settlement of Investment Disputes.

2.6. Investment Treaties

Ukraine is currently a signatory to Treaties on the Mutual Protection of Foreign Investments with various countries, including:

Albania, Argentina, Armenia, Austria, Azerbaijan, Belarus, the Belgium– Luxembourg Economic Union, Bosnia and Herzegovina, Brunei, Bulgaria, Canada, Chile, China, Croatia, Cuba, Czech Republic, Denmark, Egypt, Equatorial Guinea, Estonia, Finland, France, Gambia, Georgia, Germany,



Greece, Hungary, India, Indonesia, Iran, Israel, Italy, Jordan, Kazakhstan, Korea, Kuwait, Kyrgyzstan, Latvia, Lebanon, Libya, Lithuania, Macedonia, Moldova, Mongolia, Morocco, the Netherlands, Oman, Panama, Poland, Portugal, Russian Federation, San Marino, Saudi Arabia, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Syria, Tajikistan, Turkey, Turkmenistan, the United Arab Emirates, the United Kingdom, the United States of America, Uzbekistan, Vietnam, Yemen and Yugoslavia.

Ukraine also signed Association Agreement with the European Union and the European Atomic Energy Community and their member states (the “Agreement”) in 2014 which became effective as of 1 September 2017. Pursuant to the Agreement, parties consented to cooperate and converge economic policy, legislation and regulation across a broad range of areas, including, *inter alia*, company and financial services laws, technical and consumer standards upheld by the European Union and establishment of a free trade area over transitional period of 10 years from effective date of the Agreement.

On 16 May 2008, Ukraine became a member of the World Trade Organization.

3. LEGAL FORMS OF BUSINESS

The laws providing rules for the establishment, maintenance and liquidation of business legal entities in Ukraine:

- the Civil Code of Ukraine (the “Civil Code”), adopted on 16 January 2003, effective from 1 January 2004;
- the Commercial Code of Ukraine (the Commercial Code), adopted on 16 January 2003, effective from 1 January 2004;
- the Law of Ukraine On Companies (the “Company Law”), dated 19 September 1991;
- the Law of Ukraine on Joint Stock Companies (the “JSC Law”), dated 17 September 2008;
- the Law of Ukraine On the State Registration of Legal Entities, Individual Entrepreneurs and Public Organizations, effective from 13 December 2015.

Under the Civil Code, legal entities that carry out entrepreneurial activities to earn a profit must be established in the form of companies.

The types of companies in Ukraine:

- general partnership;
- limited partnership;
- additional liability company;
- limited liability company (LLC);
- Joint stock company (PJSC and PrJSC).

3.1. Key Considerations (How to choose the right business structure?)

1. Ease of incorporation: Complexity of incorporation and approvals procedure, required documents, timeline etc.
2. Capital: Minimum required capital, ease of capital injection, ease of repatriation.
3. Liability: Extent of liability protection against business risks.
4. Taxation: Overall tax burden including Income tax, capitals gains tax, dividend tax, employment



tax and others.

5. Compliance and Reporting: The complexity of ongoing compliance and reporting requirements is a very critical factor in choosing a business form that is appropriate for the size and complexity of your business.

6. Currency control: Extent of controls on the repatriation of profits, capital, and loan repayments out of the country, controls on injection of capital or loan from overseas.

7. Restrictions on doing business: Any restrictions imposed of doing business.

8. Relocation of foreign staff: approval terms and conditions.

9. Closing of business

3.2. Joint Stock Companies

Definition	<ul style="list-style-type: none"> ▪ A company whose charter capital is divided into shares of equal par value. ▪ Very similar in form and operation to US corporations, German AGs, and French sociétés anonymes (“SAs”). 	
Liability	Shareholders are liable for a JSC’s obligations only to the extent of their respective equity contributions to its charter capital, except for shareholders of banks which may have additional liability imposed.	
Types	<ul style="list-style-type: none"> ▪ Public (the rough equivalent of an open JSC under former legislation). ▪ Private (the rough equivalent of a closed JSC under former legislation). 	
Establishment requirements	Founders	<ul style="list-style-type: none"> ▪ A single founder or a group of founders. ▪ The following restrictions apply: <ul style="list-style-type: none"> ○ a wholly-owned subsidiary in the legal form of a JSC may not be established by another wholly-owned subsidiary (either foreign or Ukrainian) ○ a JSC may not have among its shareholders only legal entities that are wholly-owned by the same person ○ a subsidiary in the legal form of a JSC that is wholly-owned by a foreign company may not own agricultural land in Ukraine under the current version of the Land Code of Ukraine (the “Land Code”)
	Minimum capitalization	1,250 times the officially established minimum monthly salary as of the date of the formation of the JSC is required to establish a JSC (ie, as of 1 January 2018 until 31 December 2018, UAH 4,623,750 or approximately USD 167,040 / EUR 133,172).



Issuance of shares	Public JSC	The first issuance of shares upon the establishment of either a public or a private JSC must be made exclusively by means of a private placement of shares among the founders of the JSC.	<ul style="list-style-type: none">▪ May issue additional shares by means of public and private placements of shares.▪ Further, a public JSC is obliged to include its shares into the register of at least one of the Ukrainian stock exchange.
	Private JSC		<ul style="list-style-type: none">▪ May issue additional shares only by means of a private placement of shares.▪ If a shareholders' meeting of a private JSC adopts a decision to carry out a public placement of its shares, then the charter of such JSC must be amended; in particular, the type of JSC must be changed from private to public.* <p>* changing a JSC's type from private to public and vice versa is not considered a transformation of the JSC.</p>
Registration of issuance of shares	<ul style="list-style-type: none">▪ An issuance of shares by both a private and a public JSC must be registered with the Ukrainian National Commission on Securities and the Stock Market (the "Securities Commission") with the registration of a share issue and an offering prospectus, a report on the results of the placement of shares and the issuance of a certificate on the registration of shares issuance.▪ If a JSC fails to officially register any issue of its shares with the Securities Commission, any and all of the share purchase agreements entered into with respect to such shares issued, as well as any subsequent share issuances, will be deemed void.		



Meeting of shareholders	Conveying the meeting	<p>The period for issuing a prior notice for convening a meeting of shareholders and communicating the agenda thereof is only 30 days.</p> <p>JSCs (both public and private) that have 25 shareholders or less may approve shareholders' decisions by written polling, as opposed to voting in person at a shareholders' meeting, if it is envisaged by the JSC's charter.</p> <p>A wholly-owned JSC is exempt from the requirement to convene and hold shareholders' meetings; instead, the powers vested in the meeting of shareholders are to be exercised by the sole shareholder.</p> <p>A quorum of more than 50% of all voting shares is needed for proper convocation of shareholders' meetings.</p>
	Voting	<ul style="list-style-type: none">▪ Voting rights are based on the principle of "one share, one vote," except for cases of cumulative voting.▪ Cumulative voting (a new voting mechanism in Ukrainian legislation) must be used for the appointment of members of the supervisory council and/or the audit commission; depending on the type of a JSC and the number of shareholders, the use of cumulative voting is either mandatory or voluntary.▪ A supermajority vote, consisting of three-quarters of the total number of votes of the shareholders registered for the particular shareholders' meeting, is required to pass resolutions on:<ul style="list-style-type: none">○ amendments to the charter○ cancellations of "treasury shares" (shares bought out by a JSC)○ changes to the JSC's type○ placements of shares○ placement of securities, which may be converted into shares○ increases/decreases of the charter capital○ terminations and spin-offs, save for some cases stipulated by the JSC Law▪ The charter of a private JSC may establish an additional list of matters, with some exceptions, which require a supermajority vote or even a unanimous vote.▪ All other resolutions may be adopted by a simple majority of the votes of those shareholders registered for the relevant meeting and holding shares allowing them to cast their votes regarding certain issues.



Auditor / audit commission	From	<ul style="list-style-type: none">▪ A Public JSC and a Private JSC with more than 100 shareholders must elect an audit commission.▪ A Private JSC with less than 100 shareholders must either establish the position of auditor or elect an audit commission.▪ A JSC with 50 per cent or more shares owned by the state must elect an audit commission.▪ A JSC with 50 per cent or more shares of which is in the charter capital of the Company wholly owned by the state must elect an audit commission.
	Requirements to members	<ul style="list-style-type: none">▪ An audit commission must be comprised of 3 members, where the majority is independent directors.▪ The Chairman of an audit commission must be an independent director.▪ The corporate secretary and the members of the other bodies of a JSC may not be elected as members of the audit commission (the auditor).
Reporting and disclosure requirements	Regular	Regular reporting is the disclosure on an annual basis (for private JSCs) and a quarterly and annual basis (for public JSCs) of information on the results of the financial and business activities of a JSC.
	Special	Special reporting is the ad hoc disclosure of information on any actions that may influence the financial or business activities of a JSC and lead to a significant change in the value of its securities.



	Other publication requirements	<ul style="list-style-type: none">▪ If a person that directly or indirectly buy or sell voting shares of the Public JSC become an owner of the significant stake of its voting shares (5%, 10%, 15%, 20%, 25%, 30%, 50%, 75%, 95% of voting shares) then the person must notify the Company.▪ A person intending to purchase a significant shareholding in a JSC (10% or more of voting shares) must notify a JSC in advance about its intention in writing and must disclose the notification to the Securities Commission, Stock Exchange (where the JSC is listed) and must publish the notification in the Securities Commission data base or through the person that conducts activity on disclosing of the regulatory information on behalf of the stock market members.▪ A person who has acquired a controlling shareholding in a Private JSC (50% or more) or 50% or 75% or more shareholding in Public JSC must submit the notification to the Securities Commission. The Company must publish the notification on a website and database of the Securities Commission no later than the next day after receiving it. Such person also must make an offer to all other shareholders to purchase their shares at a price not less than the market price, and must notify the Securities Commission and the stock exchange (for a Public JSC) about such offer.▪ A person that acquired 95% or more of the ordinary shares in any type of a JSC should submit a notification to the JSC and the Securities Commission notifying on acquisition of such stake. The Company must publish the notification on a website and database of the Securities Commission no later than the next day after receiving it.
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3.3. Limited Liability Company (LLC)



Definition	<ul style="list-style-type: none"> ▪ A company established by one or more entities, the charter capital of which is divided into participatory (ie, ownership) interests. ▪ The participatory (ie, ownership) interests of participants in an LLC are expressed in the form of the respective percentages of an LLC’s charter capital owned by them. ▪ There are no legal restrictions on how the participatory interests of an LLC may be distributed; this issue remains entirely within the discretion of the founders of an LLC. ▪ Participatory interests in an LLC do not qualify as “securities” for the purposes of applicable Ukrainian legislation and, therefore, are not subject to registration with the Securities Commission. ▪ The legal nature of an LLC is similar to that of a German GmbH and a French société à responsabilité limitée (SARL). 	
Liability	<p>Investors in an LLC, ie, its interest-holders or participants, are liable for an LLC’s commitments only to the extent of their capital contributions to its charter capital.</p>	
Establishment requirements	Founders	<ul style="list-style-type: none"> ▪ A single founder or a group of founders. ▪ The following restrictions apply: <ul style="list-style-type: none"> ○ a wholly-owned subsidiary in the legal form of an LLC (the same as with a JSC) may not be established by another wholly-owned subsidiary (either foreign or Ukrainian) ○ an individual or a legal entity (either foreign or Ukrainian) may not be the sole founder of and/or the sole participant in more than one LLC in Ukraine ○ a subsidiary in the legal form of an LLC (the same as with a JSC) that is wholly-owned by a foreign company may not own agricultural land in Ukraine under the current version of the Land Code ○ The maximum number of founders/ participants of an LLC may not exceed 100 legal entities or individuals: <ul style="list-style-type: none"> - those LLCs which are established by less than 100 founders and later expand to more than 100 participants are subject to mandatory reorganization into a JSC within one year - failure to comply with this reorganization requirement or decrease the number of participants to 100 may result in the termination of an LLC upon court decision
	Minimum capitalization	<p>No minimum requirement</p>



Meetings participants	Role	The highest governing body responsible for policy decisions of the LLC, which consists of the participants (ie, the interest holders) of an LLC.
	Conveying the meeting	<ul style="list-style-type: none">▪ The period for issuing a prior notice for convening a meeting of participants is 30 days.▪ Meetings of the participants require a quorum of more than 50% of the votes.
	Voting	<ul style="list-style-type: none">▪ Each participant a number of votes proportionate to the percentage of its interest in an LLC's charter capital.▪ As a general rule, resolutions are approved by a simple majority of the votes present at a duly convened meeting of the participants.▪ The following three resolutions require the approval of a simple majority of the votes of all of the participants (and not only the votes of those participants present at the meeting of the participants):<ul style="list-style-type: none">○ amendment of the charter and changes to the charter capital of an LLC○ determination of the principal activities of an LLC○ the expulsion of a participant from an LLC
Executive body	Form	<ul style="list-style-type: none">▪ A "director" (individual management) or a "directorate" (collective management).▪ The form of an LLC's management and the number of its members may be decided at the discretion of the participants as specified in an LLC's charter.▪ The director or the directorate's members are appointed and removed by the participants' assembly.
Audit commission	Requirement to members	<ul style="list-style-type: none">▪ There must be at least three members of the audit commission of an LLC.▪ The members of the directorate (director) may not be elected as members of the audit commission.

In choosing between an LLC and a private JSC in establishing a wholly-owned subsidiary, LLCs appear to be more popular than private JSCs due to the various establishment and operational considerations discussed above. Generally speaking, the main general corporate benefit of an LLC in comparison with a JSC is that the procedure for the establishment and operation of an LLC is significantly less burdensome and time-consuming since an LLC does not have to issue shares or perform the procedural steps required for issuing shares. The absence of shares in an LLC makes this form of legal entity more mobile and flexible when the participants of the LLC have to change (increase or decrease) the charter capital of the company.

Still, a JSC may be preferable if it is expected that new owners may be added to the company at a higher company valuation. Whereas in an LLC share capital increases are normally performed at nominal value, a JSC is generally required to place its shares only at market price (except in some cases established by the JSC Law). In this way, a JSC can raise financing through newly-issued shares at a higher valuation without all of the shareholders being required to contribute in proportion



to their shareholdings. If such financing is planned in the mid-term, a JSC, while more burdensome overall, may be a preferable option by first organizing the company as an LLC and then re-organizing it as a JSC, a procedure which may take up to one year.

3.4. Representative Offices / Branches

Ukrainian legislation provides that representative offices are deemed to be structural divisions of an enterprise, albeit located in localities different from that of the headquarters of such enterprise. “Branches” do not technically exist in Ukraine but representative offices are their closest equivalent. Representative offices do not enjoy the status of a separate legal entity. This type of structural division must act on the basis of regulations adopted by the corresponding governing body of its founding enterprise. The manager of a representative office must act on the basis of a special power of attorney issued by the management of his/her founding enterprise.

A foreign legal entity may establish its representative office in Ukraine to carry out marketing, promotional and other auxiliary functions on behalf of the foreign legal entity. It is less clear whether a foreign legal entity may also conduct trade or business through a representative office, although “commercial” representative offices (in effect, the equivalent of “branches” in most other countries) are quite common in Ukraine. The practice has been to permit a representative office to carry out a wide range of commercial activities (including signing contracts and execution of imports, exports and other transactions). Normally, such practices result in the creation of a permanent establishment for such foreign companies in Ukraine for the purposes of Ukrainian corporate income tax legislation and, thus, the commercial representative office’s activities become taxable in Ukraine on a general basis (whereas, generally speaking, the activities of a representative office are non-taxable). In some cases it is required either as a matter of law or as a matter of practice to establish a legal entity rather than a representative office (eg, for conducting telecommunications activities or for conducting activities subject to licensing, etc.).

Representative offices of foreign legal entities must be registered with the Ministry of Economic Development and Trade of Ukraine. A one-time registration fee of USD 2,500 is payable. Current Ukrainian legislation fails to provide any guidance on the procedure to be followed by a foreign business entity to open a branch in Ukraine. As a result, in practice, foreign legal entities do not carry out their business activities in Ukraine through branches, but rather through either their (commercial) representative offices registered as permanent establishments, or their wholly-owned Ukrainian subsidiaries, which are usually established in the form of LLCs.

3.5. Joint Venture / Cooperation Agreements

Ukrainian law recognizes two forms of joint venture: a joint venture as a cooperative business activity, without the creation of a legal entity (ie, an unincorporated joint venture); and a joint venture as a separate legal entity (ie, an incorporated joint venture).

In an unincorporated joint venture, the parties enter into a joint venture agreement whereby they undertake to cooperate without the creation of a legal entity and set to achieve specific business objectives. Such joint venture agreements may envisage the consolidation of parties’ assets (simple partnership) or a collective business without such consolidation of assets.

An incorporated joint venture is a joint-entity company, incorporated based on joint capital of two or more business entities. Joint ventures are usually organized either in the form of a joint-stock company or a limited liability company (LLC) in Ukraine.

Many foreign-ownership restrictions were abandoned during the years of Ukraine’s transition into a market economy. There are some regulatory restrictions still applicable in some industries on foreign



capital investments (eg, in banking and finance, insurance and media), but foreign joint venture parties now mostly enjoy national treatment.

The agreements on establishing an unincorporated joint venture with the participation of a non-Ukrainian investor can be registered in the Ministry of Economic Development and Trade of Ukraine.

Foreign investors should be aware that cross-border transfers (especially outbound payments) are usually subject to strict currency-control and financial-monitoring regulations. Foreign investors may perform a wide range of investment activities through special investment accounts opened with Ukrainian banks or directly from their foreign accounts.

3.6. Investment Funds/Mutual Funds

The Law of Ukraine On Joint Investment Institutions, effective as of 1 January 2014 as amended (the “Investment Funds Law”), provides for specific legal vehicles to be established and maintained for the purpose of conducting portfolio investment activities. The Investment Funds Law provides that such specialized investment vehicles may be established in both unit and corporate forms. A corporate investment fund may be established in the form of either a public or private JSC.

The Investment Funds Law provides for the following classifications of types of investment funds:

Open investment fund	Is deemed to be open to the extent that it remains legally liable at all times to purchase back the securities issued by such fund from any investor holding such securities at any given moment. Is prohibited from paying dividends to its investors. May be established either for a fixed period of time or for an indefinite period of time.
Closed investment fund	Is deemed to be closed to the extent that it does not remain legally liable to purchase back the securities issued by such fund from any investor holding such securities at any given moment. May be established only for a fixed period of time.
An “interval” investment fund (Open & Closed IF)	Remains liable to purchase back the securities issued by such fund from any investor holding such securities during the time period prescribed in the prospectus. Is prohibited from paying dividends to its investors. May be established either for a fixed period of time or for an indefinite period of time.
Diversified investment fund	Is required to comply with a number of rigid thresholds and restrictions on their investment activity for the diversification of risks associated with portfolio investment activities.
Non-diversified investment fund	Are not subject to the thresholds and/or restrictions provided for diversified investment funds.
Specialized investment fund	Can make investments only in the assets defined by the Investment Funds Law.
Qualification investment fund	Must invest assets exclusively into one of the qualification classes, including: the united class of shares; real property class; credit assets class and other classes as defined by the Securities Commission.



The Investment Funds Law provides that venture investment funds may be established by legal entities and individuals, provided that the minimum purchase of securities in such fund by the individual investor shall not be less than 1,500 times the minimum monthly salary as of 1 January 2014 (UAH 1,827,000 or approximately USD 66,533 / EUR 53,973). Such venture investment funds enjoy the status of non-diversified closed investment funds, which carry out only private (closed) placements of securities.

According to the Investment Funds Law, every investment fund is obligated to hire a specialist company to manage its assets (an asset management company). Essentially, such asset management company will perform the functions of the management board of the investment fund to the extent that the investment fund takes the form of a corporate investment fund.

An asset management company may not begin operating on the market until it has obtained “a license to carry out professional activity on the capital market.” Such license is issued by the Securities Commission. An asset management company may not, however, apply for such a license on its own behalf. Any such application may be made only by a self-regulated organization (such as the Ukrainian Association of Investment Businesses), of which the asset management company is a member.

Investment funds are authorized to replace their current asset management companies with the latter’s competitors. Corporate investment funds, unlike the unit investment funds, are authorized to replace their current asset management companies with the latter’s competitors on the grounds envisaged in their internal regulations upon decision of the general meeting of shareholders.

The Investment Funds Law provides that, apart from the asset management company (which performs the functions of the management board for corporate investment funds), the only other governing bodies of a corporate investment fund are the general meeting of shareholders and the supervisory council (ie, the board of directors).

Corporate investment funds issue shares to their investors. Unit investment funds issue investment certificates to their investors. The issuer of the former will be the corporate investment fund itself, while the issuer of the latter will be the unit investment fund’s asset management company. Both instruments are subject to mandatory registration with the Securities Commission.

Investment funds are expressly prohibited from having more than 20% of their portfolio investments in securities issued by foreign issuers. Investment funds are also expressly prohibited from investing in foreign securities that are not listed on at least one internationally recognized stock exchange and/or over-the-counter securities trading system, a list of which is compiled by the Securities Commission.

Investment funds remain under the disclosure obligations to be conducted through the following means: (i) publicly available information database of the Securities Commission on the securities market (in case of public placement of securities); (ii) its webpage (in case of public placement of securities); (iii) providing information directly to investment fund participants (in case of private placement of securities); (iv) submitting information to the Securities Commission; and (v) submitting information to self-regulatory organizations of professional participants of stock market.

4. TAXATION SYSTEM

Tax name	Rate	Features
Corporate Income Tax (CIT)	18%	<p>Rates for legal entities non-residence pay CIT at 0%, 4%, 6%, 12%, 15% and 20% from their income (tax rates varies depending on type of income).</p> <p>Payers: Resident business entities that generate profits from their activity both within and outside the territory of Ukraine; Foreign legal entities that derive profits from Ukrainian sources (with the exception of diplomatic establishments and other organizations enjoying immunity from taxation); Permanent establishments of foreign entities, which such foreign entities may acquire either through their fixed place of business in Ukraine or through a Ukrainian resident entity.</p> <p>Non-payers: State authorities, public organizations, political parties, religious and charity organizations, other non-profit organizations.</p>
Value added rates (VAT)	20%	<p>Taxable transactions –VAT is levied on the supply of goods and services in Ukraine and on the import/export of goods and auxiliary services. Certain supplies are not subject to VAT (e.g. the issuance of securities, insurance services, payment of dividends, royalties and services (other than transport services) supplied outside Ukraine).</p> <p>VAT-exempt supplies include domestically produced baby food products, published periodicals, student notebooks, text books and books.</p> <p>A 7% VAT rate applies to supplies of pharmaceuticals and healthcare products. Exported goods and auxiliary services are zero-rated. For VAT purposes, services that are included in the customs value of imported/exported goods are considered auxiliary services.</p> <p>Registration – Registration is required (for residents and nonresidents) if turnover exceeds UAH 1 million during any rolling 12-month period. A legal entity may apply for voluntary registration if such registration is deemed necessary by the entity.</p> <p>VAT returns</p> <p>VAT payers must provide the report monthly until the 20th day of the month following the reporting month. Payment of VAT is made within 10 days from the end of the report's submission, that is, as a rule, up to and including the 30th day.</p> <p><i>Effective from 1 February 2015, Ukraine has switched to electronic VAT administration and introduced VAT accounts. On 1 July 2017, Ukraine introduced a system of automatic blocking of risk-bearing VAT invoices (what constitutes a risk factor is specifically determined in the legislation).</i></p>
Taxes on Individual Income		
Personnel Income Tax	18%	Both, residents and non-residents, are taxable at 18% personal income tax rate. In addition, such income is a subject to temporary military tax at 1.5% rate.
Military tax	1,5%	



Single Social Contribution	22%	<p><u>Taxpayers</u> The single social contribution is paid by the employers, private entrepreneurs, self-employed citizens.</p> <p><u>Rate</u> The single social contribution rate is established at 22%. However, the maximum taxable amount of the single social contribution shall not exceed 15 minimal wages.</p> <p><u>Tax base</u> The single social contribution is paid from wages and bonuses of employees as well as income of private entrepreneurs.</p>
Other Taxes		
Land Tax	Depends	The object of taxation for this tax is land plots owned or leased, as well as land shares that are owned. Land tax rates set by local councils. The rate of land tax depends on the category, location, and the existence of a state valuation for each particular land plot.
Environment Tax	0,012 eurocent/ t. CO2	<p><u>Taxpayers</u> The environmental tax is paid by individuals and legal entities, which carry out their activities on the territory of Ukraine.</p> <p><u>Rate</u> Rates of environmental tax are provided in the Tax Code of Ukraine for each type of substances.</p> <p><u>Tax base</u> The environmental tax is based on the amount and type of polluted substances that are released into the air or water objects in Ukraine during operational activities of legal entities.</p>
Excise Tax	Depends	<p><u>Tax payers</u> Excise tax is paid by individuals and legal entities, which:</p> <ul style="list-style-type: none">•manufacture excise goods on the customs territory of Ukraine, including from tolling raw materials;•import excise goods to the customs territory of Ukraine;•distribute excise goods or transfer them into ownership or use. <p><u>Rate</u> Excise tax rates are specified in the Tax Code of Ukraine for each type of excise goods.</p> <p><u>Tax base</u> The excise tax is levied upon excise goods, which include:</p> <ul style="list-style-type: none">•ethyl alcohol and other distillates, alcoholic drinks, beer;•tobacco products, tobacco and manufactured tobacco substitutes;•fuel;•cars, trailers and semi-trailers, body thereto, trailers, motorcycles, vehicles for transportation of 10 persons or more, vehicles for transportation of goods;•electricity, except for the distribution of electricity generated by qualified cogeneration units and / or renewable energy sources.



Real Estate Tax on Buildings	Depends	<p><u>Taxpayers</u> The real estate tax is paid by individuals and legal entities, including non-residents.</p> <p><u>Rate</u> The amount of real estate tax on buildings is determined by the municipal authorities. However, the tax rate shall not exceed 1,5% of the minimal wage per 1 sq. m. of residential and non-residential property. The additional tax rate in the amount of UAH 25,000 is applied for apartments of more than 300 square meters and houses of more than 500 square meters.</p> <p><u>Tax base</u> The real estate tax is paid per each sq. m. of residential and non-residential property. Owners of apartments of less than 60 sq. m. and houses less than 120 sq. m. (or houses and apartments with a total area of 180 sq. m.) are exempt from tax.</p>
Real Estate Tax on Land plots	Depends	<p><u>Taxpayers</u> The real estate tax on land plots is paid by individuals and legal entities, including non-residents, which own or use such land plots.</p> <p><u>Rate</u> The amount of real estate tax on land plots is determined by the municipal authorities. The rate shall not exceed 3% of the normative evaluation of a land plot and 1% for agricultural land plots of general use. For land plots, which are under permanent use by business entities, the rate shall not exceed 12% of the normative evaluation.</p> <p><u>Tax base</u> The tax base is land plots in ownership or use.</p>
Duties	Depends	<p>In addition to the abovementioned taxes, the Tax Code of Ukraine provides for the following duties to be applied in Ukraine:</p> <p>customs duty, which includes:</p> <ul style="list-style-type: none"> •import duty; •export duty; •seasonal duty; •specific kinds of duty: special, anti-dumping, countervailing. <p>tourist duty; vehicle parking place duty.</p> <p>We also note that further to duties provided in the Tax Code of Ukraine, the state duty is charged in case of certain actions to be performed by the state authorities and their officials, such as for acts of public notary offices, public registration of civil acts, submission of legal claims, etc.</p>

4.1. Double Taxation Treaties of Ukraine

Ukraine has signed more than 70 bilateral double taxation treaties with:

Country	Signing Date	Ratification Date	Date of Entry into Force
Algeria	4 Dec 2002	5 Jun 2003	1 Jul 2004
Armenia	14 May 1996	13 Sep 1996	19 Nov 1996
Austria	16 Oct 1997	17 Mar 1999	20 May 1999



Azerbaijan	30 July 1999	2 Mar 2000	3 July 2000
Belarus	24 Dec 1993	20 Dec 1994	30 Jan 1995
Belgium	20 May 1996	29 Oct 1996	25 Feb 1999
Brazil	16 Jan 2002	4 Jul 2002	24 Apr 2006
Bulgaria	20 Nov 1995	23 Apr 1996	3 Oct 1997
Canada	4 Mar 1996	12 Jul 1996	22 Aug 1996
China	14 Dec 1995	12 Jul 1996	18 Oct 1996
Croatia	10 Sep 1996	17 Mar 1999	1 Jun 1999
Czech Republic	30 Jun 1997	17 Mar 1999	20 Apr 1999
Cuba	27 Mar 2003	20 Nov 2003	
Cyprus	8 Nov 2012	4 Jul 2013	7 Aug 2013
Denmark	5 Mar 1996	12 Jul 1996	21 Aug 1996
Egypt	29 Mar 1997	17 Mar 1999	27 Feb 2002
Estonia	10 May 1996	13 Sep 1996	24 Dec 1996
Finland	14 Oct 1994	6 Oct 1995	14 Feb 1998
France	30 Jan 1997	3 Mar 1998	1 Nov 1999
Georgia	14 Feb 1997	17 Mar 1999	1 Apr 1999
Germany	3 Jul 1995	22 Nov 1995	4 Oct 1996
Greece	6 Nov 2000	29 May 2001	26 Sep 2003
Hungary	19 May 1995	23 Apr 1996	24 Jun 1996
Iceland	8 Nov 2006	3 Sep 2008	3 Sep 2008
India	7 Apr 1999	20 Sep 2001	31 Oct 2001
Indonesia	11 Apr 1996	29 Oct 1996	9 Nov 1998
Iran	22 May 1996	6 Dec 1996	21 Jul 2001
Ireland	19 Apr 2013	15 Jul 2015	17 Aug 2015
Israel	20 Nov 2003	16 Mar 2006	20 Apr 2006

Italy	26 Feb 1997	17 Mar 1999	25 Feb 2003
Japan*	18 Jan 1986	14 Mar 1988	14 Jun 1988
Jordan	30 Nov 2005	3 Sep 2008	23 Oct 2008
Kazakhstan	9 Jul 1996	15 Nov 1996	14 Apr 1997
Korea	29 Sept 1999	2 Feb 2002	19 Mar 2002



Kuwait	20 Jan 2003	19 Jun 2003	22 Feb 2004
Kyrgyzstan	16 Oct 1997	17 Mar 1997	1 May 1999
Latvia	21 Nov 1995	12 Jul 1996	21 Nov 1996
Lebanon	22 Apr 2002	19 Jun 2003	9 Sep 2003
Lithuania	23 Sep 1996	9 Dec 1997	25 Dec 1997
Luxembourg	6 Sep 1996	14 Mar 2017	18 Apr 2017
Libya	4 Nov 2008	18 Nov 2009	31 Jan 2010
Macedonia	2 Mar 1998	5 Nov 1998	23 Nov 1998
Malaysia*	31 Jul 1987	1 Jul 1988	1 Jul 1988
Malta	04 Sep 2013	13 Apr 2017	28 Aug 2017
Morocco	13 July 2007	18 Feb 2009	30 Mar 2009
Moldova	29 Aug 1995	23 Apr 1996	27 May 1996
Mongolia	1 Jul 2002	6 Mar 2003	6 Mar 2003
Montenegro**	22 Mar 2001	4 Oct 2001	29 Nov 2001
Mexico	23 Jan 2012	2 Oct 2012	6 Dec 2012
The Netherlands	24 Oct 1995	12 Jul 1996	2 Nov 1996
Norway	7 Mar 1996	12 Jun 1996	18 Sep 1996
Poland	12 Jan 1993	24 Mar 1994	24 Mar 1994
Portugal	9 Feb 2000	22 Mar 2001	11 Mar 2002
Pakistan	23 Dec 2008	18 Nov 2009	1 Jan 2012
Romania	29 Mar 1996	21 Oct 1997	17 Nov 1997
Russian Federation	8 Feb 1995	16 Oct 1995	3 Aug 1999
Serbia**	22 Mar 2001	4 Oct 2001	29 Nov 2001
Slovakia	23 Jan 1996	12 Jun 1996	22 Nov 1996
Saudi Arabia	2 Sep 2011	18 Sep 2012	1 Dec 2012
Slovenia	23 Apr 2003	21 Mar 2007	25 Apr 2007
Singapore	26 Jan 2007	22 Oct 2009	18 Dec 2009
South Africa	28 Aug 2003	4 Feb 2004	23 Dec 2004
Spain*	1 Mar 1985	7 Aug 1986	7 Aug 1986
Sweden	15 Aug 1995	23 Apr 1996	4 Jun 1996



Switzerland	30 Oct 2000	10 Jan 2001	26 Feb 2002
Syria	5 Jun 2003	4 Feb 2004	4 May 2004
Thailand	10 Mar 2004	23 Sep 2004	24 Nov 2004
Tajikistan	7 Sep 2002	5 May 2003	1 Jun 2003
Turkey	27 Nov 1996	16 Jan 1998	29 Apr 1998
Turkmenistan	29 Jan 1998	17 Mar 1999	21 Oct 1999
United Arab Emirates	22 Jan 2003	19 Jun 2003	9 Mar 2004
United Kingdom	10 Feb 1993	10 Aug 1993	11 Aug 1993
United States of America	4 Mar 1994	26 May 1995	5 Jun 2000
Uzbekistan	10 Nov 1994	2 Jun 1995	25 Jul 1995
Vietnam	8 Apr 1996	29 Oct 1996	19 Nov 1996