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GREECE

Law and Practice

Contributed by:
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Zepos & Yannopoulos is a leading Greek law firm known for its long heritage, legal acumen and integrity. As a full-service business company, Zepos & Yannopoulos takes pride in its distinctive mindset and offering, reflected not only in responsiveness, but also its ability to field versatile, approachable, easy-to-work teams of practitioners who truly understand clients' interests. The firm's strong international orientation is echoed in its structure and standards and is demonstrated in its client base, rankings and network of its affiliations around the world. Established in 1893, Zepos & Yannopoulos knows that change, whether in the legal or economic environment, is inherent to its jurisdiction; the firm is accustomed to implementing untested legislation, structuring innovative solutions and putting bold legal argumentation to the service of its clients.

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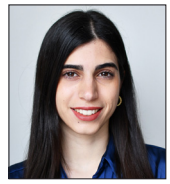

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1. Types of Company, Share Classes and Shareholdings

1.1 Types of Company

The main types of companies with limited liability that can be formed in Greece are as follows:

- an *anonimi eteria* (AE), which is equivalent to a société anonyme (SA), or public limited company (plc);
- an *eteria periorismenis efthinis* (EPE), or limited liability company; and
- an *idiotiki kefalaiouchiki eteria* (IKE), which is equivalent to a private company.

Foreign entities can also set up branches in Greece. A branch office is a financially and legally dependent department of the foreign entity. It does not have a legal personality, and its activities are carried out in the name and on behalf of the foreign company. Notwithstanding the above, it has a separate independent tax presence in Greece. Taking into consideration the subject matter of this piece, branches will not be covered.

1.2 Types of Company Used by Foreign Investors

Foreign investors tend to prefer AEs (public limited companies) and also IKEs, or private companies, because of their flexible legal frameworks.

AEs have the most flexible legal framework, mainly for governance reasons, since they can issue different classes of shares (common and preferred) and are also the only vehicles that can be listed (ie, have publicly traded shares) and issue bond loans (at present, they are the only Greek companies to enjoy this financing privilege). However, AEs also have a minimum capital requirement (currently fixed at EUR25,000), while there is no such condition for IKEs and EPEs.

The IKE, on the other hand, has become popular for new undertakings and startups due to its flexible typology and legislative setup. The IKE model is prima facie more cost efficient from a corporate perspective. IKEs allow for partners to participate in the company via contributions not in cash or in kind but, alternatively, by offering work and services, or by undertaking to pay up to a certain amount of the company's debts.

EPEs and IKEs are also usually favoured by US investors, since they meet the "check-the-box" requirements of US tax rules.

1.3 Types or Classes of Shares and General Shareholders' Rights

The main types/classes of shares issued by AEs (since the other company types may not issue different classes of shares) are as follows:

- common shares, which grant standard rights (ie, voting rights, rights to receive dividends, and a share in any liquidation proceeds, etc);
- preferred shares with or without voting rights, which may grant their holder priority over the common shares in receipt of payment of dividends; amounts arising on capital reduction, liquidation proceeds and/or proceeds from profits generated by a specific business activity of the company;
- redeemable shares, which may be vested with the company's option for buyback (callable shares), with shareholder's right to sell them (puttable shares), or both; and
- restricted shares, where statutory limitations are applied on the transfer of those shares inter vivos, where the transfer is subject to the company's prior approval or as otherwise provided in the company's articles of association – eg a commonly applied set of restrictions covers clauses on the right of first refusal of the company's shareholders (if a

third party offer is made to an existing shareholder, for example), or the right of shareholders to sell their shares to a third party together with the selling shareholders' (tag-along) and to require other shareholders to sell their shares together with the selling shareholders' (drag-along) on the same offer terms.

The relevant rights attached to each class of shares are set out in the company's articles of association.

1.4 Variation of Shareholders' Rights

Shareholders' rights may vary between shareholders holding common and preferred shares. Preferred shares may grant their holder various rights over and above those of common shareholders – eg, priority over dividends, amounts arising on capital reductions, liquidation proceeds and/or proceeds from profits generated by a specific business activity of the company.

Notwithstanding the above, shareholders' rights may be varied with respect to property rights and administrative rights, as follows.

Property rights include the following:

- rights on the distribution of profits/dividends;
- rights on the proceeds of the liquidation of the company; and
- right to sell/purchase shares issued by the company.

Administrative rights include the following:

- voting rights;
- rights of minority shareholders representing one twentieth (1/20) of the paid-up capital (for further details, see **11.1 Legal and Regulatory Provisions**);
- rights of minority shareholders representing one tenth (1/10) of the paid-up capital (for further details, see **11.1 Legal and Regulatory Provisions**); and
- rights of minority shareholders representing one fifth (1/5) of the paid-up capital (for further details, see **11.1 Legal and Regulatory Provisions**).

1.5 Minimum Share Capital Requirements

For AEs, a minimum share capital of EUR25,000 is set. There is no minimum capital requirement for other companies, although it is common to inject an amount upon establishment in order to cover for initial needs and avoid capitalisation immediately following set-up.

1.6 Minimum Number of Shareholders

There is no minimum number of shareholders, or any residency requirements, for the types of companies presented in **1.1 Types of Company**. Nonetheless, a single-member EPE cannot be established by a single-member limited liability company (either a Greek EPE or its foreign equivalent, depending on the founder's country of incorporation), as, in such a case, a second partner must be introduced in the investment model, unless a third single founder/legal entity is selected, triggering a higher-than-statutory restriction.

1.7 Shareholders' Agreements/Joint Venture Agreements

Shareholders' agreements are commonly used for privately held (non-listed) companies.

Joint ventures (JVs) are becoming increasingly popular for various reasons (tax, accounting, financial viability of a project, risk allocation, etc), and particularly because foreign groups participating in JVs for developing large projects (most

often regulated) in the region must have any processes or mandatory filings required under Greek jurisdiction handled locally on a timely and satisfactory basis.

1.8 Typical Provisions in Shareholders' Agreements/Joint Venture Agreements

Shareholder/JV agreements generally include provisions regarding the following:

- share-transfer restrictions and related rights (eg, tag-along, drag-along, right-of-first-refusal, put option);
- call and put options, lock-up periods, buy-back rights;
- governance matters (eg, board and shareholders' quorum and majority), matters reserved for decision-making;
- dividend and profit distribution mechanisms;
- liquidation preferences;
- future funding/subscription processes;
- anti-dilution rights; and
- non-competition clauses.

In light of the principle of private autonomy and contractual freedom, the parties are free to agree on any clause of interest or relevance to the cooperation or investment at stake, without limitation, other than that such soft-law instruments cannot contain provisions contravening applicable laws or constituting a breach of overriding Greek rules (ius cogens), or Greek public order rules.

Such agreements are not public or subject to disclosure or mandatory filings with any authorities in Greece. The shareholders' agreement has a legal effect intra parties, ie, its enforceability is limited to the shareholders' parties (and any future shareholders acceding thereto). However, the clauses of the shareholders' agreement cannot be validly enforced against third parties (given their limited effect among its parties). For this reason, parties to these agreements always opt to have their arrangements agreed in this side instrument, as well as expressly set out (to the extent legally feasible) in the company's articles of association – ie the only official documentation that is fully binding erga omnes (upon the company and any third parties) since it is registered and publicly available at the Greek companies' registry.

2. Shareholders' Meetings and Resolutions

2.1 Types of Meeting, Notice and Calling a Meeting

Annual General Meeting (AGM)

The AGM of shareholders must meet once each year by the tenth (10th) calendar day of the ninth (9th) month after the end of the fiscal year in order to: (i) approve the financial statements of the company for the fiscal year under review; (ii) approve the overall management of the company for the same fiscal year; (iii) distribute dividends to the shareholders from the results of the fiscal year; and (iv) appoint the company's auditors, if applicable. The AGM may also decide on any other matters within its competence.

The board convenes the shareholders to a general meeting and an invitation to the AGM is lodged twenty (20) full days (ie, calendar days, not counting the day of the invitation and the day of the meeting) prior to the meeting with the Greek General Commercial Registry. Any shareholder in companies not listed in a regulated market has the right to request from the companies a personal notice regarding upcoming general meetings via email, at least ten (10) days prior to the meeting dates.

The invitation to the AGM includes, as minimum statutory content, details on the exact meeting address, the date, the time of the meeting, the issues on the agenda in clear form, the shareholders entitled to participate and specific instructions on how the shareholders will participate and exercise their rights in person, via proxy or remotely.

However, an invitation is not required if shareholders representing the total of the share capital are present or represented, and if none of them objects to the meeting taking place and to decisions being taken (with the exception of a universal self-convened general meeting).

In the case of IKE and EPE companies, the relevant notice period is eight (8) full days (ie, calendar days, not counting the day of the invitation and the day of the meeting) prior to the general meeting.

Extraordinary General Meeting (EGM)

The general meeting may also meet extraordinarily at any time that it is required by law, by the company's articles of association, or whenever the company's business activities/operational needs so dictate, and the board of directors consider it appropriate or necessary. An EGM may also be convened by the board of directors following application by any person set out in the law (see **2.3 Procedure and Criteria for Calling a General Meeting**).

2.2 Notice of Shareholders' Meetings

Please see **2.1. Types of Meeting, Notice and Calling a Meeting**, as the same notice invitation requirements apply for EGMs as for AGMs. The relevant notice deadlines cannot be shortened.

With respect to companies listed on a regulated market, the notice applicable for an AGM or EGM, apart from the information set out in **2.1. Types of Meeting, Notice and Calling a Meeting**, should also include the following:

- information on: (i) shareholders rights and the deadline for the exercise of such rights, and details available on the company's website; (ii) the process for exercising voting rights via representatives (documents, the means and methods for appointment and removal of representative, in written or electronic form, if the latter option is provided for by the articles of association, etc); and (iii) the process applicable for exercising voting rights by mail or electronic means, if these options are provided for in the articles of association;
- the official date upon which the persons holding shares shall be entitled to participate and vote at the general meeting (in principle, is the fifth day prior to the general meeting);
- the location at which shareholders can obtain the documents to be submitted to the general meeting; the draft wording of the resolution for each item on the agenda or comments of the board of directors; the draft wording of resolutions provided by shareholders; and the process for obtaining this information; and
- the address of website where the above information can be found.

For these companies, the invitation to the general meeting must also be: (i) published within the same timeframe on the website of the company; and (ii) made public on reasonably reliable means, and at the board's discretion, in such a way as to ensure the fast and non-discretionary dissemination of information to the public – eg, via printed and electronic media with national and European reach.

2.3 Procedure and Criteria for Calling a General Meeting

Board

In principle, the general meeting is convened by invitation of the board of directors, subject to the formalities mentioned **2.1. Types of Meeting, Notice and Calling a Meeting**.

Minority Shareholders

At the request of shareholders representing one twentieth (1/20) of the paid-up capital, the board of directors is obliged to convene an extraordinary general meeting of shareholders, setting a date for such meeting within forty-five (45) days from filing of the request to the chairman of the board. If the EGM is not convened within twenty (20) days from filing of the request, the shareholders who requested the general meeting can proceed to the convocation thereof, at the company's cost, pursuant to a court judgment issued by means of injunction proceedings.

The same procedure (ie, the request by partner representing one twentieth of the paid-up capital) is applicable for EPE companies, in which case the company's administrator is obliged to convene an EGM of partners within ten (10) days.

In the case of IKEs, the relevant request must be made by partners representing one tenth (1/10) of the paid-up capital, in which case the administrator is obliged to convene an EGM of partners within ten (10) days.

Auditors

The company's auditors may also request that an EGM be called by an application submitted to the chairman of the board of directors. The meeting must be called within ten (10) days from the request.

2.4 Information and Documents Relating to the Meeting

Unless the company's articles of association provide for it, the shareholders do not receive, by law, a personal invitation to general meetings other than the official invitation recorded with the Greek General Commercial Registry. The invitation must mention at least the building concerned, with an exact address, the date, the time of the meeting, the items on the agenda in clear form, the shareholders entitled to participate, and specific instructions on how the shareholders will contribute to the meeting and exercise their rights in person, via proxy or remotely.

It is possible that the articles of association could require shareholders of the company to be notified of a meeting in additional ways, ie, not just via the Commercial Registry but also directly.

See **7.1 Duties to Report** for information rights granted to shareholders prior to a meeting.

2.5 Format of Meeting

The shareholders' meetings may be held virtually or via teleconference if this is provided for in the company's articles of association, or if all shareholders (representing 100% of capital) so decide. Virtual meetings are not permitted for companies listed on a regulated market.

Also, it is not possible to hold virtual meetings in single-member EPEs, since a notary public must also attend.

2.6 Quorum, Voting Requirements and Proposal of Resolutions

Quorum

The statutory quorum for a general shareholders' meetings is one-fifth (1/5) of paid-up share capital. The statutory increased quorum required

for specific matters of increased significance for the company's operation (extraordinary quorum) is half (1/2) of paid-up share capital present or represented at the meeting, although higher percentages may be set by a company's articles of association (in any case, the simple quorum cannot be higher than 2/3 of the paid-up share capital).

Majority

The statutory simple majority for the adoption of a resolution by the shareholders is absolute (ie, half plus one of the votes represented at the meeting) and the statutory extraordinary majority is two thirds (2/3) of the votes represented at the general meeting of shareholders, although higher percentages may also be set the company's articles of association.

EPEs

The resolutions of the partners are passed by simple majority of more than one-half (1/2) of the number of partners, who must also represent more than one-half of the company's total capital (double quorum/majority requirement, which is not required in AEs or IKEs). For any amendments to the company's articles of association, in particular, at least half (1/2) of the partners are required, who must additionally represent at least 65% of the company's total capital.

IKEs

No quorum requirement applies. The resolutions of the partners are passed by simple majority.

2.7 Types of Resolutions and Thresholds

Depending on the items on the agenda and the type of the resolution to be adopted, different quorum and majority thresholds apply. These thresholds are provided for both by law and in the company's articles of association. For instance, resolutions relating to the company's duration, its corporate transformation, corporate object, and changes in the distribution of its profits would require an extraordinary quorum and majority, with higher thresholds for decision-making.

2.8 Shareholder Approval

The general meeting of the shareholders is exclusively authorised to decide upon:

- amendments to the articles of association (eg, change of company headquarters, change of corporate name, share capital increase/decrease, change of company's term);
- election of board members and auditors;
- approval of the annual financial statements;
- approval of the overall management of the company and discharge of the auditors following the approval of the company's annual financial statements;
- distribution/non-distribution of annual profits;
- approval of the granting of remuneration to members of the board or advance payment of remuneration of board members;
- merger, de-merger, conversion, revival, extension of the duration or dissolution of the company; and
- appointment of liquidators.

Unless otherwise provided for in the company's articles of association, in principle, the general meeting approves resolutions with an absolute majority (ie, 50% plus one of the votes therein represented), except for in specific matters for which the law or the company's articles of association require an extraordinary majority of two-thirds (2/3) or more (eg, in the case of a capital increase, dissolution of the company, a merger of the company, a change in company's objective, extension of company's terms, etc).

Please see under **2.6 Quorum, Voting Requirements and Proposal of Resolutions** regarding percentages for EPE and IKE entities.

2.9 Voting Requirements

Shareholders may participate in and exercise their voting rights at the meeting personally or by proxy (via another shareholder or third party) or remotely. Voting is open, unless otherwise provided for in the company's articles of association. The general meeting can also pass a resolution (in an open vote) that decision-making on some or all of the items on the agenda will be secret. Secret voting is not permitted, however, for passing resolutions on board of directors' fees, where the law provides for open voting, or for votes cast from a distance.

Voting may also take place by teleconference, by mail or electronic means. For EPEs and IKEs, voting may be performed only via teleconference.

Weighted voting rights are not permitted.

2.10 Shareholders' Rights Relating to the Business of a Meeting

At the request of shareholders representing one-twentieth (1/20) of paid-up capital, the board is obliged to include additional items on the agenda of a general meeting already convened if the request is received by the board at least fifteen (15) days before the general meeting. The additional items must be published or notified in the same way as an invitation to a general meeting, at least seven (7) days before the meeting for non-listed entities and at least thirteen (13) days for listed entities. The law for corporations provides more details on the process. For entities listed on a regulated market, additional supporting documentation must be provided, together with the application for adding the items in question (eg, explanatory reports or draft resolutions).

2.11 Challenging a Resolution

Shareholders may challenge a resolution passed at a general meeting if it is void or voidable.

Annulment of GM Resolutions (Null and Void Resolutions)

Any shareholder with a legal interest may request acknowledgment of the invalidity of a general meeting resolution either before the court or extrajudicially upon submission of a written statement to the company within one (1) year of the adoption or the publication of the resolution, provided the general meeting was not convened, or the contents of the resolutions do not violate the law or the company's articles of association.

A resolution is void if there was no invitation to the general meeting or the contents of the resolution are contrary to the law or to the company's articles of association.

Annulment of a GM Resolution (Voidable Resolution)

A general meeting resolution can be annulled if was passed contrary to the law or the articles of association, or the general meeting had not been lawfully convened or taken place. A resolution is also considered voidable if information is not been provided to the shareholders who requested it, pursuant to the law, or if it is adopted abusively by majority.

In case of voidable resolutions, the following applies.

- Shareholders representing 2% of the paid-up share capital who did not attend the general meeting or objected to the adoption of the resolution may request the annulment

thereof by the court, if the resolution was not adopted in compliance with the law and the company's articles of association. If shareholders do not meet above threshold, they can request indemnification for the damage which they suffered (even if the resolution was annulled).
- Shareholders representing one-twentieth (1/20) of the paid-up share capital who attended the meeting may request the annulment thereof by the court if they requested certain information five (5) days prior to the meeting, but were not provided with it.

2.12 Institutional Shareholder Groups

Institutional investors have a strong say in the decision-making process and would never neglect to exercise their voting rights, as small or individual investors could do. They monitor the Commercial Registry publications and/or websites of listed entities to familiarise themselves with general meeting dates. They may attend general meetings via proxies, and sometimes appoint local representatives to closely follow the business of listed entities. These investors may also influence companies by concluding shareholder agreements with other shareholders (if this is possible, particularly in non-listed entities), which is a good way of establishing their governance, share-transfer and profit-distribution rights while often being the main source of a company's financing.

2.13 Holding Through a Nominee

Greek law does not provide for the possibility of holding shares through nominees. Instead, it is customary to use the services of proxy advisors for participation and voting procedures at the general meetings of listed companies, particularly those with a high float.

2.14 Written Resolutions

Shareholder resolutions may be passed in writing by way of circulation of the minutes, without a meeting being held, if all (ie, the entirety of) the company's shareholders (or their representatives) sign the relevant minutes. This is not permitted in entities listed on a regulated market. Also, this is not possible in single-member EPEs, where the attendance of a Notary Public is required.

3. Share Issues, Share Transfers and Disclosure of Shareholders' Interests

3.1 Share Issues

If share capital is increased (unless through contributions in kind), shareholders in place at the time of the increase are granted, by law, pre-emptive subscription rights over all new capital in proportion to their existing capital share. These rights may, however, be restricted or nullified entirely by a new resolution of the general meeting adopted with an increased quorum and majority.

There are no pre-emptive subscription rights applicable to bonds convertible into shares at the agreed conversion rate (eg, one-for-one, or as per the bond terms) or when the company itself capitalises available reserves under the relevant statutory process for implementing a stock option or a stock award programme for eligible employees and executives of the company.

3.2 Share Transfers

The transfer or disposal of shares is made by an entry in the shareholders' registry and execution of the transaction by the selling/purchasing parties (unless the transfer agreement is notified to the company, or the shareholders' registry is

maintained in electronic format, in which case the registration may not be executed).

There are no other legal or regulatory restrictions on the transfer or disposal of shares. They are freely transferrable, unless any limitations are dictated by the company's articles of association and/or further restrictions are due to existing shareholders' agreements (eg, tag-along or drag-along rights, put/call options on the shares and satisfaction of related conditions, rights of first refusal by existing shareholders, or other approvals being conditions precedent to the envisaged share deals).

3.3 Security Over Shares

Shareholders are entitled to grant security over their shares in the form of: (i) a pledge in favour of a third party seeking to secure its claims against the company and/or other group entities (security over shares is customary within the context of intragroup financings/group assets are cross-collateralised); and (ii) the usufruct over the shares.

In such cases, the voting rights attached to the pledged shares belong to the pledgee, unless otherwise agreed (subject to any restraint under the company's articles of association for any contrary agreement). The person afforded with such rights may exercise all non-property rights stemming from the shares (right of information, attendance of general meetings, invoking nullities of resolutions, etc).

3.4 Disclosure of Interests

In general, unless provided for in the company's articles of association, shareholders are not required to disclose their interests in other entities, although:

- they are obliged to disclose the entities/persons exercising control over them as well as any relevant changes, in the context of the Greek AML Law 4557/2018, as amended and in force, for the declaration of the company's ultimate beneficial owners to the Central UBO Register; and
- they are required to register their shares and details, as well as any transfer of their shares in the register of company's shareholders.

Other than the above statutory filing formalities, the shareholders (in non-listed companies) have no other legal or regulatory duty to notify changes in their shareholding status to any regulatory authority. That said, in cases of change of control over the Greek entity, the latter may be under a contractual or statutory duty to disclose any change to the relevant authority (eg, to an awarding authority in cases of public tender), banks (if the company has concluded a credit facility or a bond-loan programme with the bank subscribing thereto), or other third parties/vendors, as per the change-of-control clauses agreed with each counterparty. The local company itself is incumbent for the relevant notifications/consents (as the case may be), and, therefore, the parent entity and the affiliates of controlling interest in the Greek subsidiary are only indirectly under the relevant disclosure duty.

Investors in listed companies must comply with various disclosure requirements to the company, the general meeting, and the public authorities. For instance, shareholders of companies listed on the Athens Stock Exchange (ATHEX) must also notify the relevant companies, as well as the Greek capital markets authority (HCMC) for any acquisition or disposal of voting rights in a listed company which exceed specific thresholds (5%,10%, 15%, 20%, 25%, one-third, 50% and two-thirds, depending on the disposal).

For listed entities, the persons appointed as proxies by a shareholder to represent and vote on its behalf must notify the company and the shareholder of any conflicting interest.

4. Cancellation and Buybacks of Shares

4.1 Cancellation

Shares may be cancelled after their issuance via a capital decrease following a resolution of the general meeting, adopted with increased quorum and majority.

The capital decrease may be:

- nominal (in naturam), to create distributable reserves; the decrease is followed by a return of capital to shareholders; or
- accounting entry-related, without any value reward given back to shareholders (ie, used to offset losses, or to balance debt and equity in the company's balance sheet).

In both cases, the total number of shares corresponding to the total nominal amount of decreased capital is cancelled, and the respective share certificates corresponding to the cancelled shares (if issued) are returned to the company, bearing the relevant mark ("cancelled").

Share cancellation may also take place within the context of a merger (eg, as a statutory process within the context of a parent-subsidiary merger) or following exits of shareholders whose shares remained unsold and not repurchased by the company.

The company must also cancel shares that were not repaid after its failed attempt to sell them (issued but unsubscribed capital) as well as its own shares that it failed to sell within designated statutory timeframes.

4.2 Buybacks

Without prejudice to the principle of equal treatment of shareholders and the provisions on market abuse, the only company type that may acquire own shares already issued is the AE, provided that:

- the acquisition is approved by the general meeting of shareholders, which lays down the terms and conditions of the proposed transaction, and the buyback is announced;
- the own shares to be obtained by the company may not exceed one-tenth (1/10) of the total nominal value of the share capital of the company at the date of the relevant general meeting approving the buyback;
- following the acquisition of the own shares, the company's equity may not fall below the share capital: (1) increased by (a) the reserves, the distribution of which is prohibited by law or the articles of association, (b) other credit funds of the net equity, which may not be distributed, and (c) the amounts of the credit funds of the income statement, which are not realised profits; and (2) reduced by the amount of the capital that has been subscribed but not paid; and
- only fully paid-up shares may be acquired by the company.

No voting rights are ascribed to the above own shares. Similarly, all property rights derived from shares are suspended; dividend collection is pro rata allocated to the remaining shareholders (with no distributable amount for the shareholding stake represented by own shares).

5. Dividends

5.1 Payments of Dividends

Resolution of the AGM

Publicity

In general, the distribution of dividends is resolved by the annual general meeting of shareholders along with the approval of the annual financial statements while the relevant sums are paid to the shareholders proportionally to their shareholding in the company within two (2) months as of the adoption of the annual general meeting resolution. The resolution is also made public. In exceptional cases, the board may approve the distribution of provisional dividends.

Limitations

Distribution of profits in general

No distribution can be made to the shareholders of a company, if, at the end date of the last fiscal year, the total equity of the company (net worth), is, or, after such distribution, will become, less than the amount of the company's share capital, increased by: (a) the reserves, the distribution of which is prohibited by law or the articles of association of the company; (b) the credit lines of the net equity of the company, distribution of which is not permitted; and (c) the amounts of income statement credit items that are not realised profits. The amount of share capital provided for in the preceding subparagraph and used for the respective calculation is reduced by the amount of share capital subscribed but not paid when the latter does not appear in the asset section of the company's balance sheet.

The amount to be distributed to the shareholders of a company may not exceed the amount of the results of the previous fiscal year that has lapsed, and as such is increased by: (i) the profits, deriving from previous fiscal years which have not been allocated; and (ii) the reserves for which the distribution has been allowed and decided by the general meeting, and reduced by: (a) the amount of the income statement credit items, which are not realised profits; (b) the amount of the losses of previous years; and (c) the amounts that must be allocated for the formation of reserves, in accordance with the law and the company's articles of association.

Taking the above into consideration, to the extent that a company's net profits can be distributed, the law provides for their allocation in the following order.

- The credit lines of the income statement which do not derive from realised profits are deducted.
- The amounts for the formation of the statutory reserve, as defined by the law, ie, at least one twentieth (1/20) of the net profits are deducted each year. This deduction ceases to be obligatory when the statutory reserve reaches an amount equal to at least one third (1/3) of the share capital.
- The amount required for the minimum dividend, ie, at least thirty five percent (35%) of the net profits after the above deductions, is paid in cash.
- All remaining net profits are made freely available by the general meeting.

Minimum dividend

This is calculated on the net profits following deduction of the amount required for the formation of a statutory reserve and the other credit items of the income statement, which do not arise from realised profits. By virtue of a decision of the general meeting adopted with increased quorum and majority, the minimum dividend rate of thirty five percent (35%) can be reduced, but to not less than ten percent (10%). Non-distribution of the minimum dividend is allowed only

if resolved by a decision of the general meeting adopted with increased quorum and a majority of eighty percent (80%) of the capital represented in the meeting. Also, by a decision of the general meeting adopted with increased quorum and majority, it is possible for the profits that are distributable as a minimum dividend to be capitalised and distributed to all shareholders in the form of shares, calculated at their nominal value.

The majority of the above provisions apply in principle to IKEs and EPEs.

6. Shareholders' Rights as Regards Directors and Auditors

6.1 Rights to Appoint and Remove Directors

Without prejudice to any special provisions of the company's articles of association, directors may be appointed and dismissed by the general meeting of shareholders by virtue of a respective resolution adopted with simple quorum and majority.

Also, in AEs, the company's articles of association may provide certain shareholders with the right to directly appoint directors (although no more than two-fifths (2/5) of the total number of directors).

6.2 Challenging a Decision Taken by Directors

In AEs, any shareholder with a personal and special interest may request the cancellation of a board decision which it considers contrary to the law or the company's articles of association, before the court within six (6) months of its entry into the Greek General Commercial Registry or its registration in board meeting minutes. No time limitation shall apply in cases where challenge to the board decision has breached an overriding, mandatory Greek law provision. The relevant breach objection can be raised by the shareholders (or raised at the court's own motion).

6.3 Rights to Appoint and Remove Auditors

The appointment of auditors must be approved by the general meeting of shareholders and be published with the local registry. Additional formalities apply in the event of revocation of the auditors, in which case the Hellenic Accounting and Auditing Standards Oversight Board must approve the cancellation.

7. Corporate Governance Arrangements

7.1 Duty to Report

The board of directors has certain reporting obligations towards the shareholders, in particular:

- it must prepare the annual financial statements and the management report and provide the shareholders with these at least ten (10) days prior to the AGM;
- upon the request of any shareholder, it must provide the general meeting with specific information on the company's affairs to the extent these are relevant to the items on the agenda;
- upon the request of any shareholder representing at least one-twentieth (1/20) of the company's share capital, the board must announce to the AGM any sums paid to the directors or officers of the company in the past two years;
- upon request of any shareholder representing at least one-tenth (1/10) of the share capital, the board must provide the general meet-

ing of shareholders with information on the status of corporate affairs and the company's assets; and
- upon request of any shareholder, the board of directors must inform the shareholder of the company's share capital, the type and number of issued shares as well as the rights attached to them and any restrictions relating to them.

In addition, the members of the board and any third parties vested with directors' powers and duties have a fiduciary duty towards the company. They shall: (i) refrain from pursuing their own interests contrary to the interests of the company; (ii) on a timely and satisfactory basis, disclose to the other directors any personal interests they may maintain in any corporate affairs that fall within their duties and any conflicts of interest that may arise within the context of duties between themselves and the company or between themselves and any affiliates of the company; and (iii) maintain strict confidentiality where necessary on corporate matters. Unless they have prior authorisation from the general meeting or in accordance with provisions in the company's articles, any directors involved in company management, or company managers, are prohibited from engaging on their own account or on behalf of third parties in any action that goes against the company's objectives or from acting as general partners or sole shareholders or partners in any companies engaging in the same activities as the company.

8. Controlling Company

8.1 Duties of a Controlling Company

Direct Control

Controlling companies exercising direct control over a company via shareholding rights or voting rights (eg, they are shareholders of the company), must participate in the general meeting of shareholders or the board meetings of the company (depending on the case), and vote in favour or against items on the agenda. They must also disclose their investments and their shareholding stake to the company, the general meeting and the public authorities, if required (eg, the name and details of the sole shareholder of a public limited company must be published in the General Commercial Registry; a share-capital increase by virtue of a new investment must be notified to the relevant tax authorities, etc). Also, their details, along with originally invested (or newly subscribed) capital must be registered at the company's shareholders' registry. Controlling entities – shareholders of companies listed on Athens Exchange Group (ATHEX) – must also notify the relevant companies, as well as the Hellenic Capital Market Commission, of any acquisition or disposal of voting rights in a listed company that exceeds specific thresholds. The same notification obligation applies to shareholders holding 10% of voting rights in a listed company when they acquire or dispose of voting rights exceeding the threshold of three percent (3%) of total voting rights (a new disclosure duty applies each time this 3% threshold is surpassed). This information is published by the listed companies on ATHEX and on their websites.

In principle, controlling entities bear no liability, since the company itself is liable for its debts with its own assets, except in cases where the corporate veil is lifted – eg, where the shareholders are found to make use of a legal entity and, therefore, its distinct legal personality, to act beyond the company's purpose, to violate the law, to intentionally cause damages to third parties or to avoid compliance with their obligations as shareholders.

Indirect Control

Companies with indirect control do not have any specific duties or liabilities, by law, at the level of the Greek subsidiary. However, while not actively involved, they must provide the Greek entity with a number of particulars, as mandated by Greek law, so that the Greek subsidiary (the "obliged" entity) is compliant with its UBO disclosure requirements. Under the Greek AML framework, the UBO of the obliged entity and also any intermediaries of the controlling interest must be disclosed in the Central UBO Registry in Greece. It is advisable for the indirect shareholders to monitor the status of the entities they control and ensure their compliance with the group's policies and standards.

9. Insolvency

9.1 Rights of Shareholders If the Company Is Insolvent

In AEs, or *sociétés anonymes*, shareholders representing one-third (1/3) of the paid-up share capital may file a petition before the court requesting the company's dissolution by claiming that the company's insolvency is a serious cause rendering the continuation of the company permanently impossible. In private companies (IKE), the partners may adopt a unanimous resolution at any time and for any reason (including insolvency) for the company's dissolution. In limited liability companies (EPE), partners representing two-thirds (2/3) of the paid-up share capital may also adopt a resolution for dissolution of the company for any reason.

Dissolution of the company is followed by liquidation. Upon completion of the liquidation process – ie, once all claims have been collected and all liabilities have been satisfied – the shareholders of the company are entitled to receive their pro rata percentage of the liquidation proceeds (based on their participation in the company's share capital) except for in cases where the articles of association of the company provide otherwise (eg, in the case of shareholders with preferred shares).

In the event of insolvency in the form of bankruptcy, the law provides for satisfaction of creditors (employees, shareholders, banks, clients, tax and social security authorities) based on priority, with shareholders ranking last.

10. Shareholders' Remedies

10.1 Remedies Against the Company

A shareholder may make claims against the company for the following:

- amounts paid by the shareholder to company's creditors;
- amounts arising from the profits distributed proportionally to the shareholders' investment in the company;
- restoration of damages and expenses for actions undertaken by the shareholder on behalf of the company;
- compensation in case of unlawful violation of shareholder's participation in the share capital; and
- compensation for amounts intended for capitalisation paid by the shareholder to the company but not capitalised by the latter.

The law provides that shareholders cannot take action against a company to compel it to generally conform to the law and its constitutional documents unless they do so for specific reasons, citing the alleged irregularities or other deficiencies, as the case may be, and contesting

the shareholders resolutions that were unlawfully adopted in support of them.

10.2 Remedies Against the Directors

In principle, shareholders have remedies against the company's directors/officers pursued through their voting at the general meeting. Where there is director/officer liability towards the company for breach of their fiduciary duties, assuming these directors or officers did not act with the diligence of prudent business professionals and that their acts or omissions were not based on a lawful decision of the general meeting or a reasonable business decision taken in good faith, and in the company's interests, the company itself can pursue a claim against them. The board of directors may, by way of a resolution, waive the company's claims for compensation or settle them within two (2) years of the claim arising only if the general meeting consents and a minority of one-tenth (1/10) of the share capital represented at the meeting does not object.

If the lawsuit has been filed, the waiver or settlement can take place at any time on condition that the general meeting consents and a minority of one-twentieth (1/20) represented at the meeting does not object.

Shareholders may pursue on their own claims against the company's directors/officers based on tort (liability in tort), provided an illegal act or omission of a director/officer has been established and it is in direct causal link with a damage sustained by the shareholder, including moral damages. In other words, shareholders may have independent grounds for direct compensation, in so far as the damaging act or omissions, considered in isolation, constitute, at the same time, an unlawful interference with the status of the shareholder's rights.

Recourse on the basis of criminal law provisions is also available.

10.3 Derivative Actions

Shareholders may bring a derivative action, ie, a claim by a shareholder for and on behalf of a company (a company lawsuit) in respect of a wrong done to the company. In particular, for *sociétés anonymes*, shareholders representing at least one-twentieth (1/20) of the paid-up share capital have the right to file a written petition to the company's board to exercise the company's claims against directors for damages sustained by the company as a result of any wrongful act or omission of the director which occurred in the exercise of their duties. If the board does not react, the shareholders may file a relevant petition before the court for the appointment of a special representative who will exercise the company's claims against the directors.

However, significant exceptions from such liability apply, and the scope of these is fairly wide. In particular, a member of the board of directors shall be exempt from liability towards the company for any damage inflicted if the act or omission which harmed the company meets the criteria of the "business judgment rule". This means that the director will not be held liable if they prove that they managed the corporate affairs of the company according to the standard of care shown by a diligent business person who acts within the limits of appropriate business judgment of the average, prudent manager of foreign affairs. The determination of whether the director in question met such standards must also take into consideration the skillset of the person, their position and/or the duties that were assigned to them by law, the articles of association, or relevant resolutions of the competent bodies.

Under the "business judgment rule" test, liability is not substantiated in respect of acts or omissions that:

- were performed based on a lawful resolution reached by the General Meeting of the Shareholders of the Company; or
- constitute a reasonable business decision reached: (a) in good faith; (b) based on sufficient information available at the time of said resolution's adoption; and (c) with the sole criterion of serving the company's interests.

The liability is presumed (rebuttable presumption) ie, the culpable member of the board of directors must provide evidence countering their alleged act/omission on the grounds of the "business judgement rule" in order to be exonerated.

If the company has suffered damages as result of any joint or successive act(s) by additional members of the board of directors, or if more directors are responsible, in parallel, for the same damages, all of them are jointly and severally liable to the company. That said, the court reserves the right to allocate the liabilities of perpetrator directors and even regulate rights of recourse (subrogation) among them.

Claims of company against members of the board of directors are limited to three (3) years and are suspended for as long as their capacity as board members or de facto managers endures. In all events, the claims are time-barred after a decade.

For IKE companies, a breach of the fiduciary duties of administrators may trigger legal action by the company. Such action is subject to a limitation period of three (3) years from commission of the breach (act or omission); for EPE companies, the limitation period is five (5) years.

Action cannot be taken by the company for potential damage to shareholders (indirect damage); directly damage alone (suffered by the company itself) meets the statutory conditions governed by the law.

11. Shareholder Activism

11.1 Legal and Regulatory Provisions

Shareholder activism is infrequent in Greece, and there are data supporting the view that Southern European cluster of countries are the least attractive countries to the shareholder activists of northern European and the UK. Greek law has nonetheless introduced the following provisions around shareholder activism.

Minority Rights are as follows.

- *Rights of shareholders representing one-twentieth (1/20) of paid-up share capital* – request for convening a general meeting; adding items to the agenda; request for adoption of an open vote for specific agenda items; postponement of the adoption of resolutions; right to request that the board announce all remunerations received by the company's directors and executives over the past couple of years; right to request the court order the company's extraordinary audit; blocking of related party transactions; annulment of a general meeting resolution (voidable resolution); reduction of director's remuneration.
- *Rights of shareholders representing one-tenth (1/10) of paid-up share capital* – request for information regarding the status of the company's affairs and asset condition; blocking of

waiver of claims against directors; removal of directly appointed directors.
- *Rights of shareholders representing one-fifth (1/5) of paid-up share capital* – right to request the court order a company audit; blocking of adoption of a resolution without a general meeting being held.
- *Rights of shareholders representing one-third (1/3) of paid-up share capital* – right to request the court order the liquidation of the company.

Shareholder Unions

Greek Law 4548/2018 on *sociétés anonymes* has introduced the concept of shareholders' unions. Such unions take the form of an association, as provided by the Greek Civil Code, which, upon registration with the competent Associations' Registry, assumes a distinct legal status. The unions provide information regarding shareholders rights through their websites.

Shareholders may use this opportunity to form unions to voice and channel their interests in a more organised (concentrated), efficient and impactful manner. The shareholders' associations may exercise the minority rights envisaged by law in the associations' names, but on behalf of their members -shareholders (with the exclusion of rights with strong in personal nature which may be exercised by each shareholder personally).The company of the association's lawful establishment must be notified, and notification made in the text of the articles of association of the union before the rights can be exercised by the union to which the company's shareholders belong.

The unions may provide online guidance and information to their members about shareholding participation and all related rights. They may also offer support for concerted action (on a named basis) for member alignment ahead of any forthcoming general meeting of the shareholders of the company.

Association of Investors & Internet – Hellenic Exchanges Shareholders Association/ Hellenic Investors Association

In Greece, the Association of Investors & Internet – Hellenic Exchanges Shareholders Association (SED), a non-profit association that aims to institutionalise shareholder activism, has been operating since 2000. In 2017, the Hellenic Investors Association was created to protect the interests of Greek investors in listed companies.

The SED also adopted the Charter of Corporate Governance and Shareholders' Activism, encompassing a set of overarching principles of corporate governance and best practices reinforcing shareholder access and thus encouraging actual shareholder activism.

11.2 Aims of Shareholder Activism

The objectives of activist shareholders and the toolbox applied to communicate and pursue envisaged changes are often heterogenous, even among the same block of activists and, depending on the typology and investment profile of the groups involved, may differ significantly (eg, being financially and/or non-financially driven). The key categories of objectives can be summarised as follows:

- objectives related to finance, business and M&A, seeking to increase the value of their investments by, for example, adding pressure for a particular transaction to be blocked, or, conversely, to be concluded by the company for business expansion and/or to increase profitability and company value (and to unlock shareholder value or support the share price);

- objectives related to governance (eg, ESG-focused activism), seeking to maximise influence on management decisions, optimise accountability or independence of company management, advocating adoption of environmentally friendly policies or steering focus toward more purposeful (societal, ethical) effects (ESG-focused activism); and
- multiple objectives from different campaigns of the various clusters of activists (ie, a divided or group-based agenda).

11.3 Shareholder Activist Strategies

The most common methods are the following:

- *Shareholder proposal/ shareholder resolution* – these are proposals submitted by the shareholder activists, who endeavour to "pass" them in the company's general meetings (proxy access), whose convocation is most often initiated by themselves, and for this reason they seek votes (this method is very often combined with so-called "proxy contests"). Usually, the activist funds require the replacement of the members of the board and the management with the aim of achieving a change in the representation of the company.
- *Proxy contests or campaigns to sway proxy advisors* – when a group of shareholders is not satisfied with the company's management or its actions/decisions, they can try to persuade other shareholders to use their votes to effect changes in management (concentrating votes) or to exert pressure on managers to perform by optimally prioritising the interests of the shareholders (eg, closely monitoring directors and officers acts and omissions, in order to vote in favour of a lawsuit for mismanagement, if relevant). In the age of proxy voting (a form of voting where a shareholder is unwilling or unable to attend the meeting of shareholders and delegates the exercise of their right to vote to a representative), activists try to convince proxy advisors representing hedge funds and other institutional investors of the necessity of shift a company's existing strategy and to ally with them to ultimately replace the current management.
- *Vote "no" activist campaigns and media coverage* – "vote no" campaigns are usually organised by coalitions of investors with the aim of urging shareholders to vote against the candidates proposed by the board to take positions in the company's management or to vote against the company's remuneration policy ("say on pay"). A shareholder activist may also use the financial press to draw public attention to a problem or severe irregularities discovered in the company. The key aim is to increase investor awareness, spread the message to institutional investors and target their vote (to replace the board, and, ultimately, the company's management).
- *Private discussions/negotiations* – these entail simple private discussions or negotiations with the company's management. This is an informal method of shareholder activism, which is practiced mainly by sending letters to the board listing the demands of shareholder activists or by conducting constructive discussions in the context of diplomacy and dialogue.
- *Litigation-derivative suits* – see **10.3 Derivative Actions**.
- *Takeover bids* – if the shareholder activists are dissatisfied with the way the company is run and governed by the management and cannot succeed in exerting influence upon it, an option would be to buy it.

11.4 Recent Trends

Generally, at a national level, the provisions of the law have incorporated and reflect the European culture regarding the right to vote and minority

rights. In particular regarding the protection of the minority, the Greek legal order is a jurisdiction with an ever-increasing level of protection providing a wide range of such rights, in accordance with European directives, recognising that the participation of the minority shareholder is the core of shareholder democracy and a strong investment incentive. The regulation regarding the establishment of shareholders' unions which until now escaped legislative provision and which are considered to be an important vehicle of shareholder activism also represents an innovation.

It is important to flag that, several years ago, the managing directors and, in general, the company managements teams did not know or care to know the shareholders of the company they managed even if they represented a significant percentage of share capital. This situation has changed, indifference to the identity of the shareholders, particularly institutional shareholders, is considered reckless.

Companies listed on the stock exchange are most targeted by shareholders activists, regardless of their industry/sector.

11.5 Most Active Shareholder Groups

Although activism has primarily flourished in the US and is still more rife there, investment opportunities identified in the European market have paved the way for activist shareholding there (partially due to fierce competition among US funds, resulting in the quest for alternative targets across the Atlantic). Against this backdrop, hedge funds have become the most driven shareholder activists in Greece and largely across Europe, developing aggressively exploiting opportunities with the expectation that it can impact share prices to their benefit.

As the majority of shareholders in local listed companies are institutional investors (banks and other financial institutions, insurance companies, pensions funds, hedge funds, investment firms, mutual funds, real estate investment trusts (REITS), and not individuals as such, they have a strong say in decision-making processes, so hedge funds' activist campaigns seek to increase investor awareness, impact institutional investors and push their message, via voting, with a view to replacing boards and, ultimately company management teams. A number of investment funds may indulge in activist campaigns from time to time. And it is not uncommon for individual shareholders to be active in safeguarding their interests in a company, particularly in listed companies or in family-owned entities (whether listed or non-listed).

11.6 Proportion of Activist Demands Met

No information of public activist demands met is available in the public domain.

11.7 Company Prevention and Response to Activist Shareholders

Some useful strategies to respond to pressure from activist shareholders are as follows.

- *Staggered board* – this allows for the possibility of partial renewal of the members of the board ensuring the continuity of the corporate management (eg, it may be provided that the board is renewed by a percentage or by several members every two years). Board structure changes reinforce the defence of the company against activism.
- *Appointment of independent board of director members* – appointment of independent profile directors could be seen as the cornerstone of best governance practices (particularly in listed companies). Such candidates

may be pooled by the minority shareholders/ block holders.
- *Shareholder agreements* – these regulate shareholder rights affecting transfer of shares or voting procedures to avoid surprises, such as in the case of change of control of the company (eg, standstill clauses hindering acquisition of greater stake by activists).
- *Share buybacks* – these may be seen as protection against aggressive activism or unwanted takeovers; can boost or preserve stock prices; offers shareholder rewards (capital return); and may also reduce the impact of activists. Still, the repurchase of shares is not always beneficial for investors, as it can reduce free float, lowering the leverage that comes with a shareholding.
- *Strict compliance with general meeting formalities* – ensuring that all applicable invitation, participation, representation and voting formalities are observed in a proper and timely manner.
- *Effective internal audit processes* – an organised, well-equipped, and independent internal audit unit reflects the level of management quality and respect attributed to all classes and categories of shareholders.
- *Reassessment of dividend distribution strategies* – review the company's financial results and involve the shareholders in the planning and assessment of any distribution of profits.
- *Open and regular communication channels* – to mitigate the risk of shareholder activism, a company, through its board, addresses its shareholders' requests in a serious and timely manner and makes sure to inform them of any business decisions beforehand and in detail. Regular and open communication as well willingness to receive shareholders' feedback are most important to avoiding shareholders activism.
- *Research on company's weak points* – promotion of sensitivity on environmental, ethical and social welfare challenges (ESG policies). It is important to proactively identify the company's weaknesses or even failings and initiate procedures for their mitigation.
- *Research on the company's shareholders* – boards must be up to date with respect to the existing shareholders of the company and their background and monitor their actions and businesses to identify any suspicious activist behaviour.
- *Seek advice* – conducting a legal and financial review, an assessment and seeking advice on suspicious shareholder behaviour strengthens the company's position against potential activist threads.

Trends and Developments

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Zepos & Yannopoulos is a leading Greek law firm known for its long heritage, legal acumen and integrity. As a full-service business company, Zepos & Yannopoulos takes pride in its distinctive mindset and offering, reflected not only in responsiveness, but also its ability to field versatile, approachable, easy-to-work teams of practitioners who truly understand clients' interests. The firm's strong international orientation is echoed in its structure and standards and is demonstrated in its client base, rankings and network of its affiliations around the world. Established in 1893, Zepos & Yannopoulos knows that change, whether in the legal or economic environment, is inherent to its jurisdiction; the firm is accustomed to implementing untested legislation, structuring innovative solutions and putting bold legal argumentation to the service of its clients.

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Shareholder activism has become a key trend for stakeholders and investors and activist shareholders have come a long way, waging public campaigns to pursue governance initiatives, modernising obsolete governance rules and pushing for broader societal/environmental commitments for businesses across the spectrum. Activist campaigns have also led to M&A, and have radically altered the payout policies of target companies. Target entities are ever-expanding, due to a rapid growth in assets and the added value of specific business industries, and so is the interest of investors demanding information, and remaining hyper vigilant on governance. Consequently, no management bodies can feel safe from investor activism anymore.

One key trait of twenty-first century activists is that they do not necessarily need to purchase much of a company's capital to be able to exert pressure or gain control. All they need to do is influencing the votes of other groups of shareholders. Also significant now is the fact that many shareholders are institutional investors – ie, banks and other financial institutions, insurance companies, pension funds, hedge funds, investment firms, mutual funds, real estate investment trusts – rather than individuals. As such, they have a strong say in the decision-making process, and would not fail to exercise their voting rights, as small or individual investors might. Also important is that institutional investors have been much more interested in short-term value return since the international financial crisis. This means that they do not automatically support or protect the current management set-up of a company and might even embrace a more activist stance that supports overturning board members in favour of a new panel. Individual shareholders could tend toward being more active in safeguarding their own interests in a company, particularly in listed companies or in family-owned entities, whether listed or otherwise.

The Greek Experience

The path of shareholder activism in Greece (introduction, challenges and key takeaways from activism)

Although activism has primarily flourished in the US and is still more rife there, investment opportunities identified in the European market have paved the way for activist shareholding there (partially due to fierce competition among US funds, resulting in the quest for alternative targets across the Atlantic). It is striking that, in the first half of 2024, the EU saw a record high level of activism campaigns, surpassing 2023's prior record by 7%.

That said, numerical data show that the southern European cluster of countries (Greece, Italy, Spain and Cyprus) has lagged its northern European neighbours in terms of attractiveness for shareholder activists. More specifically, in Greece, the concept of shareholder activism is relatively recent, compared to other EU markets, particularly Germany, France and the United Kingdom (with the latter still highly appealing). This is also attributable to the scarcity of resources (particularly in legal literature) in Greece, where the phenomenon of activist campaigns has only slowly gained momentum in the recent years.

The is also due to the unique structural, political, institutional mismatch inherent in Greece's corporate culture. More specifically, the Greek corporate landscape has been characterised by concentrated ownership and control models, with Greek corporates are often privately owned businesses, family-run for multiple generations; there is has also always been a strong presence of state/state-controlled entities in the country. Family-owned controlling interests in many Greek enterprises leave little room for activist manoeuvres. In addition, single-percentage stakes in companies tend to minorities from engaging actively with the complex business, governance, strategic issues routinely faced by the larger corporations, and such shareholders are expected to have little familiarity and few available resources with which to evaluate data and finally reach informed decisions. What is more, minority shareholders may seem reluctant to pursue structural changes, estimating that, in terms of cost and benefit, it is not really worth their while, particularly considering that the primary objective of an investor is to secure value return. This backdrop tends to promote shareholder apathy over all else.

However, several factors have played a crucial role in creating fertile ground for the rise of shareholder activism in Greece in recent years, as follows.

- The hard-won lessons of the global financial crisis, and the increasing awareness of poor accountability and corporate transparency mechanisms surrounding the Greek economic ecosystem (austerity measures and sweeping regulatory reforms imposed by the international lenders were, among others, aimed at optimising corporate governance policies) that drove certain activist campaigns among groups of minority shareholders to demand greater accountability and improved corporate governance practices. The aim was to increase minority shareholder's leverage and their capacity for an actual say in policy-making processes, backed by majority shareholders.
- The typology of institutional investors in Greece (increasing presence of institutional investors, both domestic and international), which has played a crucial role in promoting shareholder activism. Investors such as pension funds, hedge funds, investment firms, mutual funds and real estate investment trusts, or REITs) have the necessary resources and expertise to engage in strategic discussions and mount efficient campaigns and, most significantly, to have a strong say in decision-making (and not neglect the exercise of their voting rights). Additionally, the influence of the EU as the most impactful regional standard-setter, as well as international organisations, such as the IMF and the OECD, has underscored the significance of good corporate governance practices.
- Regulatory reforms affecting the landscape for Greek listed companies, which have been adopted by Greek legislation to improve cor-

porate governance rules. The Hellenic Capital Market Commission (HCMC) and the Athens Stock Exchange have introduced guidelines and statutory requirements in a concerted effort to promote reinforced transparency and strengthen shareholder participation in the decision-making processes. The EU's Shareholder Rights Directive (SRD II) Regulatory Framework consists of (a) Greek Law 4706/2020 on "Corporate governance of public limited companies, modern capital market, transposition into Greek law of Directive (EU) 2017/828 of the European Parliament and of the Council, measures in order to implement Regulation (EU) 2017/1131 and other provisions"; and (b) the Commission Implementing Regulation (EU) 2018/1212, which lays down minimum requirements for the implementation of Directive (EU) 2017/828, is aimed at achieving greater transparency and enhancing shareholder participation in corporate governance, and entered into force on 3 September 2020.

In Greece, the Association of Investors & Internet – Hellenic Exchanges Shareholders Association (SED), a non-profit association that aims to institutionalise shareholder activism, has been operating since 2000. In 2017, the Hellenic Investors Association was created to protect the interests of Greek investors in listed companies.

The SED also adopted the Charter of Corporate Governance and Shareholders' Activism, encompassing a set of overarching principles of corporate governance and best practices reinforcing shareholder access and thus encouraging actual shareholder activism.

Finally, in the aftermath of high-profile corporate scandals (with the Folli Follie group's fraud being a major example), investors and shareholders are on alert and may even use public spaces and social medial to raise awareness about the efficiencies of entities that are viable in the long term from a governance perspective. In many listed Greek companies, in particular, minority shareholders (especially foreign investors) have started advocating the need for an overhaul of governance models to ensure business and financial sustainability and compliance in the wake of the adoption of ESG principles.

Trends and Developments

Enactment of the option for a shareholders' association

The dynamics of shareholder activism are primarily played out on the "battlefield" of public listed companies in Greece, where increased liquidity allows for shifting shareholder interests. This is in sharp contrast to traditional family businesses or other non-listed enterprises, where shareholdings are much more concentrated, leaving no room for fundamental minority rights or action to push for a change in existing strategies.

There is a notable absence of special rules under Greek jurisdiction regulating shareholder activism. This can be attributed to the low levels of activist pressure in the corporate sphere. Nevertheless, a regulatory tool was made available to activist shareholders with the introduction of the Law 4548/2018 on shareholders' unions. Such unions take the form of an association which, as provided by the Greek Civil Code, acquires a distinct legal status which upon registration with the competent Associations' Registry. The unions can provide information regarding the shareholders' rights through a website.

Shareholders may form unions to voice and channel their interests in a more organised (concentrated), efficient and impactful manner. Certain exceptions aside, the sharehold-

ers' associations may, in principle, exercise the minority rights envisaged by law in the associations' names, but on behalf of their members-shareholders. The company of the association's lawful establishment must be notified, and notification made in the text of the articles of association of the union before the rights can be exercised by the union to which the company's shareholders belong. The unions may provide online guidance and information to their members about the shareholding participation and all rights stemming from it. They can also offer support for concerted action (on a named basis) for member alignment, ahead of any forthcoming General Meeting of Shareholders of the company.

Finally, there have been instances of activists venturing to jeopardise the completion of company transactions, particularly through the exercise of their protected minority shareholder rights, eg, by adding items to the agenda at general meetings. In most cases, such efforts have resulted in delaying the completion of publicly announced deals, rather than blocking them. However, there has been a trend for privatisations in the Greek market, which could potentially lead to an increase in shareholder activism. And a certain degree of activism has been also envisaged in cases where financially distressed entities adopt decisions impacting or shrinking the size of a business, with minority shareholders potentially joining forces to pressurise and hold managers accountable for the viability of a business strategy in the making, seeking information on a restructuring as a reaction to management decisions, or demanding corporate change and resignation of current management.

Case Studies of Shareholder Activism in Greece

Despite the challenges inherent in activism campaigns in Greece for the reasons explored above, contrasting corporate culture traits and the structure of Greek corporations (often featuring strong controlling stakes), the raft of shareholder activism evidenced in Europe has proved fairly applicable in Greece. After the almost eight-year economic recession, investor appetite for activism to influence corporate change or overhaul governance policies has been evident in certain notable cases. Irrespective of outcomes, a positive footprint in market dynamics has been evident in relevant campaigns. We have illustrated below a few notable cases and tactics gleaned from the Greek experience.

Telecommunications sector cases

OTE/Amber Capital (2019)

Amber Capital, a UK-based activist hedge fund with just 2% of Greece's largest telecoms operator OTE, pushed for management change in 2019. It proposed the election of Alberto Horcajo, former chief executive at Telefónica Brasil, as a new, independent, non-executive board member as deputy chairman. His candidacy was reportedly backed by a leading proxy adviser. In writing, Amber Capital formally urged OTE's majority shareholder, Deutsche Telekom (DT), to support Amber's candidacy. DT's letter indirectly highlighted the continuing weak standards of corporate governance for Greek listed companies at the time (in the wake of the fraud scandal at Folli Follie, the Greek listed luxury jewelry maker). Despite the active move and Amber's campaign, the proposed candidacy failed to obtain the necessary majority to get elected (despite being overwhelmingly backed by minority shareholders); instead, DT elected its own deputy-chair candidate.

Infrastructure/construction sector
Ellaktor/Reggeborgh (2021)
Less than three years after the eventful 2018 which led to the management change of the Greek listed Ellaktor SA, a dominant infrastructure group in Greece and in South-eastern Europe (the "Change4Ellaktor" campaign), Dutch investor Reggeborgh Invest BV, holder of a 14.2% stake in Ellaktor SA (and of a call option for a further 27%) pushed for the recall of the existing board of directors to cause a successive management change due to the CEO's alleged failure to address liquidity challenges (albeit at a highly leveraged company) and the increasing liabilities of the running construction projects. The Dutch investor instigated a strategy campaign to take over Ellaktor, and convened an EGM requesting governance changes. The primary agenda items were the revocation of the board of directors, the appointment of a new board, the revocation of the audit committee, and the appointment of a new audit committee. Reggeborgh took the floor to advocate on the debated topics and finally won the proxy fight; the EGM voted in favour of the Dutch shareholder's proposal to change the board of directors and elect the new board, tasked with developing and implementing a business and funding plan.

The Future of Shareholder Activism in Greece

ESG remains high on the agenda for most, primarily Greek-listed, companies (despite the pro-ESG stance of shareholders in non-listed companies in Greece). However, environmental activists continue to push for greater action, while scepticism endures around companies' environmental strategies and whether they align with shareholder value. In other European countries, for instance France, ESG is at the forefront of business stakeholders' objectives. French activists are very vocal about overarching concept principles, and epitomise just how forward pro-ESG activists can be. By contrast, in Greece, it is still premature to gauge how ready the financial groups and the various stakeholders-investors are to push through radical corporate changes by embracing ESG principles.

Although shareholder activism has yet to emerge in Greece with the same intensity as in the US or the northern European cluster of countries, the phenomenon has gradually started to gain traction, and the potential of activism to steer positive corporate change remains underrated.

Despite several challenges (concentrated ownership, a disparate shareholder base triggering "the apathy effect", a lack of cooperative intent to mobilise concerted action among the different shareholder groups, as well as strong endemic institutional and cultural challenges), shareholder activism has had a noteworthy impact on corporate governance in Greece in addition to laying fertile ground for further development of activism trends. In particular, within a regulatory landscape that continues to evolve and given the strong impact of global standard-setting regulations – the cornerstone being ESG and the rapidly increasing significance of sustainability – Greek companies will need to align with these movements to attract investment and maintain competitiveness. On the battlefield to address the enduring challenges, shareholders can indeed play a decisive role in shaping the future of corporate governance in Greece.

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