Latvia
Minority Shareholder Rights
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SOURCES OF PROTECTION AND ENFORCEMENT

Please provide an overview of the sources of protection for minority shareholders in your jurisdiction. Who enforces these rights?

The main source for minority shareholders protection of a capital company (limited liability companies and joint stock companies) in Latvia is the statutory law, mainly:

- the Commercial Law;
- the Financial Instruments Market Law (applicable to publicly listed companies); and
- the Group of Companies Law.

Since certain minority protection rights stipulated in the law may be modified by the articles of association of the company, the articles of association must always be considered alongside the law.

The minority shareholders may also derive protection from case law developed by the Latvian courts.

Minority shareholders must enforce their rights individually by protecting them in a court. Claims arising from decisions of the shareholder meetings, mutual legal relationships of shareholders, legal relationships of group of companies and reorganisation are reviewed by the Economic Affairs Court.

PROTECTION AGAINST DILUTION

Are there any mechanisms in your jurisdiction to protect against dilution of shareholdings? For example, are existing shareholders granted any rights on the issue of new shares in a company?

Protection against dilution of shareholdings is granted by the higher threshold of votes required for a share capital increase.

For limited liability companies, this requires a positive vote of at least two-thirds; for joint stock companies, a positive vote of not less than three-quarters of votes of the shareholders present is required. The articles of association may provide a higher threshold. In case of a share capital increase, the existing shareholders have a right of first refusal over the respective shares in proportion to the number of shares already owned by them.

Additional protection may be provided by a shareholders' agreement.

RIGHTS TO APPOINT DIRECTORS

Do minority shareholders have any special rights to appoint directors to safeguard their interests? Are other protections available to minority shareholders in this context (such as general duties of directors)?

The law does not directly provide any special rights for minority shareholders to appoint management board members; such rights may be established by a shareholders' agreement or the articles of association of a company. The minority shareholders, however, have certain rights to nominate the supervisory board members.

The Commercial Law provides the minority shareholders of limited liability companies with the right to receive:

- information on operations of the company; and
- all of the company's documents from the board of directors of the company.

These rights may be restricted in each case by a decision of the shareholders, if there is a justified suspicion that the requesting shareholder may use the information acquired in contradiction to the aims of the company – thus causing significant harm or loss to the company (or to one of the subjects included with the company in a group of companies, or a third party).

PROTECTION AGAINST TAKEOVER BIDS FOR THE COMPANY

Do minority shareholders have any protection in your jurisdiction where the company is the subject of a takeover bid?

The Financial Instruments Market Law provides protection for minority shareholders of publicly listed companies. According to the law, where a person owns, directly or indirectly, 90 per cent or more of the company's share capital, each of the remaining minority shareholders may require that such person purchases all their outstanding shares. The price to be paid for such shares may not be less than that which would be determined for a mandatory takeover bid. The entitlement of the minority shareholders to exercise the right of sell-out expires upon the majority shareholder making the final takeover bid.

According to the Group of Companies Law, if a shareholder (dominant company) has acquired 90 per cent of shares or more, the shareholders meeting of the company can adopt a decision on inclusion of the company into the dominant company. Inclusion is subject to mandatory audit by an independent auditor. Upon registration of the inclusion in the Commercial Register, the shares not belonging to the dominant company are transferred to the dominant company. In this event, the rejected shareholder of the company is entitled to receive appropriate compensation for its lost shares.

The Group of Companies Law also provides protection mechanism for minority shareholders if a company has directly or directly acquired 90 per cent or more of another company's shares. In this situation, each minority shareholder of the dependent company in entitled to require that the dominant company redeem the shares held by the minority shareholder. The law guarantees the rights of minority participants to sell their shares at the price determined by court, in the absence of a voluntary agreement on the price.

ACTIONS AND SEEKING REMEDIES ON BEHALF OF THE COMPANY

Are shareholders in your jurisdiction able to bring actions and seek remedies on behalf of the company? For example, is there any mechanism for a judicial or other official representative to oversee or intervene in the management of the company?

The general rule is that a company may bring an action against the founders, members of the board of directors or supervisory board, or the company's auditor on the basis of a simple majority decision taken at a meeting of shareholders. The articles of association cannot specify a larger majority for the bringing of such an action.

A company is also under a duty to bring an action against the founders, members of the board of directors or supervisory board or the company's auditor, if such action is requested by a minority of shareholders who jointly represent not less than 5 per cent of the share capital. Such request by a minority of shareholders shall be submitted to the relevant persons at such company who have the right to bring an action; if such action is not brought within one month, the minority of shareholders may bring a similar action in a court without the assistance of the company.

If the bringing of an action is requested by a minority of shareholders, a court shall allow the persons selected by them as representatives of the company for the adjudication of the matter, provided that there is an important reason for this. If the relevant persons, despite the request by the minority of shareholders, do not bring an action to a court, this shall be deemed to be an important reason.

The shareholders bringing the action are under an obligation to attach evidence showing that they represent not less than 5 per cent of the share capital of the company, as well as a power of attorney from the relevant shareholders (where the action is not brought by the shareholders directly).

According to the case law of the Supreme Court of Republic of Latvia, the company in such cases is the claimant, but the minority shareholders are to be considered as the persons who are authorised to make decisions regarding the progress of the respective action (Decision of 20 December 2012 of the Senate of the Supreme Court of Republic of Latvia in case no. SPC-55/2012).

RIGHTS TO PARTICIPATE IN DECISION-MAKING

To what extent do minority shareholders have rights to participate in the decision-making of companies in your jurisdiction?

For limited liability companies, decisions by the shareholders are passed if they receive more than half of the votes represented at the relevant meeting (provided that a larger number of votes is not specified by law or by the articles of association). For joint stock companies, a meeting of shareholders shall take decisions by a majority of votes (provided that the law or articles of association do not specify a larger number of votes as required).

In addition, the board of directors of a limited liability company has an obligation to convene a meeting of shareholders if requested by shareholders who represent not less than 10 per cent of the share capital of the company. In case of joint stock companies, an extraordinary meeting of shareholders shall be convened if requested by shareholders who jointly represent not less than 5 per cent of the share capital of the company, provided that a lower percentage is not specified in the articles of association.

For joint stock companies, shareholders representing at least 5 per cent of the share capital of the company have the right to request to include additional issues in the agenda of the meeting of shareholders.

RIGHTS WHEN A COMPANY IS EXPERIENCING FINANCIAL DIFFICULTIES

Do minority shareholders have any particular rights or protections when a company is experiencing financial difficulties? For example, are they able to demand that the company be wound up?

If the losses of a company exceed half of its share capital, if the company has limited solvency, or the signs of insolvency have been determined or are likely to occur in the future, the board of directors shall notify the supervisory board (in limited liability companies, the supervisory board shall be notified if one has been established) and convene a meeting of shareholders at which the board shall provide an explanation of such finding.

The meeting of shareholders of a joint stock company shall determine whether to proceed with:

- the submission of an application for legal protection proceedings;
- an application for insolvency proceedings;
- termination of the activities of the company and liquidation;
- reorganisation of the company; or
- changes to the share capital.

Decisions in relation to the termination of the company's business activities and/or winding-up of the company require a qualified majority of votes (two-thirds for limited liability companies; 75 per cent for joint stock companies) and therefore the minority shareholders cannot substantially influence such decisions.

The shareholders of a limited liability company have a right to renounce their shareholdings in the company on written request. In such circumstances, the company acquires the shares that have been alienated by the shareholder who has renounced their shares.

RIGHTS ENFORCEABLE AGAINST OTHER SHAREHOLDERS

Do minority shareholders have any rights or protections which are enforceable against other shareholders; for example, where the majority of shareholders act in contravention of the company's articles of association?

The Commercial Law does not provide for a minority shareholder to file a claim on behalf of the company against the other shareholders. The Commercial Law stipulates that decisions regarding claims against the shareholders in a limited liability company are an exclusive competence of all shareholders generally, and must be taken at a meeting of shareholders.

As decisions made by the shareholders at a general meeting are passed by a majority, the minority shareholders cannot practically exercise this right. However, minority shareholders who jointly represent not less than 5 per cent of the share capital of a company may file a claim against the founders of the company, members of the board of directors, members of the supervisory board or the company's auditor (see above).

In addition, the court may expel a shareholder from a limited liability company on the basis of an action brought by the company, if they have, without justifiable reason:

- failed to perform their obligations;
- has otherwise done substantial harm to the interests of the company;
- has not performed obligations; or
- has not ceased to inflict harm after receiving a written warning from the company.

Such action can be brought by shareholders who represent not less than one-half of the share capital of the company (provided that a larger number of votes is not specified in the articles of association).

Finally, upon a claim by a shareholder, the members of the board of directors or of the supervisory board, a court may declare a decision of shareholders void, if such decision (or the procedures for the taking of it) contradicts the law or the company's articles of association, or if a significant violation has been allowed in the convening of the meeting or the taking of such a decision.

SUMMARY OF RIGHTS

Below is a table providing a brief summary of the rights of minority shareholders in Latvia, organised according to the percentage threshold at which the various protections become available.

Shareholding (per cent)	Description	Reference
One-third	For limited liability companies, a decision on changes to the share capital of a company shall be regarded as passed if not less than two-thirds of votes of the shareholders present vote (provided that a larger number of votes is not specified in the articles of association). Therefore, the respective changes can be blocked by shareholders representing more than one-third of the eligible shareholders present and voting.	Article 196, Commercial Law
	For limited liability companies, decisions on essential issues may be passed only if not less than two-thirds of the votes represented at the meeting vote in favour of such decision, provided that the articles of association do not require a larger number of votes. Essential issues are considered to be: • amendments to the articles of association; • termination; • continuation suspension or renewal of activities of the company; • reorganisation of the company; and • entering into, amending and termination of a group of companies agreement. Therefore, the respective changes can be blocked by shareholders representing more than one-third of the eligible shareholders present and voting.	Article 218, Commercial Law
	For limited liability companies, a decision on reorganisation shall be passed if not less than two-thirds of the votes represented at the meeting of shareholders vote in favour of it (provided that the articles of association do not specify that a larger number of votes is necessary to pass a decision on reorganisation). Therefore, the respective changes can be blocked by shareholders representing more than one-third of the eligible shareholders present and voting.	Article 369, Commercial Law
25	For joint stock companies, the shareholders may amend the articles of association to alter the terms of any preference	Article 233, Commercial Law

	shares if 75 per cent of the members of the relevant category have voted in favour of it. Therefore, the respective changes can be blocked by shareholders representing more than 25 per cent of the eligible shareholders present and voting.	
	For joint stock companies decisions on amendments to the articles of association, changes in the share capital, the issuance of convertible bonds, the reorganisation of the company and entering or amending a group of companies agreement shall be passed at a meeting of the shareholders if not less than three-quarters of the shareholders (with voting rights) present vote in favour of such decisions (provided that the articles of association do not specify a larger number of votes). Therefore, the respective changes can be blocked by shareholders representing more than 25 per cent of the eligible shareholders present and voting.	Article 284, Commercial Law
20	For both limited liability companies and joint stock companies the board of directors shall, upon request of shareholders who jointly represent at least 20 per cent of the company's share capital (provided that a lower number is not specified in the articles of association), ensure the shareholder has the right to participate or vote in the shareholders meeting through electronic means. In such cases, the board shall determine the requirements for identification of shareholders and the procedures by which the shareholders can exercise this right.	Article 214^1 and article 277^1, Commercial Law
10	For limited liability companies, the board of directors has an obligation to convene a meeting of shareholders if requested by shareholders who represent not less than 10 per cent of the share capital of the company.	Article 213, Commercial Law
	In case of reorganisation, where the acquiring company owns at least 90 per cent of the company being acquired, a shareholder of the company being acquired (limited liability company or joint stock company) owning not more than 10 per cent from the shares of the company being acquired is entitled within two months from the effective date of reorganisation to request that the acquiring company purchases their shares.	Article 354^5, Commercial Law
	Shareholders who jointly represent not less than 10 per cent of the share capital of the company have the right to request in writing that the supervisory board to examine the activities of the board of directors as a whole. If, within a month, the supervisory board has not carried out such examination or has not submitted a reply, the	Article 292, Commercial Law

	shareholders have the right to consider this issue at a meeting of shareholders.	
	Shareholders of limited liability companies who jointly represent not less than 10 per cent of the share capital, may, at a meeting of shareholders (or not later than two months after such meeting) raise substantiated objections regarding the auditor elected by the company. If the objections are rejected, the shareholders who have raised them and who jointly represent not less than 10 per cent of the share capital, have the right, at their own expense, to appoint another auditor. However, if such other auditor is appointed, the status and scope of the rights of the elected auditor shall not be affected.	Article 176, Commercial Law
	The annual accounts of a company shall be approved at a meeting of shareholders. The approval of the annual accounts shall be postponed if, disputing the correctness of separate positions in the annual accounts, the postponement is requested by shareholders who represent at least 10 per cent of the share capital.	Article 179, Commercial Law
	Shareholders may elect one or more company controllers to perform internal audits of the company. The company controller shall examine the activities of the company, and shall also, when requested by shareholders who represent not less than 10 per cent of the share capital of the company, conduct an examination of the annual accounts of the company.	Article 184, Commercial Law
	In case of joint stock companies, voting at the meeting of shareholders shall be open, except for cases when a secret ballot is requested by shareholders who represent at least 10 per cent of the share capital.	Article 282, Commercial Law
	If the activities of the company are terminated on the basis of a court ruling and the person interested in liquidation of the company has recommended a candidate for the liquidator to the court, or if it is requested by the shareholders who represent not less than 10 per cent of the equity capital, the liquidator shall be appointed and the amount of and procedures for the remuneration of the liquidator shall be determined by the court.	Article 318, Commercial Law
5	For limited liability companies and joint stock companies, any shareholder or a group of shareholders shall be entitled to nominate for election a number of candidates for the supervisory board on the basis of a specified calculation (where a shareholder shall have one nomination for each 5 per cent of the voting rights held by them).	Articles 220 and 296, Commercial Law

	For limited liability companies, shareholders representing not less than 5 per cent of the share capital with voting rights have the right, within one year from the date of registration of the company, to request that the Commercial Register Office approves one or several experts selected by shareholders to perform an examination of the founding of the company.	Article 150, Commercial Law
	In situations when the share capital of the company is being paid by material contribution, the board of directors has a duty to ensure a revaluation of a property contribution if any conditions which could decrease the value of the property contribution are discovered. If the board of directors fails to provide a revaluation of the property contribution, shareholders who represent at least 5 per cent of the share capital have the right to request revaluation of the property contribution.	Article 154 (3^4), Commercial Law
	In case of reorganisation, where the acquiring company owns at least 90 per cent of the company being acquired, the shareholders of the acquiring company representing not less than 5 per cent of the share capital within the time period stipulated in the board's notice regarding reorganisation are entitled to request the convening of shareholders meeting in order to examine the draft reorganisation agreement and to take a decision on reorganisation. Such time period shall be not less than a month from the day of sending the notice, or in case of the bearer shares, from the day of publishing the notice.	Article 354^2, Commercial Law
	A founder of the company who has previously acted in the name of the company to be founded prior to the entering of the company in the Commercial Register is liable for obligations which arise from such actions. The founder's obligation shall devolve to the company if the board of directors of the company or shareholders who represent not less than 5 per cent of the share capital do not object within three months of entering the company in the Commercial Register. If such objections are raised, the issue of the devolvement of the obligations shall be decided at a meeting of shareholders.	Article 163, Commercial Law
	A company has the duty to bring an action against the founders, members of the board of directors or supervisory board, or the auditor, if requested by a minority of shareholders who jointly represent not less than 5 per cent of the share capital. Such request shall be submitted to those persons within the company who, in accordance with the law, have the right to bring an action. If such institution does not bring the action within one month, the minority shareholder(s) may bring an action in a court	Article 172, Commercial Law

	without the assistance of such persons.	
	Shareholders who represent not less than 5 per cent of the share capital of the company may request an internal audit if there is a substantiated reason for it. If the board of directors does not agree to the conduct of an internal audit, the board shall convene a meeting of the shareholders without delay, including in the agenda the issue of the conduct of an internal audit. If the meeting of shareholders rejects the request, the minority of shareholders representing not less than 5 per cent of the share capital may elect a sworn auditor for conducting of the internal audit.	Article 183, Commercial Law
	For joint stock companies, an extraordinary meeting of shareholders shall be convened if it is requested by the shareholders who jointly represent not less than 5 per cent of the share capital of the company (provided that a lower number is not specified in the articles of association). An extraordinary meeting of shareholders shall be convened not later than three months after the day on which the request was received. The Commercial Register Office shall convene an extraordinary meeting of shareholders if the meeting has not taken place within the three-month period and such action is requested by shareholders who in total represent not less than 5 per cent of the share capital of the company (unless the articles of association provide for a smaller percentage).	Article 270, Commercial Law
	For joint stock companies, shareholders representing at least 5 per cent of the share capital of the company shall have the right, within seven days from the day of publication of the advertisement or within five days from the day when they receive the notice, to request that the persons convening meeting of shareholders include additional issues in the agenda of the meeting.	Article 274, Commercial Law
	A court, based upon an action by any shareholder, may declare a decision of shareholders as void, if such decision or the procedures for the taking of it is in contradiction to law or the articles of association, or a significant violation has been allowed in the convening of the meeting or the taking of the decision.	Articles 217 and 286, Commercial Law
	In case of a reorganisation, shareholders of the company being acquired, divided or restructured who did not agree to the reorganisation are entitled, within two months from the time when reorganisation comes into effect, to request that the acquiring company acquire their shares for	Article 353, Commercial Law

	compensation. Compensation may also be requested by shareholders of a company which has been newly formed as a result of a division who voted against the approval of the articles of association. The amount of compensation shall be equal to the amount which the shareholder would have received by dividing the property of the company being acquired or restructured in the case of liquidation if it took place at the time when the decision on reorganisation was taken. If shareholders of the company being acquired or restructured who do not agree with the reorganisation do not request compensation, they may alienate their shares within two months, irrespective of any restrictions provided for in the decision, the articles of association or law.	
	In the case of a group of companies, a transfer of profit contract shall provide for appropriate indemnities to minority shareholders in the form of an annual payment proportionate to their respective holding in the company and determine the minimum amount of such payment. The management and transfer of profit contract, if a dependent company has not undertaken to transfer all of its profit, shall provide for a definite share of the annual profit in the amount of an indemnity payment as an appropriate indemnity to minority shareholders. Each minority shareholder of a dependent company may bring an action for the determination of appropriate indemnity within a three-month period from the day of publication of a notice of the registration of entering into or amendments to a group of companies contract in the official gazette.	Article 23, Group of Companies Law
	In cases where a group of companies is formed, irrespective of the obligation to pay indemnity, a group of companies contract shall provide for the other party to the group of companies to, pursuant to the request of a minority shareholder, acquire their shares for an appropriate compensation determined (by the contract).	Article 24, Group of Companies Law
	If the shareholder (dominant company) has acquired 90 per cent of shares or more, the shareholders meeting of the company can adopt a decision on inclusion of the company into the dominant company. Inclusion is subject to mandatory audit by an independent auditor. Upon registration of the inclusion in the Commercial Register, the shares not belonging to the dominant company are transferred to the dominant company. In this event, the rejected shareholder of the company is entitled to receive appropriate compensation for its lost shares.	Articles 36 and 38, Group of Companies Law

	If a company has directly or directly acquired 90 per cent or more of another company's shares, then each minority shareholder of the dependent company is entitled to require that the dominant company redeem the shares held by the minority shareholder. The law guarantees the rights of minority participants to sell their shares at the price determined by court, in the absence of a voluntary agreement on the price.	Articles 47 and 48, Group of Companies Law
	In case of publicly listed companies, if one shareholder directly or indirectly owns 90 per cent or more of the company's shares, each of the minority shareholders have the right to demand the majority shareholder repurchase their shares for a price which is not lower than the price calculated in cases of mandatory share repurchase offers.	Article 83[1], Financial Instruments Market Law