Conversion of Business Organizations under the Commercial Code of Ethiopia

Description

By Luwam Chalachew, Legal Assistant at DMLO

Email: info@dmethiolawyers.com

Introduction
Conversion is an operation by which the legal form of a business organization is changed without creating a new legal personality. Conversion doesn't cause the creation of a new legal person rather it is considered a continuation of the original company. Conversion, as stipulated under Article 546(1) of the Commercial Code, only results in the amendment of Memorandum of Association.

Procedures to be Followed
The following procedures should be followed during the process of conversion:
1. The decision of conversion of one business organization into another may pass unanimously or by the majority required by the memorandum of association or by law as provided under Article 546(2).
2. The conversion has to be notified through publication in a newspaper having wide circulation and on the website of the business organization (if it has one).
3. The amended Memorandum of Association should be registered on the Commercial Register.

Effects of Conversion
Conversion doesn't affect the continued existence of the original business organization; it doesn't cause any interruption of activities. The effect of conversion starts from the date of registration in the Commercial Register. As per Article 548(1) of the Commercial Code, the rights and duties of the former organization shall pass automatically to the new business organization on the day of registration.

Rights and Liabilities of Members
Conversion neither increases any liability of members nor deprives rights of members. Notwithstanding these stipulations, members of Share Company or Private Limited Company who dissent from the decision on conversion may withdraw by selling their shares as per Article 547.

Rights of Creditors of the Former Company
Upon registration of the new business organization, creditors of the former firm shall be required to establish their claim forthwith, and shall be informed that, unless they object thereto, they shall be deemed to be creditors of the new business organization.
Approval of conversion shall be presumed where creditors have been informed of the decision of conversion by registered letter or an electronic means and have not expressly objected to it.
Creditors who make their objection to conversion shall be paid or provided with adequate guarantee. If the organization cannot pay, preemption rights shall be given to creditors regarding payments of profit

out of the assets of the firm until all creditors have been paid.

Liability of Partners

The conversion of a firm shall not discharge partners with unlimited liability of their liability for undertakings entered into by the firm prior to the conversion, unless it is proven that the creditors have approved the conversion as per Article 549(1).
Where a share company, private limited company, or one person P.L.C is converted into partnership, the partners shall be free from personal liability for debts incurred by the organization before the conversion.

Conclusion

Generally conversion is a change in the form of a business organization. The mere change in the form of the business organization doesn't deprive it of its legal personality nor does it confer a new legal personality on the new form of business organization. So it doesn't affect the continued existence of the original business organization.

For further information and inquiries you may contact us at info@dmethiolawyers.com

Category

1. Latest Posts

Date Created
November 7, 2021
Author
dmethiol_admin