**PROCEDURE FOR CHANGING THE AUTHORIZED REPRESENTATIVES OF**

**EQUITY MEMBER IN THE MEMBERS’ COUNCIL OF**

**A LIMITED LIABILITY COMPANY WITH TWO MEMBERS OR MORE**

* 1. **Legal procedures for appointment/replacement of the Members of the Members’ Council**

In the view of the Law on Enterprises, with resepct to the Company is a limited liability company with two member of more, pursuant to Article 55.1 of the Law on Enterprises, the Members’ Council (“**MC**”) shall comprise all members and shall be the highest decision-making authority of the Company. Where a member is an organization, such member shall appoint its authorised representatives to be on the MC. Accordingly, an authorised representative shall perform, on behalf of the member who appointed his/her, the rights and obligations of the member of the MC in accordance with Article 14.1 of the Law on Enterprises. It means that a member who appoints an authorised representative will be the one who is legitimate to dismiss such authorised representatives.

Under Article 14.4 of the Law on Enterprises, the appointment of an authorised representative by a member of the Company must be in writing, must be notified to the Company. The document designating the authorized representative shall be effective on the date it is received by the company and contain the following information:

1. Name, enterprise code number and head office address of the member;
2. Number of authorized representatives and ratio of ownership of shares or capital contribution portion correspondng to each authorized representative;
3. Full name, contact address, nationality, serial number of the personal legal document of each authorized representative;
4. Respective term of authorization applicable to each authorized representative, specifying the date of commencement of acting as [authorized] representative;
5. Full name and signature of the legal representative of the member and of the authorised representative of the member.

Pursuant to Article 60.3 of Decree No. 01/2021/ND-CP, the replacement of an authorised representative must be notified in writing to the Company and the business registration body within ten (10) working days from the date of change of authorized representative information.

With respect to the case of the equity member as an organization, if the board of directors of such organization is not satisfied with any Member of the MC who is appointed by this organization, the organization will be the one who shall have the legal right to to dismiss such Member. In this case, the equity member is required to notice the Company for notifying the competent authority on change of its authorised representative in the MC within seven (10) working days as from the date of decision.

* 1. **Conditions of an authorised representative**

As given by Article 14.5 of the Law on Enterprises, a person must meet the following criteria and conditions to be appointed as an authorized representative:

1. Not fall into the category of entities prescribed in article 17.2 of this Law;
2. A member being a State owned enterprise as prescribed in article 88.1(b) of this Law must not appoint any person with a family relationship with a manager of the company or with a person with the authority to appoint the manager of the company to act as representative at another company;
3. Other criteria and conditions stipulated by the charter of the company.

Therefore, persons who will be appointed by an equity member as its authorised representatives in the MC must satisfied the above mentioned conditions.

* 1. **Documents for conducting the notification of appointment or replacement of the authorised representative**

As mentioned above, upon decision on replacement of current authorised representatives is made, this decision must be addressed to the Company. However, in practice, the Company should prepare the following documents, instead of the notice only, for submission to the licensing authority:

1. Notice on change of the Members of the MC (this notice cover two contents: replacement of the current Members and replacement by the new ones);
2. Decision on replacement of its current authorised representatives and appointment of the new ones in the MC of the Company (if applicable);
3. Decision of the Company on acknowledgment of the new authorised representatives in the MC (if applicable);
4. A notarized copy of the Enterprise Registration Certificate and Investment Registration Certificate of the Company; and
5. Copy passport/ID Card of the new authorised representative(s).

Since this is a notification procedure, the licensing authority will not issue/ grant any document to the Company. The Company is deemed as fulfilment of its obligation on notification procedure at the time the Company submits the above documents to the licensing authority.

Accordingly, in case any current authorised representatives of an equity member in the MC have resigned, such equity member is advised to make decision on approval of their resignation and appointment of new authorised representatives. If the decision was made as from the date they resigned and such member did not notice the change to the licensing authority within ten (10) days as the date therefrom, the relevant member and the Company will be viewed as incompliance with the time of notification provided in Article 60.3 of Decree No. 01/2021/ND-CP.

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