

01 Legal aspects

Conducting business in Poland

LEGAL FORMS

Foreign entrepreneurs may conduct business in Poland:

- as a entrepreneurs conducting sole proprietorship,
- in the form of a company (including a corporate entity – limited liability company or joint-stock company or partnership),
- in the form of a branch of a foreign entrepreneur,
- as a representative office.

For many practical reasons, foreign investors are most likely to run their business in Poland through: a limited liability company, a joint-stock company or a branch office of a foreign entity.

The choice between the aforesaid possibilities depends mostly on the investor's needs and expectations.

Additionally, because of the many significant differences between the individual options, the legal framework can be easily tailored to a particular business model and the scale of investment being planned.



The most popular business forms for foreign investors in Poland are presented in detail on following pages, however, as a rule, the companies, partnerships and branches need to be registered in the business register kept by the National Court Register and several other Polish institutions in order to enjoy full legal capacity (companies) and the status of entrepreneurs in Poland. Equally, they all need to comply with the provisions of both Polish and European law and perform the duties provided for by these laws.

As to the matter of running the business in Poland through a representative office, because of statutory provisions, the scope of activity of such offices is limited to representative and marketing functions only. A wider scope of operation is simply not allowed in this form.

On the plus side, a representative office may employ both Polish and foreign nationals. The representative office must be registered with the register of representative offices which is held by the Ministry of Development.

Spółka z ograniczoną odpowiedzialnością (Sp. z o.o.) – limited liability company

- is the most popular legal form for newly established entities;
- has corporate personality, separate from its shareholders or directors and as a corporate person enjoys full legal capacity;
- is incorporated by signing its articles of association stipulating the internal regulations and from that moment on it can be a party to legally binding contracts, however, in order to obtain full legal capacity it needs to be registered with the business register;
- is subject to the minimum share capital requirement amounting to PLN 5,000 (approx. EUR 1,200),
- is obliged to keep accounting books;
- can be owned by one or more shareholders, but a limited liability company cannot be formed solely by another limited liability company with one shareholder;
- dividends are subject to a 19% rate,
- the formal bodies of a limited liability company are the general meeting (consisting of all shareholders) and the board of directors;
- there are no obstacles to foreign persons (legal or natural) becoming shareholders of Polish companies;
- there are no reasons why a foreigner could not be a director of a Polish limited liability company, however only natural persons are allowed to perform such duties;
- the supervisory board or audit committee are optional, unless the limited liability company has a share capital exceeding PLN 500,000 and more than 25 shareholders;
- shareholders are not liable for the debts of the limited liability company, as the burden of responsibility for the company's business lies mainly with its directors;
- income is subject to corporate income tax (CIT) at the rate of 19% or 9%.



Spółka akcyjna (S.A.) – joint-stock company

- has corporate personality, separate from its shareholders or directors and as a corporate person enjoys full legal capacity;
- is incorporated by signing its articles of association stipulating the internal regulations and from that moment on it can be a party to legally binding contracts, however, in order to obtain full legal capacity it needs to be registered with the business register;
- is subject to the minimum share capital requirement of PLN 100,000 (approx. EUR 24,000);
- can be listed at the stock exchange;
- is obliged to keep accounting books;
- has one or more founding members (but a limited liability company with one shareholder cannot be the sole founding member of a joint-stock company);
- dividends are subject to a 19% rate;
- the formal bodies of a joint-stock company are: the general meeting (of shareholders), the board of directors and the supervisory board;



- there are no obstacles to foreign persons (legal or natural) becoming shareholders of Polish companies;
- there are no reasons why a foreigner could not be a director of a Polish joint-stock company, however only a natural person is allowed to perform such duties;
- the shareholders of a joint-stock company are not personally liable for the debts of the company, even though the burden of responsibility for the company's business lies mainly with its directors;
- income is subject to corporate income tax (CIT) at the rate of 19%.

Prosta spółka akcyjna (P.S.A.) – simple joint-stock company

- is a new legal form of running business in Poland, available starting from March 2020 and has been introduced
- to the Polish legal system in response to demands of entrepreneurs willing to invest in start-up projects;
- her main characteristic is that this form allows to grant shares to the shareholder in isolation from the shareholder's financial contribution to the company (which means that it is possible to make the financial/in-kind contribution as well as to bring the work as the contribution);
- has corporate personality, separate from its shareholders or directors and as a corporate person enjoys full legal capacity;
- is incorporated by signing its articles of association stipulating the internal regulations and from that moment on it can be a party to legally binding contracts, however, in order to obtain full legal capacity it needs to be registered with the business register;
- the minimum share capital is PLN 1;
- is obliged to keep accounting books;
- allows for easy disposal of the company's funds (payment of the dividends), while also requires to run special solvency test;
- the company officers may be formed as the monistic body (board of directors) or dualistic (a management board and a supervisory board) – depending on the requirements;
- there are no obstacles to foreign persons (legal or natural) becoming shareholders or officers of such company, however only a natural person is allowed to perform such duties in board of directors, management board or in supervisory board;
- the shareholders of a simple joint-stock company are not personally liable for the debts of the company, even though the burden of responsibility for the company's business lies mainly with its directors/members of the management board.



Oddział – branch office of foreign entity

- has no legal personality;
- is part of a foreign entity and nearly always leads to the formation of a permanent establishment;
- may only conduct activities within the scope of business of the foreign investor;
- has to be registered with the business register of the National Court Register under the name of the foreign business adding “branch in Poland”;
- is obliged to keep accounting books that should include all the data necessary to establish the taxable base;
- payments between the parent company and branch office are free of any taxes;
- the company pays corporate income tax at the standard rate of 19% on the income attributable to the operations of the Polish branch;
- if in light of the relevant double tax treaty, the business presence in Poland does not amount to a permanent establishment, its profits are not subject to Polish corporate income tax;
- the branch itself cannot be registered for VAT purposes, it is required to register mother company for VAT in Poland.

Establishing a branch of foreign entity in Poland

Following actions are required:

- The foreign entity should adopt the resolutions on establishing the Polish subsidiary and providing it with particular assets;
- The subsidiary should be registered with the National Court Register and other institutions.

Costs:

- there are not notarial deed costs in Poland and tax to be paid in this relation;
- registering the branch with the commercial register (National Court Register) and mandatory announcement in Monitor Sądowy i Gospodarczy costs PLN 600;
- stamp duty on powers of attorney – PLN 17 per one application submitted;
- setting up branch in Poland is related to additional costs such as costs of obtaining the foreign documents and sworn translation of it.

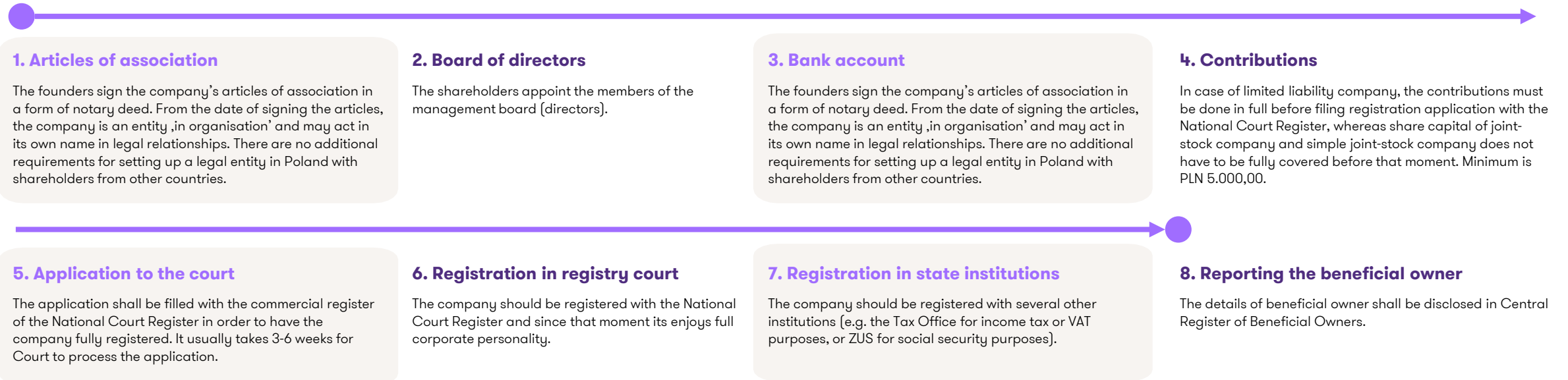
Crucial differences between branch and the limited liability company or joint stock company

	The Branch	Limited liability company/simple joint-stock company/joint-stock company
Legal capacity	<p>The branch is organizationally and technically separated part of founding company, conducting only a part of core activity of founding company.</p> <p>The branch does not have legal personality, as well as legal capacity. The founding company of the branch is responsible for branch's liability entirety.</p>	<p>The company is a separate entity with legal personality and capacity. As the rule, the founders are not liable for the company debts.</p>
Minimum share capital	No share capital	PLN 5,000 for limited liability company and PLN 100,000 for joint stock company
Financing	<p>The branch does not require any method of financing – as a legal part of a founding company is free to transfer financial means on its bank account.</p>	<p>It is possible to finance the start-up of the company through equity (as an increase of share capital or additional payments which are put into the reserve capital) or debt.</p> <p>The company may be financed by signing contract for provision of services with mother company and charge it through VAT invoices or by the loan agreement.</p>
Withdrawal of profits	<p>Entire property belonging to the branch constitute property of Mother company (branch is only part of mother company, its founding company), so financial means accumulated by the branch may be transferred without necessity to fulfil any legal procedures.</p>	<p>The withdrawal of profits generated by the company need the be performed in a way of dividend payment which is taxed in Poland with the withholding tax.</p>
Registration in Poland	Both need registration in the entrepreneurs register of the National Court Register which may take 3-5 weeks after filling the application form with the court.	
Costs of establishing and registration	<p>The total costs include:</p> <ol style="list-style-type: none"> 1. There is no notarial costs 2. There is no tax on civil law transactions 3. Court fees and stamp duty fees – PLN 600 + PLN 17 4. Other fees such as sworn translation of documents, shipment, travels 	<p>The total costs include:</p> <ol style="list-style-type: none"> 1. Notarial costs plus VAT 2. Tax on civil law transactions calculated on the basis of value of share capital 3. Court fees and stamp duty fees – PLN 600 + PLN 17 4. Other fees such as sworn translation of documents, shipment, travels
Accounting books	Both company and the branch needs to keep accounting books in Poland.	
Separate employee status	Both legal forms may have a status of independent employer in Poland.	

Establishing a company in Poland

PROCEDURE OF SETTING UP

In order to establish either a limited liability company (the most popular legal form for foreigners), simple joint-stock company or a joint stock company, the following actions are required:



It shall be noted, however, that under the Polish law there are two possibilities for establishing the limited liability company. First one is the regular way (as described above), which is generally a slightly longer (approximately 3-6 weeks since collecting all the necessary documents) but on the other hand it allows to introduce to the articles of association of the company provisions adjusted to the investor's will.

Alternatively, there is a possibility to establish the limited liability company via Internet on the basis of the template articles of association available in the Polish Government's electronic system which shall take less time (approximately 1 week) but on the other hand is very standardised and is not flexible to the investor's possible needs. The on-line registration of a limited liability company in Poland requires the use of qualified electronic signature in compliance with EU regulation 910/2014 of 23 July 2014 (eIDAS). This way of proceeding is not popular among the foreign investors that usually prefers to set up company in regular way, as described above.

Costs of setting up a subsidiary

PROCEDURE OF SETTING UP



Court

Costs of notary deed depends on the value of share capital of the company (the minimum share capital for limited liability company is PLN 5 000 and for joint-stock company is PLN 100 000).

The fees look as follows:

No.	Share Capital	Amount
1	more than PLN 3,000 up to PLN 10,000	PLN 100 + 3% on the surplus over PLN 3,000;
2	more than PLN 10,000 up to PLN 30,000	PLN 310 + 2% on the surplus over PLN 10,000;
3	more than PLN 30,000 up to PLN 60,000	PLN 710 + 1% on the surplus over PLN 30,000;
4	more than PLN 60,000 up to PLN 1,000,000	PLN 1010 + 0.4% on the surplus over PLN 60,000;
5	more than PLN 1,000,000 up to PLN 2,000,000	PLN 4,770 + 0.2% on the surplus over PLN 1,000,000;
6	more than PLN 2,000,000	PLN 6,770 + 0.25% on the surplus over PLN 2,000,000, however no more than PLN 10,000



Court fees and stamp duty fees

- registering the company with the commercial register (National Court Register) and mandatory announcement in Monitor Sądowy i Gospodarczy – PLN 600;
- stamp duty on powers of attorney – PLN 17 per one application submitted.



Tax

It is required to cover tax on civil law transactions equal to 0,5% of the value of share capital reduced by the remuneration of notary public and court fees.



Other costs

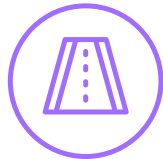
Other related costs include in particular costs of sworn translation of foreign documents. The fee depends on the amount of pages of documents required to be translated.

Additionally, the costs may be increased by costs of shipments, travels, etc. It shall be noted, however, that registration of the limited liability company via Internet is significantly cheaper. The costs of such registration do not include notarial costs and the court fee is lower and equal to PLN 250.

Timeframes

PROCEDURE OF SETTING UP

It takes on average between two and three months to establish any type of partnership or company and prepare it for commencing operations. Several alternatives are available if this time is regarded as too long:



The investor may **buy a ready-made company/partnership** (a shelf company) which has no operations or significant assets and was created with a view to such sale.



The company/partnership may be established through **electronic filing, without involving a notary** (option available with limited liability companies, simple joint-stock companies, registered partnerships and limited partnerships). In this case, the registration process shall be completed within approximately 24 hours of filing an online application, however, in order for this to be possible, certain information and documents must be acquired in advance and the use of qualified electronic signature in compliance with EU regulation 910/2014 of 23 July 2014 (eIDAS) is required.



The investor **may undertake operations while business registration is still in progress** – this option is available in case of limited liability companies, simple joint-stock companies and joint-stock companies in the process of formation.

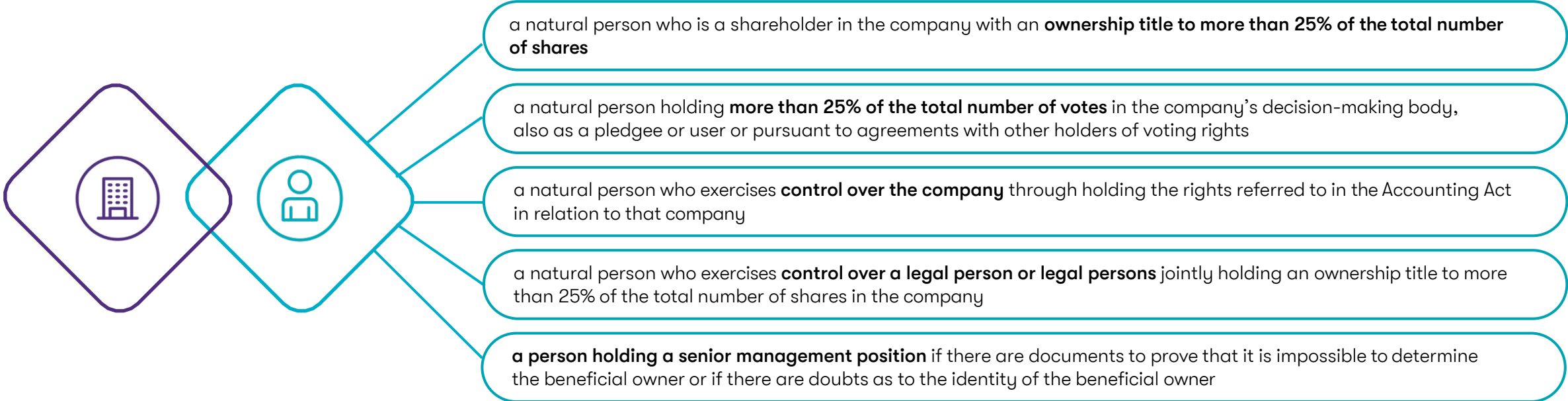
Beneficial owner

OTHER DUTIES

Every partnership or company needs to disclose details of ultimate beneficial owner

Definition

According to the AML Act, the beneficial owner is a natural person (or several persons) with direct or indirect control over the company through their powers, arising from legal or factual circumstances and enabling them to exercise a decisive influence over the company's activities. This includes in particular the persons listed below.



a natural person who is a shareholder in the company with an **ownership title to more than 25% of the total number of shares**

a natural person holding **more than 25% of the total number of votes** in the company's decision-making body, also as a pledgee or user or pursuant to agreements with other holders of voting rights

a natural person who exercises **control over the company** through holding the rights referred to in the Accounting Act in relation to that company

a natural person who exercises **control over a legal person or legal persons** jointly holding an ownership title to more than 25% of the total number of shares in the company

a person holding a senior management position if there are documents to prove that it is impossible to determine the beneficial owner or if there are doubts as to the identity of the beneficial owner

Electronic signature

OTHER DUTIES

Obtaining certified electronic signature

Legal representatives of company shall have certified electronic signature in order to fulfil basic obligations such as disclosing details of UBO and annual reporting duties (signing financial report).

The process follows the steps detailed on the right.

Steps	What we can do	What we need from you	How long it will take
PESEL (Polish Identification Number)	<ul style="list-style-type: none">Filling application for PESELPayment of stamp duty on your behalf, preparation and submission of power of attorneySubmission of the application and contacting authorities if necessary	<ul style="list-style-type: none">Copy of ID or passport (confirmed with apostille clause)Signing of POAProviding any additional data or documents, if needed.	Unspecified, depends on authorities and your responsiveness. Any IT problems can affect delays in process. We suggest starting the process as soon as possible. We assume that our workload related with the support will consume 8-12 hours.
Digital signature	<ul style="list-style-type: none">Filling an application for certified e-signature, making payment on your behalf, downloading the agreement for safe signatureActivate the e-signature, send you the packet ready to use	<ul style="list-style-type: none">Signing the agreement and confirmation of the personal data (certified by a notary)Installation of drivers on your computer, support of your IT can be needed.	

Bank account

OTHER DUTIES

To run a business, make settlements with customers and the tax office, it is necessary to open a bank account in a Polish bank.

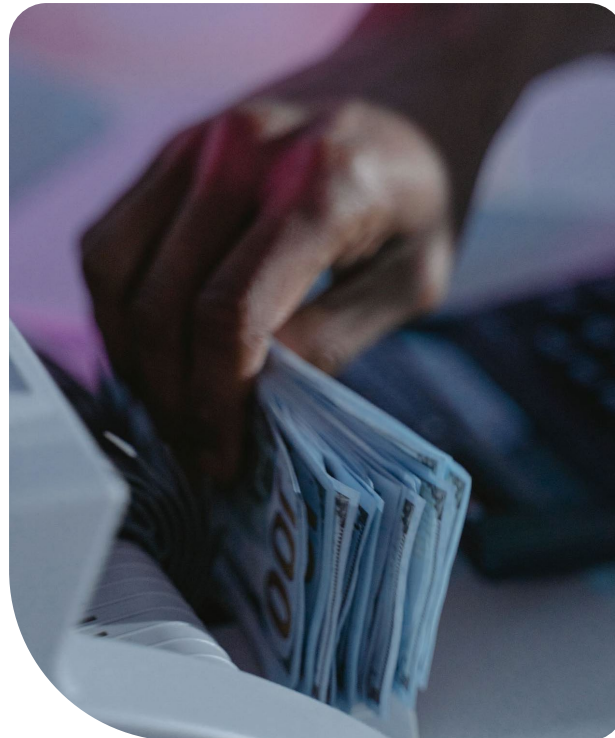
Opening a business account

Each registered entity is allowed to open the bank account. It is often that banks open deposit accounts for companies in organisation - such a deposit account is used to pay up the share capital.

Subsequently, the account number must be presented to the tax office.

Usually, personal presence of company's representative is necessary to open a bank account in Poland. If the selected bank has related units in other countries, it may agree to confirm the identity of the person representing the company in another unit abroad. For this reason, when choosing a bank, it is also worth taking into account the availability of the bank's unit, both in Poland and abroad.

The procedure for opening a bank account may vary depending on the bank chosen by the company, but the following documents will be required by most banks to open such an account:



- the articles of association or the statutes;
- specimen signatures of persons authorised to represent the company;
- certificate from the Central Statistical Office on the REGON number;
- copy of the application for registering the company in the National Court Register including the court's stamp confirming the filing of the application;
- ID or passport

e-Delivery address

OTHER DUTIES

Starting from 1st January 2025, all Polish companies will be required to adopt the use of a new official tool known as e-Delivery.

What is e-Delivery address?

This system is set to replace traditional registered letters and the ePUAP platform, emerging as the exclusive channel for communication between businesses and governmental bodies, including courts. The legal effect of electronic delivery will be on par with that of a registered traditional letter.

What is the difference between e-Delivery and an e-mail?

Unlike email, upon receiving a message through the e-Delivery mailbox, we must confirm its receipt to read the message. This mechanism ensures that e-Deliveries have the same effectiveness and legal force as a registered letter with confirmation of receipt.

What shall be done?

Starting from 1st January 2025, each entity entered in the National Court Register (KRS) must apply for the opening of an e-Delivery mailbox along with submitting a registration application.

If you register the company earlier, it is in the interest of entrepreneurs to establish an e-Delivery mailbox in the nearest future to avoid a situation where, after the deadline, the company will not have the option to receive correspondence from authorities. Additionally, it is essential to consider the limited capacity of government servers, which may pose a challenge if the box is created shortly before the deadline.

e-Delivery can be set up through a free public tool. Along with the application for the mailbox, the address is automatically entered into the Electronic Addresses Database (BAE).



Legal aspects – how can we help?

Corporate advisory services

- Setting-up companies and branches,
- Preparing shares purchase agreement,
- Changes of articles of association of the companies before the notary in Poland
- Changes of other data of the companies such as address, composition of management board etc.
- Reporting the beneficial ownership
- Annual Reporting Duties
- Changes of the legal status of the business
- Liquidation of the legal entities
- Transactions in shares and equity, capital contributions
- Secretary services

Legal support in commercial matters:

- Proposing legal solutions and preparing legal opinions on the commercial matters
- Preparing numerous types of agreements, letters of intent, commercial offers, settlements, regulations, protocols and resolutions
- Legal analysis and verification of the documents presented by the Client or its contracting party
- Active participation in negotiations and shaping of the contents of a contracts.

How can we help?

- Looking for ongoing legal support for your business?
- Want to increase the chances of achieving your business or personal goals by adopting an adequate business structure or legal form?
- We can provide you with full range of Corporate services, including support with establishing the companies on every stage of the process, changing data of companies (also as a proxy of company's shareholder).



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