

Redomiciliation of companies in and out of Cyprus

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The Cyprus Companies Law Cap 113 (the Law)

The Cyprus Companies Law Cap 113 (the **Law**) makes provisions for the transfer of the registered office of foreign entities into Cyprus and for the transfer of the registered office of Cypriot entities out of Cyprus.

A. Redomiciliation in

A company may, if the laws of a country or jurisdiction so permit, and upon having obtained the prior consent from the foreign competent authorities may submit an application to the Registrar of Companies (the **Registrar**) for the purpose of continuing in Cyprus (the **Transfer In Co**).

Hence, in order to affect the transfer of the registered office of a foreign company to Cyprus, certain preliminary matters must be considered:

- The laws of the foreign company must allow the foreign company to re-domicile and continue to exist as a company registered in Cyprus.
- The documents of incorporation of the foreign company (articles or memorandum of association) must contain a provision (**Continuation** provision) that will allow the foreign company to exist under the legal regime of another jurisdiction or allow the incorporation documents to be amended to include this provision.
- If the foreign company carries out a licensed activity in the foreign jurisdiction, it will need to produce evidence of the license and also satisfy local licensing criteria (if any) for the relevant activity in Cyprus.
- Cyprus law does not recognise bearer shares; therefore, the authorised share capital of the foreign company after its transfer-in to Cyprus will have to be registered shares.
- If the existing name of the foreign company does not include the word "Limited" at the end, then it is not possible to continue in Cyprus under the same name. Therefore, possible names will need to be chosen with which the foreign company will be able to continue to exist once re-domiciled to Cyprus. An application will be made in advance to the Registrar to obtain approval of proposed names. The approval would be valid from 6 months of issue.

The documents which need to be obtained are the following:

- A corporate resolution, either board of directors or shareholders resolution, stating:
 - The name of the Transfer In Co and name by which it intends to continue in Cyprus
 - The jurisdiction and date of incorporation
 - That the Transfer In Co intends to transfer its registered seat to Cyprus and continue in Cyprus
 - That notification has been made to the foreign authorities and proof/copy of this official notification
 - That there are no proceedings administrative or criminal against the Transfer In Co in contravention to the laws of its jurisdiction of incorporation
 - That the Transfer In Co is solvent and there are no circumstances which would negatively affect, in a substantial manner, the Transfer In Co's solvency status within a period of twelve (12) months from the date of submission of the application to transfer into Cyprus
 - Granting authority to the new Cyprus director to swear the affidavits (see below points) in Cyprus and file the necessary documents

- A sworn affidavit made by an existing director of the Transfer In Co, confirming that there are no proceedings administrative or criminal against the company in contravention to the laws of its jurisdiction of incorporation.
- A sworn affidavit (declaration of solvency) made by an existing director of the Transfer In Co, confirming that the Transfer In Co is solvent and there are no circumstances which would negatively affect, in a substantial manner, the Transfer In Co's solvency status within a period of twelve (12) months from the date of submission of the application to transfer into Cyprus.
- A shareholders resolution (special resolution) will also be required for adopting the new M&A of the Transfer In Co as the new corporate documents of the company when registering in Cyprus.

Application process

Once the abovementioned documents are obtained, their translation into Greek must be arranged. A Cyprus resident director must be appointed in order to appear at court to sign the affidavits. Forms ME1, MEA and ME4 must be prepared and filed at the Registrar.

- Once the Registrar is satisfied that the application (along with the required documents) complies with the provisions of the Law, then the Registrar will provisionally register the company as a company continuing in Cyprus and the Registrar will issue a temporary certificate of continuation (the **Temporary Certificate of Continuation**). From the date appearing on the Temporary Certificate of Continuation, which will be the date of registration of the foreign company as a Cypriot company, the foreign company will be considered a legal person incorporated in Cyprus, will be provisionally registered and subject to all obligations under the Law and will be capable of exercising all the powers of a company incorporated in Cyprus.
- Following the issue of the Temporary Certificate of Continuation the foreign authorities will have a period of 6 months to submit proof to the Registrar that the company has been de-registered from the foreign jurisdiction (the **De-Registration Certificate**).
- The De-Registration Certificate is filed with the Registrar and the company is issued with a permanent certificate of continuation from the Registrar. This certificate confirms that the company has been registered as a company continuing in Cyprus.
- If the company does not procure such proof of deregistration within the six month period referred to above, then the Registrar may (i) delete the name of the company from the register and inform the jurisdiction of

incorporation that the company has not been registered in Cyprus; or (ii) if there is a reasonable cause for the delay, extend the period for submission of proof of deregistration by a final three month period, after which no further extensions are granted and deletion and notification ensue.

B. Redomiciliation out

A Cyprus company may, if the laws of a country or jurisdiction so permit, and upon having obtained the prior consent of the Registrar, submit an application to the competent authority of that country or jurisdiction in which it chooses to register for the purpose of continuing under the legal regime of the said country or jurisdiction.

In order to effect the transfer of the registered office of a Cypriot company out of Cyprus, certain preliminary matters must be considered:

- The articles or memorandum of association of the Cypriot company (the **M&AA**) must contain a provision that will allow the Cypriot company to transfer and exist under the legal regime of another jurisdiction. If there is no such provision, then the M&AA must be amended to include such provision.
- The laws of the foreign jurisdiction that the Cypriot company wishes to relocate to must also allow for the Cypriot company to re-domicile and continue to exist as a company registered in that jurisdiction.
- The availability of the name that the Cypriot company proposes to use upon continuation in the foreign jurisdiction that wishes to redomicile to must be checked with the relevant authority of that jurisdiction in order to make sure that such proposed name is available.
- If the Cypriot company carries out any activity within or from Cyprus that requires a permit from any competent authority, the Cypriot Company must provide proof of consent by the competent authority for the transfer out.
- The Cypriot company must be up to date with the submission of the annual returns to the Registrar and must ensure that all annual fees and other sums payable under the Law, have been paid.
- The Cypriot company will need to obtain and submit to the Registrar along with the application a tax, VAT and social insurance clearance certificates

The documents which need to be prepared are the following:

- Board resolution approving the redomiciliation procedure conditional upon the shareholder approval as well as the execution by the directors of various documents which will be required to be submitted to the Registrar along with the application for the transfer

- A statement signed by at least two directors of the company, duly authorised by its board of directors or, if the board of directors consists of one director, by the latter, and which contains certain information stipulated by law
 - A special resolution by the company's shareholders authorising the said application (prior to the special resolution/general meeting, the directors must present accounts of the previous and current year); the special resolution together with the accounts must be handed over to the Registrar as part of the application
 - A declaration of solvency in the form ME3 signed by at least two directors of the Company, duly authorised by the board of directors, unless it consists of one director, in which case it is signed by the latter
3. All the duties/fees/annual returns of the Cypriot company are in place
 - The Registrar will consent to the continuation of the Company outside of Cyprus and will issue a certificate of consent to the transfer out.
 - Thereafter, and upon any required submission of documents to the relevant authority in the foreign jurisdiction that the Cypriot company proposes to redomicile to (the **Foreign Authority**), will issue a certificate of continuation/document of continuation (the **Certificate of Continuation**).
 - The Certificate of Continuation will need to be submitted to the Registrar in order to remove the Cypriot company from the register of companies in Cyprus and to issue a striking off certificate (the **Striking Off Certificate**). Upon this action, the Cypriot company ceases to exist in Cyprus and it is considered that its continuation in the foreign jurisdiction be in force.
 - Lastly, the Striking Off Certificate will be sent to the Foreign Authority where the final steps for the redomiciliation are put into place.

A notice stating the facts of the special resolution of the Cypriot company approving the redomiciliation must be published in two daily newspapers of wide circulation in Cyprus as soon as the special resolution is signed (the **Publications**) and a copy of such publications must be submitted to the Registrar within 14 days from the date of the publications.

The Registrar will not grant its consent to the redomiciliation until a three month period, starting from the date of the Publications, has elapsed. During this three month period any creditor of the Cypriot company may file an objection against the redomiciliation of the Cypriot company out of Cyprus.

Application process

An application (ME 2 form) must be completed, signed and submitted on behalf of the Cypriot company to the Registrar together with a number of documents as required by Law

Once the Registrar has reviewed the application and is satisfied with the same and provided that:

1. The three month waiting period has expired
2. No creditor has objected to the redomiciliation



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