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Auteur: Christophe Wilhelm | Le : 20 June 2018

The capital of a public limited company (société anonyme) may comprise various different share categories

Swiss law allows the capital of a public limited company to comprise different types of shares. These of course include registered or bearer shares, plus participation certificates and dividend-right certificates.

The articles of association may provide for different types of shares within the share capital. Shares are said to be preferred when they belong to a share category that benefits from a special regime.

This special regime may concern corporate rights, ownership rights or even both at the same time.

Preferred stock must be expressly provided for by the company's articles of association, either when the company is first incorporated or following a general meeting of shareholders. In the latter case, not only all shareholders, but also the holders of ordinary shares must have approved the amendment to the articles of association, with a qualified majority of two-thirds in the case of shares with preferential voting rights.

The shares may initially be preferred in relation to ownership rights carried by them. This will be the case when holders of shares of this category can claim a dividend that is either different from or additional to the dividend paid on ordinary shares. These preferred shares may also confer entitlement to an additional share of liquidation proceeds or an additional preferential subscription right.

Shares may also be preferred in terms of corporate rights if they carry a preferential voting right. This is the case when the articles of association deviate from the basic rule that shareholders exercise their voting right in proportion to the par value of shares owned by them. In this case, the articles of association generally stipulate that each shareholder exercises his voting right regardless of the par value of his shares, so that each share gives entitlement to one vote. In such a case, a share with a par value lower than that of another share will receive a preferential voting right.

It should be borne in mind that, in the event of different share categories, the articles of association stipulate that at least one representative will be elected to the company's board of directors per share category.

These different share categories may be useful in various circumstances. The first case that comes to mind is that of investors who wish to enjoy a privileged ownership right in relation to their investment. Another example will be that of a company's founders who wish to avoid any dilution impact when new investors become shareholders at a later date.

Therefore, it is important not to lose sight of this possibility during the various stages of a public limited company's corporate life.

WILHELM Avocats SA - Me Christophe Wilhelm - 21 June 2018

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