

(Version 7 of 12 October 2017)

**The Act of .....**  
**on the employee share ownership programs**

**Chapter 1. General provisions**

**Art. 1 [Scope and objective of the Act]**

1. The Act regulates the principles for the establishment, membership, management and termination of the employee share ownership programs in a joint-stock company, limited liability company and a joint-stock limited partnership, including the dominant or subsidiary companies which form a group of companies - with their registered office in the territory of the Republic of Poland.

2. The objective of the employee share ownership programs is to increase the economic potential of the employees by financing their involvement in the investment processes which enables them to participate in the ownership of capital represented by shares issued by the companies which employ them.

3. The terms used in this Act shall mean:

- 1) a company – a company which maintains an employee share ownership program,
- 2) shares - shares, including the shares of limited liability companies,
- 3) a general meeting - a general meeting, including the one of shareholders of a limited liability company,
- 4) programs – employee share ownership programs.

4. The Act does not violate the Act of 30 August 1996 on the commercialisation and certain employee rights (uniform text: Journal of Laws of 2016, item 981, as amended) and the Act of 20 April 2004 on the employee pension schemes (uniform text: Journal of Laws of 2014, item 710, as amended).

**Art. 2 [Definition and subject matter of the employee share ownership program]**

1. The employee share ownership program shall imply financing of the taking up or acquisition by employees of shares of the company maintaining the program, execute the rights from the shares and use them under the principles specified herein, subject to the provisions of the Commercial Companies Code.

2. Financing of the taking up or acquisition of the shares mentioned in par. 1 and disposition of those shares shall use the tax allowances specified in separate provisions.

3. The subject matter of the employee share ownership program shall consist of arranging and carrying out investments to enable the employees to obtain funds intended for taking up or acquiring shares issued by the companies which employ them.

**Art. 3 [Right to maintain the employee share ownership program]**

1. Any company which has been carrying out economic activity for not less than twenty-four months and which employs at least twenty employees (full-time equivalent) shall have the right to maintain the employee share ownership program mentioned in Art. 1(1).

2. The company may maintain one or more employee share ownership programs which may differ in the way the taking up or acquisition of the shares for the eligible employees is financed.

3. A group of companies may maintain a common employee share ownership program to cover the employees of all or some of the group companies.

4. The company may maintain the employee share ownership program if it is assumed that the eligible employees shall take up or acquire shares representing not less than five percent of the share capital of the company within a period of up to ten years from the date the program has been established.

#### **Art. 4 [Types of the employee share ownership programs]**

1. The employee share ownership programs may be non-leveraged or leveraged internally or leveraged externally.

2. The non- leveraged employee share ownership program shall be financed from the own funds of the employees which are participants of the employee share ownership program. The financial support may also come from the own funds of the eligible employees in the form of one-time or regular parts of the remuneration for work which have been granted by the company for this purpose. The funds must neither exceed 20% of the value of the wage bill of the company nor the total or a part of the funds from the employees' participation in the profits of the company in the form of the bonuses they have received or of other types of remuneration from other sources than the wage bill of the company.

3. The internally leveraged employee share ownership program shall be financed from the own funds of the company for taking up or acquiring the company's treasury shares to offer them to the employees or by providing financial aid by the company for taking up or acquiring the shares as employee shares, in particular by granting the employees loans for this purpose. The funds must not exceed 20% of the wage bill of the company.

4. The externally leveraged employee share ownership program shall be financed from the externally obtained funds by the company for the employees to take up or acquire the company's shares as employee shares, in particular from a bank credit, loans, the issuance of bonds or the issuance of other financial instruments or by the company's granting a guarantee or any other surety for the respective credit or with the use of other means to finance the employee share ownership.

5. The company may issue shares dedicated for eligible employees or dispose its own shares to them below the market value of those shares.

6. The company may issue shares to the eligible employees without remuneration (free shares) provided that part of them are taken up or acquired from the company for a remuneration. The company shall determine the number of free shares in comparison with the number of shares issued to the eligible employees for a remuneration.

**Art. 5 [Persons eligible to become participants of the employee share ownership program]**

1. Those employed by the company under an employment contract or any other legal relationship for a period of at least one year, who have reached the age of eighteen years and have submitted declarations of membership of the employee share ownership program, as mentioned in Art. 13(2), shall be eligible to become members of the employee share ownership program. The eligibility to become a member of the employee share ownership program shall be determined as of the date of the declaration mentioned in the first sentence.

2. The employees of the company who own more than one fifth of the share capital of the company shall not be eligible to become members of the employee share ownership program. That also refers to the situation in which the shares held by an employee of the company are allocated in different employee share ownership programs of the company.

3. The scope of eligibility to become a participant of the employee share ownership program shall be determined in the contract for maintaining the employee share ownership program to be concluded between the company and its employees who are eligible to become participants of that program. By determining the scope of eligibility, as mentioned in the first sentence, the contract shall particularly take into account the service period, the characteristics of the position and the qualifications of the eligible person.

4. Physical persons who are employed by the company on a full-time basis or for a period of up to one year shall have the right to take up the subscription warrants issued by the company for its shares under the principles specified by the company.

5. The eligible employees may take up or acquire bonds convertible into the company's shares or shares with priority rights and the subscription warrants issued by the company for its shares under the principles specified by the company.

6. The eligible employees may participate in the establishment of the employee share ownership program under the principles specified in Art. 7-17 or join the already existing program by submitting the declaration, as mentioned in Art. 13(2).

7. Shall the contract for maintaining the employee share ownership program provide so, the eligibility to become a member of the employee share ownership program may be exercised by taking up or acquiring the shares issued by companies of the group of companies other than the company which employs the eligible employees. The principles for taking up or acquiring such shares shall be determined in the contract for maintaining the employee share ownership program of the company which employs the eligible employees. The eligible employees may take up the employee shares only in one company of the group of companies. The provisions of par. 4-6 shall apply accordingly.

## **Art. 6 [Definitions]**

The terms used in this Act shall mean:

1) an employee share ownership program - the financing of taking up or acquiring shares, as mentioned in Art. 2(1),

2) a company maintaining the employee share ownership program - the company mentioned in Art. 1(1), which maintains one or more employee share ownership programs under the principles specified by the Act,

3) employees eligible to become members of the employee share ownership program or eligible employees - the persons mentioned in Art. 5(1),

4) an non-leveraged employee share ownership program - the employee share ownership program mentioned in Art. 4(2),

5) an internally leveraged employee share ownership program - the employee share ownership program mentioned in Art. 4(3),

6) an externally leveraged employee share ownership scheme - the employee share ownership program mentioned in Art. 4(4),

7) a manager of the employee share ownership program - a legal person or a physical person, which fulfils the requirements mentioned in Art. 18(2-5) and which has concluded a contract for managing the program with the company maintaining the employee share ownership program,

8) a contract for maintaining the employee share ownership program - a contract concluded with the company maintaining the employee share ownership program and its eligible employees who have submitted declarations of membership of the program, fulfilling the requirements as to the form and content mentioned in Art. 14(3) and Art. 15,

9) a contract for managing the employee share ownership program - a contract concluded with the company maintaining the employee share ownership program and the manager of the program, fulfilling the requirements as to the form and content mentioned in Art. 19,

10) an organising committee of the employee share ownership program - a committee composed of representatives of the employees and of members of the management board of the company, appointed in the mode of Art. 9 to establish the employee share ownership program in the company, in particular to cause the contract for maintaining the employee share ownership program to be concluded,

11) employee shares - shares of the company maintaining the employee share ownership program being in the autonomous possession until the expiry of the employment relationship, taken up or acquired by the employees of the company, as well as shares of any other company of the group of companies taken up or acquired in place of the shares of the company maintaining the employee share ownership program, which employs the eligible employees,

12) allocated employee shares - the shares mentioned in Art. 21(2) sentence 2,

13) unallocated employee shares - the shares mentioned in Art. 21(2) sentence 3,

14) employee accounts - accounts with the employee shares allocated to them under the employee share ownership program,

15) a depository for employee shares - a depository maintained by the management board of the company in the mode of Art. 17(2-6), in which the documents of the employee shares are deposited or the dematerialised shares are registered, to exclude the possibility that the shares may be managed by their owners until the expiry of

the employment relationship with the company maintaining the employee share ownership program,

16) a dividend - a share in the profit of a limited liability company, as mentioned in Art. 191 § 1 of the Commercial Companies Code, or a dividend in a joint-stock company, as mentioned in Art. 347 § 1 of the Commercial Companies Code.

## **Chapter 2 - Establishing the employee share ownership program**

### **Art. 7 [Request for establishing the employee share ownership program]**

1. The employee share ownership program shall be established in the company at the request of:

1) at least five employees chosen by the eligible employees representing not less than ten percent of all the persons employed by the company under an employment contract or any other legal relationship, or appointed by an ordinary majority of the trade union organizations which are active in the company, or

2) the management board of the company upon the consent of the supervisory board, or

3) the shareholders representing at least one fourth of the share capital of the company.

2. In the situations mentioned in par. 1 points 1 and 3, the request shall be submitted to the company operating through its management board.

### **Art. 8 [Consent for establishing the employee share ownership program]**

1. In the situations mentioned in par. 1 points 1 and 3, the employee share ownership program may be established upon the consent of the company.



2. The consent shall be granted by the management board upon consulting the supervisory board. In the limited liability company which does not have the supervisory board, the opinion is expressed by the general meeting of shareholders.

#### **Art. 9 [Organising committee of the employee share ownership program]**

1. The employees requesting the establishment of the employee share ownership program in the company, which employs them, form with members of the management board of the company an organising committee of the employee share ownership program by appointing its members.

2. The organising committee shall have from three to nine members. The employees of the company shall form not less than two thirds of the membership of the organising committee. The member of the management board of the company appointed by a resolution of the management board shall preside over the organising committee. The membership of the organising committee may include the member of the supervisory board of the company appointed by its resolution.

3. The organising committee shall adopt resolutions by an absolute majority of votes provided that the president of the committee shall vote for the resolution.

4. Shall the request for establishing the employee share ownership program be submitted by the management board of the company or by the eligible shareholders, the provisions of par. 1-3 shall apply accordingly. The employees of the company appointed in the mode of Art. 7(1)(1) shall be then members of the organising committee representing the employees.

5. Members of the organising committee shall perform their function without a remuneration. Members of the organising committee may have their justified costs reimbursed. The operational costs of the organising committee shall be borne by the company.

6. The organising committee may appoint experts at the cost of the company, and it may contract an external provider to prepare a concept for the employee share ownership program and to draft the required documents.

**Art. 10 [Negotiations over the draft contract for maintaining the employee share ownership program]**

1. The organising committee shall prepare a draft contract for maintaining the employee share ownership program. The draft shall be up for negotiation within the organising committee, between its members representing the employees and those representing the company.

2. The draft contract for maintaining the employee share ownership program shall be accompanied by:

- 1) the financial statements of the company for the last financial year,
- 2) the valuation of the enterprise of the company and the proposed issue price for the shares of the company offered to the employees,
- 3) the report on the general economic and financial situation of the company, including its market position and the forecasted development during a period of not less than five upcoming years,
- 4) the draft rules and regulations of the employee share ownership program, as mentioned in Art. 16.

**Art. 11 [Convening a meeting of the employees eligible to become members of the employee share ownership program]**

1. Having agreed the content of the draft contract for maintaining the employee share ownership program, the organising committee shall convene a meeting of all the employees eligible to become members of the employee share ownership program. The meeting shall be convened in a way which is used by the employer to communicate with

the employees in the particular work establishment, or by placing an announcement in a usual place in the work establishment in case there is no such way of communication. The meeting shall be held not earlier than two weeks after the date the notifications have been sent and the meeting has been announced.

2. The notification shall specify the time and place of the meeting mentioned in par. 2, as well as be accompanied by a draft contract for maintaining the employee share ownership program with annexes and by the report prepared by the organising committee about the objectives and advantages of the employee share ownership program and about the manner in which the program is financed and managed.

3. Shall the company employ more than three hundred employees, the organising committee shall convene a meeting of delegates of the employees eligible to become members of the employee share ownership program. The delegates shall be elected on the basis of the rules and regulations prepared by the organising committee. The rules and regulations for electing the delegates of the employees eligible to become members of the employee share ownership program shall take into account the principles of universality and representativeness of the election. The provisions of par. 1-2 shall apply accordingly.

#### **Art. 12 [Time of establishing the employee share ownership program]**

The employee share ownership program shall be established upon concluding the contract for maintaining the employee share ownership program in accordance with Art. 14-16 provided that not less than one fourth of the eligible employees have submitted declarations of membership of the program in accordance with Art. 13(2-5), subject to Art. 13(6).

#### **Art. 13 [Adopting a resolution on approving the contract for maintaining the employee share ownership program]**

1. To conclude the contract for maintaining the employee share ownership program, the meeting of the employees eligible to become members of the program, as mentioned in Art. 11(1), or the meeting of the delegates, as mentioned in Art. 11(3), must adopt a resolution. The resolution shall be adopted by an absolute majority of the votes cast.

2. Shall the resolution mentioned in par. 1 be adopted, the eligible employees shall submit declarations of membership of the employee share ownership program. The declarations shall be submitted to the organising committee on a form prepared by the committee.

3. The employees present at the meeting, as mentioned in Art. 11(1) or in Art. 11(3), may submit declarations of membership of the employee share ownership program during this meeting, immediately upon the adoption of the resolution mentioned in par. 1.

4. The eligible employees who are not present at the meeting, as mentioned in Art. 11(1) or in Art. 11(3), may submit declarations by correspondence, however not later than within two weeks from the date of the meeting.

5. By submitting the declarations of membership of the employee share ownership program, the eligible employees shall authorise the members of the organising committee representing the employees to conclude the contract for maintaining the employee share ownership program on their behalf.

6. Shall not less than one fourth of the eligible employees not join the employee share ownership program, the following request for establishing the employee share ownership program may be submitted not earlier than ninety days after the date the first request has been submitted.

**Art. 14 [Concluding the contract for maintaining the employee share ownership program and amending the contract]**

1. The contract for maintaining the employee share ownership program shall be concluded between the employees of the company who have submitted declarations of membership of the program and the company represented by the management board. All the employees being members of the organising committee shall sign the contract on behalf of the employees. The contract shall be accompanied by the employees' declarations of membership of the employee share ownership program, as mentioned in Art. 13(2-5).

2. The management board shall notify the shareholders of the company about the adoption and the content of the employee share ownership program at the next general meeting; shall the company be obliged to maintain an Internet website, on the Internet website immediately upon the conclusion of the contract for maintaining the employee share ownership program.

3. The contract for maintaining the employee share ownership program and its amendments must be made in writing in order to be valid.

4. The provisions of Art. 7-16 shall apply to the amendment of the contract for maintaining the employee share ownership program accordingly. The amendment shall be made by the organising committee existing in the company.

5. The establishment of a new employee share ownership program, apart from the existing program, shall constitute an amendment to the contract for maintaining the employee share ownership program.

6. Has the group of companies adopted a common employee share ownership program, the contract for maintaining the employee share ownership program shall be concluded by the management board of the dominant company with the employees of the company forming the organising committee. The management boards of the subsidiary companies formerly consult the eligible employees of each of the company as to the

adoption of the common employee share ownership program within the group of companies. The consultations shall not be binding for the management board of the dominant company. The provisions of Art. 7-13, Art. 14(1-5) and Art. 15-16 shall apply accordingly.

**Art. 15 [Content of the contract for maintaining the employee share ownership program]**

The contract for maintaining the employee share ownership program shall specify as a minimum:

1) the amount of the part of the share capital of the company, represented by the shares to be taken up or acquired by the eligible employees (employee shares) as of the time the employee share ownership program has been established,

2) the principles for increasing the share capital of the company in the part to be taken up by the eligible employees during the operation of the employee share ownership program,

3) the criteria to be followed by allocating the employee shares between the employees of the company who are eligible to become members of the employee share ownership program, subject to the guidelines specified in Art. 5(3) sentence 2,

4) the fact whether the company maintains one or more employee share ownership programs,

5) the fact whether under the employee share ownership programs the eligible employee may provisionally take up or acquire shares of any company of the group of companies other than the company which employs them, as well as the principles for taking up or acquiring the shares,

6) the manner in which the documents of the employee shares are deposited, if issued by the company, or in which the dematerialised shares are registered,

7) the principles for managing the employee share ownership program,

8) the principles for exercising the corporate shareholding rights from the employee shares, including the right to vote and the right to information about the company,

9) the principles for exercising the right to dividends from the employee shares and the pre-emptive right,

10) the principles for disposing of the employee shares during the operation of the employee share ownership program and upon its termination,

11) the principles for redeeming the employee shares during the operation of the employee share ownership program,

12) the principles for converting the employee shares into the pension financial instruments which are offered on the market,

13) the reasons for terminating the employee share ownership program and the liquidation proceedings, including the principles for disposing of or redeeming the former employee shares.

**Art. 16 [Rules and regulations of the employee share ownership program]**

1. Each employee share ownership program adopted by the company must have separate rules and regulations.

2. The rules and regulations of the employee share ownership program shall be attached to the contract for maintaining the employee share ownership program.

3. The rules and regulations of the employee share ownership program shall specify, in particular:

1) the amount of the share capital of the company to be taken up or acquired by the eligible employees under the employee share ownership program,

2) the approximate schedule for taking up or acquiring the shares for the eligible employees under the employee share ownership program,

3) the manner for financing the taking up or acquisition of the employee shares, including the specification as to whether the employee share ownership program of the company is a non-leveraged program or an internally or externally leveraged program,

4) the extent to which the company creates the reserve capital (the special-purpose fund) for repurchasing the treasury shares of the company from the eligible employees disposing of the shares, as well as from other shareholders,

5) the detailed principles for allocating the shares to be taken up or acquired by the eligible employees under the employee share ownership program,

6) the principles for diversifying the assets collected on the account for allocating the employee shares,

7) the principles for liquidating the assets of the employee share ownership program in case the investment objective of the program has been achieved.

#### **Art. 17 [Employee shares, depository for employee shares]**

1. The employee shares shall be registered shares. They must not be converted into bearer shares.

2. Shall the company issue the documents of the shares to the eligible employees, the management board of the company shall maintain a depository for employee shares. It shall not be obligatory to deposit the documents of the shares in the depository. The management board of the company may issue the documents of the shares to the eligible employees under the principles specified in the company. The documents of the shares may be materialised or dematerialised. The provision of Art. 174 § 6 of the Commercial Companies Code shall apply accordingly.

3. The depository for employee shares may be maintained in the form of electronic entry in case the registered shares due to the employees are dematerialised.

4. The management board of the company shall record the employee nature of the registered shares issued by the company under the employee share ownership program in the book of shares kept in accordance with Art. 341 of the Commercial Companies Code.



5. The owner of the employee share shall gain the right to claim the issuance of the document of the share on the date the employment relationship in the company has expired. The management board shall be obliged to issue the document of the share within one week from the date the claim has been raised.

6. Shall the employee shares be dematerialised, the management board - on the date the employment relationship in the company has expired - shall delete the shares from the depository for employee shares and shall issue to the eligible person a registered certificate confirming the rights to the shares of the company, as specified therein.

### **Chapter 3 - Management of the employee share ownership program**

#### **Art. 18 [Obligation to contract a third party to manage the employee share ownership program]**

1. The company shall contract a legal person or a physical person, if fulfilling the requirements specified in the Act, to manage the employee share ownership program.

2. Shall the employee share ownership program be maintained in the companies of the group of companies, the management of the employee share ownership program may be contracted to an employee share ownership foundation or an employee share ownership association or a special-purpose capital company of the group of companies, which have been established to do that within the group.

3. The management of the employee share ownership program may be contracted to existing legal persons which are not related to the company maintaining the employee share ownership program and the activity of which is to promote the employee share ownership and to manage the employee share ownership programs.

4. The employee share ownership foundations may be company-based, limited to the company maintaining the employee share ownership program, or open, managing the employee share ownership programs maintained by different companies.

5. Shall the company intend to contract a physical person to manage its employee share ownership program, the person must be licensed to pursue the profession of a stock broker or of an investment adviser in the meaning of the provisions of the Act of 29 July 2005 on trading in financial instruments (uniform text: Journal of Laws of 2014, item 94, as amended).

**Art. 19 [Contract for managing the employee share ownership program]**

1. The company shall conclude with the manager of the employee share ownership program a contract for managing the scheme - in writing in order to be valid.

2. The conclusion or amendment of the contract for managing the employee share ownership program must be consulted with the employees of the company who are covered by the program. The consultations shall not be binding for the management board. The provisions of Art. 10(1-2) and Art. 13(1) shall apply accordingly.

3. The contract for managing the employee share ownership program shall specify the rights and obligations of the manager and the principles for determining its remuneration.

**Art. 20 [Obligations of the manager of the employee share ownership program]**

The manager of the employee share ownership program shall be obliged to, in particular:

1) work out proposals for the principles for financing the taking up or acquisition of the employee shares.

2) submit to the management board of the company proposals of the externally leveraged financing for the employee share ownership program, as well as of the related manners in which the company may grant sureties,

3) submit to the management board of the company proposals of the internal leveraged financing for the employee share ownership program so that the company may take up or acquire the treasury shares or grant a loan or make an advance payment for the employees to take up or acquire the shares of the company,

4) submit to the company proposals of the manner in which the employees may dispose of the dividends from the employee shares, as well as exercise the pre-emptive rights from the shares under new issuances,

5) exercise the right to participate in the general meeting, the right to vote and the right to information about the company on behalf of the eligible employees, provided that the eligible employees do not exercise the rights in person,

6) organise, under the principles specified in Art. 11(1-3) and Art. 13(1), consultations with the eligible employees as to the amendment to the contract for maintaining the employee share ownership program, as well as to exercising the right to vote from the employee shares at the general meeting in case the manager has been authorised by the employees,

7) conduct educational programmes on the employee share ownership for the employees of the company,

8) prepare a draft liquidation programme of the employee share ownership program of the company in case a resolution on its termination has been adopted,

9) monitor the market value of the employee shares from the time they have been taken up or acquired by the eligible employees until the time the employee share ownership program has been terminated, as mentioned in Art. 28(1), or until the time the employee shares has been disposed of, as mentioned in Art. 25(1), or until the time the shares have been redeemed or repurchased by the company in the situations mentioned in Art. 26-27.

## **Art. 21 [Allocation accounts for the employee shares]**

1. The manager of the employee share ownership program shall maintain allocation accounts for the employee shares in the name and on behalf of the employees covered by the program.

2. Under the allocation account, there may exist registered sub-accounts for allocated or unallocated shares. The sub-account for allocated shares shall be used for collecting the shares taken up or acquired by the eligible employees under the non-leveraged employee share ownership program, which are not encumbered with the rights for third parties. The sub-account for unallocated shares shall be used for collecting the shares taken up or acquired by the eligible employees under the internally or externally leveraged employee share ownership program, which are encumbered with the rights for third parties.

3. Upon the consent of the company, the manager of the employee share ownership program may maintain a general account for the allocated employee shares instead of a registered sub-account for the shares.

4. Upon the expiry of the rights of the third parties encumbering the unallocated employee shares, the shares shall be transferred from the sub-account for unallocated shares to the sub-account for allocated shares.

#### **Chapter 4 - Exercising the rights from the shares subject to the employee share ownership program**

##### **Art. 22 [Manner for exercising the employees' right to vote from the employee shares during the operation of the employee share ownership program]**

1. The rules and regulations of the employee share ownership program may specify that the right to vote from the employee share will be exercised by the manager of the employee share ownership program under the granted authorisation.

2. The manager of the employee share ownership program shall conduct consultations with the eligible employees as to the manner in which the right to vote shall be exercised at the general meeting. The manager shall convene a consultation meeting by making an announcement in the way used in the respective work establishment, however not later than within one week preceding the date of the general meeting. The consultations shall not be binding for the manager. The provision of Art. 11(3) shall apply accordingly.

3. The owner of the employee share who has authorised the manager of the employee share ownership program shall lose his or her right to vote at the general meeting. This shall not refer to the situation in which the authorisation is revoked in case the respective statement has been delivered to the company not later than the time the voting at the meeting has been ordered.

#### **Art. 23 [Restricting the right to dispose of the employee share]**

1. During the existence of the employee share ownership program, the employee shares must not be disposed of, encumbered with the right to use or leased. The provision of Art. 338 § 1 sentence 2 of the Commercial Companies Code shall not apply. The documents of the employee shares must be deposited in the mode of Art. 17 at that time.

2. Shall the shares be disposed of, encumbered with the right to use or leased in violation of the provision of par. 1, the act shall be null and void.

3. During the existence of the employee share ownership program, the owner of the employee share on the sub-account for allocated shares may encumber the shares with the right of pledge for a third party upon the consent of the company. The consent shall be granted or refused by the management board within two weeks from the date the request has been submitted, upon consulting the manager of the employee share ownership program.

4. The provision of par. 1 shall not apply in the situation in which the employee intends to dispose of the employee shares to a company or a related company.

5. Shall the employee shares be disposed to a related company, the company issuing the shares must grant its consent under the principles specified in Art. 25(1).

6. The rules and regulations of the employee share ownership program may foresee circumstances to justify the disposal of the employee shares under general principles, however without the right to the tax allowances mentioned in Art. 32 and Art. 34. The provisions of par. 1-5 shall not apply. The circumstances shall be listed in an exhaustive way.

**Art. 24 [Right of the employee to exercise the remaining rights from the employee shares]**

1. During the existence of the employee share ownership program, the owner of the employee share may exercise the remaining rights from the share, in particular the right to participate in the general meeting, the right to information about the company and the right to appeal against the resolution of the general meeting.

2. Shall the general meeting adopt a resolution on paying out dividends for the last financial year or on paying out profits for the preceding years, the owner of the employee share may claim the dividend to be paid out in cash or allocate the due dividend for acquiring employee shares under new issuances in the course of the conditional increase of the share capital of the company. The shares under the new issuances, covered in the manner mentioned in the first sentence, shall be taken up by the employee under the principles determined by the company.

**Chapter 5 - Disposing of, redeeming the employee shares**

**Art. 25 [Disposing of the employee shares upon the expiry of the employment relationship]**

1. Shall the employment relationship expire, the owner of the employee shares shall be obliged to dispose of them. Shall the shares be disposed of to a person other than the employee of the company or the very company, the company must approve the buyer. The consent shall be granted or refused by the management board within two weeks from the date the request has been submitted, upon consulting the manager of the employee share ownership program. The provisions of Art. 182 § 2-5 or Art. 337 § 3-6 of the Commercial Companies Code shall apply accordingly.

2. Shall the shares of a public company be disposed of, the price for the employee shares disposed of shall be determined according to the average price for the last three months preceding the date the employment relationship of the eligible employee has expired.

3. Shall the shares of a non-public company be disposed of, the price for the employee shares disposed of shall be determined by an expert appointed by the manager of the employee share ownership program at their fair value. The costs of the expert shall be borne by the company.

**Art. 26 [Redeeming the employee shares upon the expiry of the employment relationship]**

1. The employee shares due to the person whose employment relationship with the company has expired may be redeemed. The company shall repurchase the shares from the employee whose employment relationship with the company has expired only to redeem them. The provisions of Art. 25(2-3) shall apply accordingly.

2. If justified, the company may issue to the former employee the utility certificates for the redeemed shares, as mentioned in Art. 361 of the Commercial

Companies Code, under the principles specified in the rules and regulations of the employee share ownership program.

**Art. 27 [Repurchasing, redeeming the employee shares by the company during the employment relationship]**

1. The contract for maintaining the employee share ownership program may provide for options for the eligible employee to dispose of the employee shares to the company (the put option) during the employment relationship.

2. The contract for maintaining the employee share ownership program may provide for a voluntary redemption of the employee shares of the employee during the employment relationship with the company. The employee may request the voluntary redemption of the employee shares he or she owns. The provisions of Art. 199 or Art. 359 of the Commercial Companies Code shall apply accordingly. The company shall have the right to refuse the voluntary redemption of the employee shares in case the shares may not be redeemed from the net profit of the company.

3. Have the repurchase price of the employee shares or the value of their redemption not been specified in the contract for maintaining the employee share ownership program in a direct or indirect way, the provisions of Art. 25(2-3) shall apply accordingly.

4. The provision of Art. 2(2) shall not apply in the situations mentioned in par. 1-2

5. Shall the employee pass away during the employment relationship, the employee shares shall be transferred onto his or her heirs under the general principles. The provisions of Art. 26(1-2) shall apply accordingly. However, the heirs may dispose of the employee shares which are due to them only under the principles specified in Art. 25.



## **Chapter 6 - Terminating the employee share ownership program**

### **Art. 28 [Reasons for terminating the employee share ownership program]**

1. The employee share ownership program shall be terminated, if decided so unanimously by the company and its employees representing more than a half of the share capital falling onto the employees of the company under the program. The respective request shall be submitted to the manager of the employee share ownership program.

2. The reasons for terminating the employee share ownership program may be specified in the contract for maintaining the employee share ownership program.

3. The employee share ownership program must not be terminated before the lapse of five years from the date it has been established.

### **Art. 29 [Liquidation proceeding of the employee share ownership program]**

1. Upon the occurrence of a reason justifying the termination of the employee share ownership program, the manager of the program shall start the liquidation proceeding of the program.

2. The manager of the employee share ownership program shall prepare the liquidation plan for the program. In particular, the manager may request the company to convert the employee shares into bearer shares, or prepare a programme for the company or the remaining shareholders or the appointed third persons to repurchase the shares, or prepare a programme for redeeming the shares.

3. The liquidation plan for the employee share ownership program must be approved by the company and its employees representing more than a half of the share

capital falling onto the employees of the company under the program. The employee shares shall cease then to be employee shares in the meaning of the Act.

4. The provisions of Art. 25(2-3) shall apply to determining the value of the shares covered by the employee share ownership program under liquidation accordingly.

## **Chapter 7 – Amending provisions and final provisions**

### **Art. 30 [Obligation of the employer to conduct trainings on the employee share ownership programs, obligation to participate in the training]**

1. The company maintaining the employee share ownership program shall be obliged to make it possible for its employees to be trained as to the objectives and types of the employee share ownership program, the content of the contract for maintaining the employee share ownership scheme, the principles for managing the program, as well as the related rights and obligations of the employees, while taking into account the principles of economics, the capital market and of the commercial companies law.

2. The company shall be obliged to instruct the employees as to the potential advantages and threats related to the membership of the employee share ownership program.

3. The company maintaining the employee share ownership program may fulfil the obligation mentioned in par. 1 and 2 on its own or contract the manager of the employee share ownership program or a third party to fulfil it. The costs of the training shall be borne by the company.

4. Within sixty days from the date the contract for maintaining the employee share ownership program has been signed, the member of the scheme shall be obliged to participate in the training mentioned in par. 1.

**Art. 31 [Exemptions from the social insurance contributions]**

The revenues of the employees from the membership of the employee share ownership program shall not be subject to social insurance contributions.

**Art. 32 [Amending the PIT Act]**

To the Act of 26 July 1991 on the Personal Income Tax (uniform text: Journal of Laws of 2016, item 2032, as amended), the following amendments shall be made:

- 1) in Art. 21(1), point 144 shall be added with the following wording:

“144) the incomes (revenues) from dividends and other revenues from the participation in the profits of the company the shares or stocks of which have been taken up or acquired by the eligible employee under the employee share ownership program introduced on the basis of the provisions of the Act of .... on the employee share ownership programs (Journal of Laws of ....., item ....) [*excluding the revenues from the disposal of the shares or stocks*]; the tax allowance mentioned in the first sentence may be used provided that the incomes are allocated for taking up new shares or stocks in the same company and the eligible employee has not violated the provisions of the Act of .... on the employee share ownership programs (Journal of Laws of ....., item ....), in particular the provisions on the disposal of shares or stocks under the principles specified in the Act”;

- 2) in Art. 21, par. 37 shall be added with the following wording:

“37. Shall the employment relationship expire between the employer and the eligible employee being the owner of the employee shares or stocks taken up or acquired under the employee share ownership program introduced on the basis of the provisions of the Act of .... on the employee share ownership programs (Journal of Laws of ....., item ....), irrespective of the mode and reason for terminating the employment relationship, excluding the expiry of the employment relationship of the employee fulfilling the

conditions giving the right to receive a disability allowance or a pension due to the retirement of the employee, the allowance mentioned in par. 1 point 144) shall not apply to the revenues received by the employee after the expiry of the employment relationship.

3) in Art. 24, par. 11a and par. 11b shall be added with the following wording:

“11a. The incomes (revenues) received by the eligible employees in relation to the financing of the taking up or acquisition of the shares or stocks in the employee share ownership program introduced on the basis of the provisions of the Act of .... on the employee share ownership programs (Journal of Laws of ....., item ....) shall not be taxable.”

“11b. The provision of par. 11a shall apply provided that the eligible employee follows the employee share ownership program under the which the employee has acquired or taken up the shares or stocks, as mentioned in this provision; in particular, shall the eligible employee dispose of the shares or stocks in violation of the principles of the employee share ownership program, that shall trigger a tax obligation on the incomes (revenues) mentioned in par. 11a.”

### **Art. 33 [Amending the CIT Act]**

In Art. 15 of the Act of 15 February 1992 on the Corporate Income Tax (uniform text: Journal of Laws of 2016, item 1888, as amended), par. 1zd shall be added with the following wording:

“1z. For the employer which has implemented the employee share ownership scheme mentioned in the Act of .... on the employee share ownership programs (Journal of Laws of ....., item ....), the taxable costs shall consist of the expenditures incurred for preparing and implementing the employee share ownership program, in particular the expenditures for financing the taking up or acquisition of the shares or stocks under the

employee share ownership program introduced on the basis of the provisions of the Act of .... on the employee share ownership programs (Journal of Laws of ....., item ....)”.

#### **Art. 34 [Amending the Act on the tax on civil-law transactions]**

To the Act of 9 September 2000 on the tax on civil-law transactions (uniform text: Journal of Laws of 2016, item 223, as amended), the following amendments shall be made:

1) In Art. 9, point 9c shall be added with the following wording:

“9c. The sale of the shares or stocks to the eligible employees under the employee share ownership program, as mentioned in the Act of .... on the employee share ownership programs (Journal of Laws of ....., item ....), as well as the eligible employee’s sale or conversion of the shares or stocks taken up or acquired by the eligible employees provided that the acts are done in accordance with the provisions of the Act of .... on the employee share ownership programs (Journal of Laws of ....., item ....)”.

2) In Art. 9 point 10, letter j) shall be added with the following wording:

“j) by the employer to the eligible employee in relation to the financing of the taking up or acquisition of the shares or stocks under the employee share ownership program in the meaning of the provisions of the Act of .... on the employee share ownership programs (Journal of Laws of ....., item ....)”.

#### **Art. 35 [Amending the Accounting Act]**

In the Accounting Act of 29 September 1994 (uniform text: Journal of Laws of 2009, No. 152, item 1223, as amended), Art. 36b shall be added with the following wording:

“1. The transfer of the capital instruments of the unit to the entities or persons (including to the employees) providing the unit with deliveries, rendering services or performing work, shall be recorded in the accounting books of the unit as payments in the form of the capital instruments, unless the transfer clearly results from other premises than the payment for the delivery, services or work.

2. The unit shall record the value of the deliveries, services or work purchased under the payment transaction in the form of capital instruments when it receives the deliveries, services or work, however not later than the time the right to take up the capital instruments is granted to the entities or persons (including to the employees).

3. The unit shall record the deliveries, services or work purchased under the payment transaction in the form of capital instruments at the market value of the deliveries, services or work, irrespective of the value of the capital instruments of the unit which have been issued in exchange for the deliveries, services or work.

4. The unit shall record the capital instruments issued under the payment transaction for the deliveries, services or work in equity at the market value of the received deliveries, services or work, irrespective of the value at which the instruments have been issued.

5. The difference between the market value of the deliveries, services or work purchased under the payment transaction in the form of capital instruments and the lower value of the capital instruments at which they have been issued shall be recorded as a deduction of the profits or an increase of the losses from preceding years.

6. Shall it be impossible to establish reliably the market value of the payments received in the form of capital instruments for the deliveries, services and work, the market value of the received capital instruments shall be deemed their market value. With regard to the transactions with employees or other persons rendering similar services, the unit shall measure the fair value of the received services by referring to the fair value of

the granted capital instruments. This shall result from the fact that it is usually impossible to estimate reliably the fair value of the performed work and/or the received services.

7. Shall the deliveries, services or work received or purchased under the payment transaction in the form of capital instruments not qualify to be recorded as assets, the unit shall record them as costs.

8. The provisions of par. 1-7 shall apply to the units the financial statements of which shall be audited by the chartered certified accountant in accordance with the Act or other provisions.

9. The unit shall disclose the information which will make it possible for the users of the financial instruments to understand the impact of the payment transaction in the form of capital instruments on the profit or loss of the unit in the respective period and on its financial situation.

#### **Art. 36 [Amending the Act on trading in financial instruments]**

To the Act of 25 July 2005 on trading in financial instruments (uniform text: Journal of Laws of 2014, item 94, as amended), the following amendments shall be made:

1) in Art. 1, par. 2 shall have the following wording:

“2. The provisions of the Act shall not apply to:

1) bills of exchange and promissory notes in the meaning of the law on the bills of exchange and promissory notes,

2) employee shares in the meaning of the Act of .... on the employee share ownership programs (Journal of Laws of ....., item ....), excluding the provisions of Art. 69-131”,

2) in Art. 69(2), the new point 9 shall be added with the following wording:

“9) the management of the employee share ownership programs”.

**Art. 37 [Amending the Act on public offering]**

In the Act of 29 July 2005 on public offering and on the conditions for introducing financial instruments to the organised system of trading and on public companies (uniform text: Journal of Laws of 2013, item 1382, as amended), in Art. 2 the new point 4 shall be added with the following wording:

4) employee shares in the meaning of the Act of ... on the employee share ownership programs (Journal of Laws of ....., item ....)”.

**Art. 38. [Entry into force of the Act]**

The Act shall enter into force on ....