GENERAL PRINCIPLES OF LIMITED LIABILITY COMPANIES ACT, SHAREHOLDER’S RIGHTS AND FORMS OF DECISION-MAKING

ABOUT GENERAL PRINCIPLES

In the first chapter of the Limited Liability Companies Act of Finland the main principles of company operations are enacted. The whole act and its interpretations are founded on these general principles. At Corporate Governance’s viewpoint the essential principles are the provision on the purpose of a company, the principle of shareholders’ equal treatment and the provision on management’s due care.

The principles mentioned above should be evaluated as a whole in relation to each other and in relation to the Act’s detailed regulation.

PURPOSE OF A COMPANY

According to the Limited Liability Companies Act, the purpose of a company is to generate profits for its shareholders. However, long term development of the operations of a company and measures required are not contrary to this provision. In the Articles of Association the purpose of a company may be provided to be something else than generating profits for the shareholders, yet in practise listed companies have not adopted provisions that differ from generating profits.

PRINCIPLE OF EQUAL TREATMENT

The main purpose of the principle of equal treatment is to protect minority shareholders. Compliance with the principle does not prevent the use of majority rule, but it prevents favouring majority shareholders at the expense of minority shareholders. The principle prohibits measures that are conducive to conferring an undue benefit to a shareholder or another person at the expense of company or another shareholder. The principle covers decisions taken by the General Meeting and management as well as other operations of the management. The provision prohibits giving of all kind of undue benefit to majority shareholder at the expense of minority shareholder. This kind of undue benefit could be for example pricing in a directed share issue favouring certain shareholder or a business transaction that is subservient to shareholder but unprofitable to the company.

OBLIGATION OF THE MANAGEMENT’S DUE CARE

The obligation of the management’s due care includes the obligation to promote the interests of the company and not only the interests of the significant shareholders. The obligation includes obligation of loyalty in relation to the company and its all shareholders. The obligation protects minority shareholders and it is important for example in the assessment of management’s liability for damages.
SHAREHOLDER’S RIGHTS

The Limited Liability Companies Act gives shareholders extensive rights regarding the General Meeting.

CONVOCATION OF THE GENERAL MEETING

According to the Limited Liability Companies Act only shareholders who have been entered into the shareholder register ten days before a General Meeting have the right to attend that meeting. In addition, the holder of a nominee-registered share may be notified for a temporary entry into the shareholder register no later than ten days before the General Meeting, so that the shareholder can attend that meeting. Changes in shareholdings occurring after the said date of record shall not affect the right to attend the General Meeting or the voting rights of the shareholder.

The Board of Directors shall convene the General Meeting. The notice in a public company shall be delivered no earlier than three months and no later than one week before the General Meeting or the last date for advance notices of participation. The last date for advance notices of participation shall not be earlier than ten days before the meeting. The notice shall be convened in the manner provided in the Articles of Association. In some cases the notice must be sent to all shareholders.

A General Meeting shall be held if shareholders with total of one tenth (1/10) of all shares demand for the convocation of the General Meeting in writing in order for a given matter to be dealt with. The notice to this Extraordinary General Meeting shall be delivered in a public company within one month of the arrival of the demand.

RIGHT TO HAVE A MATTER DEALT WITH BY THE GENERAL MEETING

A shareholder, even though he or she owns only one share, shall have the right to have a matter falling within the competence of the General Meeting dealt with by the General Meeting. This shall be demanded in writing from the Board of Directors well in advance of the meeting, so that the matter can be mentioned in the notice.

PROXY DOCUMENT AND PROXY REPRESENTATIVE

A shareholder may exercise the rights of a shareholder at a General Meeting by way of proxy representation. The representative shall produce a dated proxy document or otherwise provide reliable evidence of the right to represent the shareholder.

SHAREHOLDER’S RIGHT TO REQUEST INFORMATION

In a General Meeting, every shareholder has a right to request information regardless of the extent of his or her ownership. On the request of a shareholder, the Board of Directors and the Managing Director shall provide more detailed information on circumstances that may affect the evaluation of a matter dealt with by the meeting. Questions do not need to be delivered in advance and written form is not required.

If the question of a shareholder cannot be answered due to unavailability of the information, the answer shall be provided in writing within two weeks to the shareholders requesting the answer.
RIGHT TO TABLE RESOLUTIONS

Every shareholder has a right to table resolutions in the General Meeting regardless of the extent of his or her ownership. Proposals do not need to be notified in advance before the General Meeting.

THE APPOINTMENT OF THE AUDITOR

The appointment of the auditor in a General Meeting is an essential right of a shareholder. If several auditors are appointed it may be provided in the Articles of Association that a part of auditors shall be appointed in another order.

ABOUT VOTING RIGHTS AND DECISION-MAKING FORMS

One share shall carry one vote in all matters dealt with by the General Meeting. However, it may be provided in the Articles of Association that different shares carry different voting rights. It may also be provided in the Articles of Association that a share carries no voting rights or that a share does not carry a vote in given matter dealt with by the General Meeting. For each of the matters dealt with by the General Meeting, such a provision shall concern only a part of the shares in the company. Everyone may exercise the entire voting rights of the shares that one represents at the General Meeting, unless it is otherwise provided in the Articles of Association.

In the General Meeting, the decisions shall be made by majority or by qualified majority. Alteration of the rights of a share class requires that the decision is supported by a qualified majority within each of the share classes represented at the meeting. In certain cases the consent of a shareholder shall be obtained for the amendment of the Articles of Association.

DECISION BY QUALIFIED MAJORITY

If a decision must be made by qualified majority, a proposal that has been supported by at least two thirds (2/3) of the votes cast and the shares represented at the meeting shall constitute the decision.

The following decisions shall be made by qualified majority: the amendment of the Articles of Association, a directed share issue, the issue of option rights and other special rights entitling to shares, the acquisition and redemption of own shares in a public company, the directed acquisition of own shares, a merger, a demerger and going into liquidation and the termination of liquidation.

Consequently, amendment of the Articles of Association cannot be based merely on the number of multiple voting shares, because the decision requires at least two thirds (2/3) qualified majority of the votes cast, but also the corresponding majority of the shares represented at the meeting.

ALTERATION OF THE RIGHTS OF THE SHARE CLASS

If the company has several share classes, it shall be an additional requirement for the validity of a decision on the merger in a merging company, the demerger in a demerging company, the company going into liquidation, the termination of liquidation and, in a public
company, the directed acquisition of own shares that the decision is supported by a qualified majority within each of the share classes represented at the meeting. The requirement of qualified majority shall not be relaxed by way of the Articles of Association.

If an alteration of the rights of the share classes is to be made by combining share classes or otherwise reducing the rights of a share class, the decision on the amendment of the Articles of Association shall be made by qualified majority within each of the share classes represented at the meeting. Additionally the consent is to be obtained from the majority within each share class whose rights are to be reduced.

**DECISIONS REQUIRING CONSENT OF A SHAREHOLDER**

The General Meeting shall not make a decision contrary to the principle of equal treatment unless the shareholder at whose expense the unjust benefit is to be given consents to the same.

The consent of a shareholder shall be obtained for the amendment of the Articles of Association, where:

1. the right of the shareholder to the profit or the net assets of the company is reduced by means of a provision in the Articles of Association referred to in chapter 13, section 9 of Limited Liability Companies Act;
2. the liability of the shareholder to make payments to the company is increased;
3. the right to acquire the shares of the shareholder is restricted by taking into the Articles of Association a redemption clause referred to in chapter 3, section 7, or a consent clause referred to in chapter 3, section 8;
4. the pre-emptive right of the shareholder to shares is restricted as referred to in chapter 9, section 3(3);
5. the right to minority dividend is restricted as referred to in chapter 13, section 7;
6. a redemption term referred to in chapter 15, section 10, is attached to the shares of the shareholder;
7. the right of the company to damages is restricted as referred to in chapter 22, section 9; or
8. the balance between the rights carried by shares in the same class is altered and the change affects the shares of the shareholder.

The consent of the shareholder shall likewise be obtained when a directed redemption of shares is carried out, as referred to in chapter 15, section 6, or when a decision on a change of corporate form is made, as referred to in chapter 19, section 5.