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## Law Containing The Code Of Corporations (1)

Original Language Title: Loi contenant le Code des sociétés (1)

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## 7 MAI 1999. - Act containing the Corporations Code (1)

ALBERT II, King of the Belgians,

To all, present and to come, Hi.

The Chambers adopted and We sanction the following:

CHAPTER PREMIER. - General provision

Article 1<sup>er</sup>. This Act regulates a matter referred to in Article 78 of the Constitution.

CHAPTER II (former chapter I). - The Corporate Code

Art. 2. The following provisions form the Corporate Code.

« CODE OF SOCIETIES

LIVRE PREMIER

Introductory provisions

You're the first. - Society and legal personality

Article 1<sup>er</sup>

A company is constituted by a contract under which two or more people put something in common, to carry out one or more specified activities and to provide partners with a direct or indirect heritage benefit.

In the cases provided for in this Code, it may be constituted by a legal act emanating from the will of a single person who affects property in the course of one or more specified activities.

In the cases provided for in this Code, the corporation may have that the corporation is not constituted for the purpose of providing the partners with a direct or indirect heritage benefit.

Art. 2

§ 1<sup>er</sup>. The common law society, the momentary society and the internal society do not benefit from the legal personality.

§ 2. This Code recognizes as a commercial company with legal personality:

- the society in collective name, shortened by SNC;
- the single, shortened SCS limited partnership;
- the limited liability private corporation, shortened by SPRL;
- the cooperative society, which may be limited to liability, shortened to SCRL, or unlimited liability, shortened to SCRI;
- Anonymous company, shortened SA;
- the company sponsored by shares, abbreviated SCA;
- the economic interest group, shortened GIE.

§ 3. It recognizes as a civil society with legal personality, agricultural society, shortened by S. Agr.

§ 4. The companies referred to in §§ 2 and 3 acquire the legal personality from the day the deposit referred to in Article 68 is made.

In the absence of a deposit referred to in paragraph 1<sup>er</sup>, a commercial object corporation that is neither a training corporation, nor a momentary corporation, nor an internal corporation, is subject to the rules concerning the common law society and, in the case of social reason, to section 204.

Art. 3

§ 1<sup>er</sup>. Companies are governed by the conventions of the parties, by civil law and, if they have a commercial nature, by specific trade laws.

§ 2. The civil or commercial nature of a corporation is determined by its object.

§ 3. This is true even if the statutory provisions provide that the corporation has not been incorporated in order to provide direct or indirect heritage benefits to the partners.

§ 4. Commercial civil societies are civil societies whose purpose is civil, and which, without losing their civil nature, have adopted the form of a commercial society to benefit from the legal personality. They don't have the quality of a merchant.

PART II. - Definitions

CHAPTER PREMIER. - Companies listed

Art. 4

Listed companies are companies whose securities are admitted to the official status of a securities exchange located in a Member State of the European Union or another regulated market within the meaning of Article 1<sup>er</sup>, § 3, of the Law of 6 April 1995 on secondary markets, the status of investment enterprises and their control, to intermediaries and investment advisers, recognized by the King as equivalent for the application of this Article.

CHAPTER II. - Control, parent companies and subsidiaries

Section 1. - Control

Art. 5

§ 1<sup>er</sup>. By "control" of a corporation, the power of law or fact to exert a decisive influence on the designation of the majority of directors or managers of the corporation or on the direction of its management must be understood.

§ 2. Control is lawful and presumed in an irrefragable manner:

- 1° where the majority of the voting rights attached to all shares, shares or rights of partners of the corporation in question are held;
- 2° where a partner has the right to appoint or revoke the majority of directors or managers;
- 3° where an associate has control power under the statutes of the corporation in question or agreements with the corporation;
- 4° where, as a result of agreements with other partners of the corporation in question, a partner has the majority of the voting rights attached to all shares, shares or rights of partners of the corporation;
- 5° in case of joint control.

§ 3. Control is in fact when it results from other elements than those referred to in § 2.

An associate is, unless otherwise proven, presumed to have de facto control over society if, at the forefront and the last general assembly of that society, he exercised voting rights representing the majority of the votes attached to the titles represented at these assemblies.

Art. 6

For the application of this code, you must hear by:

1° "mother company", the company that holds control over another company;  
 2° "control company", the company in respect of which a control power exists.

Art. 7

§ 1<sup>er</sup>. For the determination of the control power:

1° the power indirectly held through a subsidiary is added to the directly held power;

2° the power held by a person serving as an intermediary to another person is believed to be held exclusively by that person.

For the determination of the control authority, it is not taken into account the suspensions of the right to vote or the limitations on the exercise of the voting power provided for in this Code or by legal or statutory provisions of similar effect.

For the purposes of Article 5, § 2, 1° and 4°, the voting rights relating to all shares, shares and rights of associates of a subsidiary are defined as deducting the voting rights relating to the shares, shares and rights of associates of that subsidiary held by itself or by its subsidiaries. The same rule applies in the case referred to in Article 5, § 3, paragraph 2, with respect to the titles represented in the last two general assemblies.

§ 2. "A person serving as an intermediary" means any person acting under a terms of reference, commission, porting, lend-name, trust or equivalent agreement on behalf of another person.

Art. 8

An "exclusive control" means the control exercised by a company either alone or with one or more of its subsidiaries.

Art. 9

By "joint control", we must hear the control exercised together by a limited number of partners, when they agreed that decisions relating to management guidance could only be taken by their common agreement.

By "common subsidiary", the company must be heard in respect of which this joint control exists.

Section II. - Consortium

Art. 10

§ 1<sup>er</sup>. There is a "consortia" where a company and one or more other Belgian or foreign law companies, which are neither subsidiaries of each other or subsidiaries of the same corporation, are placed under a single direction.

§ 2. These companies are presumed, irrefragably, to be placed under a single direction:

1° where the sole direction of these companies results from contracts between these companies or statutory clauses, or,

2° when their organs of administration are composed mostly of the same persons.

§ 3. Companies are presumed, unless otherwise proven, to be placed under a single direction, when their shares, shares or rights of associates are held by the same persons in majority. The provisions of Article 7 shall apply.

This paragraph is not applicable to shares, shares and rights of partners held by public authorities.

Section III. - Related and associated companies

Art. 11

For the application of this code, you must hear by:

1° "Companies related to a company":

(a) the companies it controls;

(b) companies controlling it;

(c) the companies with which it forms a consortium;

(d) other companies that, to the knowledge of its governing body, are controlled by the companies referred to in sub (a), (b) and (c);

2° "persons related to a person", physical and legal persons where there is a bond between them and that person within the meaning of 1°.

Art. 12

It must be understood by "associated corporation", any corporation, other than a subsidiary or a joint subsidiary, in which another company holds an interest and the direction of which it exerts a significant influence.

This significant influence is presumed unless otherwise demonstrated, if the voting rights attached to this participation represent a fifth or more of the voting rights of the shareholders or associates of that corporation. The provisions of Article 7 shall apply.

Section IV. - Participation and participation

Art. 13

The social rights held in other societies are considered to constitute participation when this detention is intended, through the establishment of a sustainable and specific relationship with these societies, to enable the society to influence the direction of the management of these societies.

Is presumed to be an interest, unless otherwise proven:

1° the detention of social rights representing the tenth of the capital, the social fund or a class of shares of the society;

2° the detention of social rights, which is less than 10%:

(a) where by the addition of social rights held in the same corporation by the corporation and its subsidiaries, they represent the tenth of the capital, the social fund or a class of shares of the corporation in question;

(b) where the acts of disposition relating to such shares or shares or the exercise of the rights thereto are subject to treaty provisions or unilateral commitments to which the corporation has subscribed.

Art. 14

By "companies with which there is a link of participation", companies, other than related companies, must be heard:

1° in which the company holds directly or whose subsidiaries hold an interest;

2° that, to the knowledge of the management body of the company, hold directly or whose subsidiaries hold an interest in the capital of the company;

3° which, to the knowledge of the management body of the company, are subsidiaries of the companies referred to in 2°.

CHAPTER III. - Corporate and group dimensions

Section 1. - Small companies

Art. 15

§ 1<sup>er</sup>. Small companies are companies with legal personality that, for the last closed fiscal year, do not exceed one of the following limits:

- number of employed workers, on average annually: 50;

- annual turnover, excluding value added tax: 200 million francs;

- total balance sheet: 100 million francs;

unless the annual average number of employed workers exceeds 100.

§ 2. The application of the criteria set out in § 1<sup>er</sup> companies that begin their activities are subject to good faith estimates at the

beginning of the fiscal year.

When a company, a corporation has not exceeded the criteria set out in § 1<sup>er</sup>, it is considered a small corporation during the current fiscal year, even if, for that fiscal year, it no longer meets the criteria imposed.

When for the previous year, a company exceeded the criteria set out in § 1<sup>er</sup>, it is no longer considered a small corporation during the current fiscal year, although, for this fiscal year, it meets the criteria imposed.

§ 3. Where the fiscal year is less than or more than twelve months, the amount of the turnover excluding the value added tax referred to in § 1<sup>er</sup>, is multiplied by a fraction of which the denominator is twelve and the numerator the number of months included in the given fiscal year, all months started being counted for a full month.

§ 4. The average of the occupied workers, referred to in § 1<sup>er</sup>, is the average number of workers in full-time equivalents, registered at the end of each month of the fiscal year under Royal Decree No. 5 of 23 October 1978 on the maintenance of social documents. The number of workers in full-time equivalents is equal to the workload expressed in full-time occupied equivalents, to be calculated for part-time occupied workers based on the contractual number of hours to be taken from the normal working time of a comparable full-time worker (reference worker).

Where more than half of the products resulting from the normal activity of a company are products not covered by the definition of the "business revenue" position, then, for the purposes of § 1<sup>er</sup>, to hear by "turnover", the total of products excluding exceptional products.

Total balance referred to in § 1<sup>er</sup> is the total book value of the asset as it appears in the balance sheet diagram that is determined by royal decree under section 92, § 1<sup>er</sup>.

§ 5. In the case of a corporation linked to one or more other, within the meaning of Article 11, the criteria for turnover and total balance sheet, referred to in § 1<sup>er</sup>, are determined on a consolidated basis. With regard to the staff criterion, the number of workers employed on an annual average by each related company is added.

§ 6. The King may modify the figures provided in § 1<sup>er</sup> and the modalities of their calculation. These royal decrees are taken after deliberation in the Council of Ministers and on the advice of the Central Council of the Economy. The opinion of the National Labour Council is further requested for the amendment of § 4, paragraph 1<sup>er</sup> and 2.

Section II. - Small groups

Art. 16

§ 1<sup>er</sup>. A company and its subsidiaries, or the companies that together constitute a consortium, are considered to form a small group with its subsidiaries when together, on a consolidated basis, they do not exceed one of the following limits:

- annual turnover, excluding value added tax: 800 million francs;
- total balance sheet: 400 million francs;
- occupied staff on average annually: 250.

The figures mentioned in paragraph 1<sup>er</sup> are, for exercises taking place before 1<sup>er</sup> January 1999, plus as follows:

- annual turnover, excluding value added tax: 2,000 million francs;
- total balance sheet: 1,000 million francs;
- occupied staff on average annually: 500.

§ 2. The figures referred to in § 1<sup>er</sup> are audited at the closing date of the annual accounts of the consolidating corporation, based on the last annual accounts of the companies to be included in consolidation; the crossing of the thresholds only operates if it continues for two years.

§ 3. The average of the occupied workers, referred to in § 1<sup>er</sup>, is the average number of workers in full-time equivalents, registered at the end of each month of the fiscal year under Royal Decree No. 5 of 23 October 1978 on the maintenance of social documents. The number of workers in full-time equivalents is equal to the workload expressed in full-time occupied equivalents, to be calculated for part-time occupied workers based on the contractual number of hours to be taken from the normal working time of a comparable full-time worker (reference worker).

Where more than half of the products resulting from the normal activity of a company are products not covered by the definition of the "business revenue" position, then, for the purposes of § 1<sup>er</sup>, to hear by "turnover", the total of products excluding exceptional products.

Total balance referred to in § 1<sup>er</sup> is the total book value of the asset as it appears in the balance sheet diagram that is determined by Royal Decree under Article 117, § 1<sup>er</sup>.

§ 4. The King may modify the figures provided in § 1<sup>er</sup>, as well as the modalities of their calculation. These royal decrees are taken after deliberation in the Council of Ministers and on the advice of the Central Council of the Economy.

PART III. - General criminal provision

Art. 17

Book 1<sup>er</sup> the Criminal Code, without exception of Chapter VII and Article 85, shall be applied to the offences provided for in this Code.

LIVRE II

Provisions common to all companies

You're the first. - General provisions

Art. 18

The provisions of this book apply to all companies, provided that they are not derogated from the following books and, with respect to commercial companies, provided that they are not contrary to the laws and uses of trade.

Art. 19

Any company must have a lawful object, and be contracted for the common interest of the parties.

Each partner must bring it or money, or other goods, or its industry.

Art. 20

The company begins at the very moment of the contract, if it does not designate another time.

Art. 21

If there is no agreement on the duration of the corporation, it is expected to be contracted for the life of the partners under the amendment to section 43; or, if it is a matter whose duration is limited, for all the time this case has to last.

PART II. - Commitments of the partners between them

Art. 22

Each partner is obligated to the society of all he has promised to bring.

When this contribution consists of a certain body, and the company is ousted from it, the partner is a guarantor of it to the company, in the same way as a seller is to his buyer.

## Art. 23 Global Regulation

...take a sum in the corporation, and who did not do so, becomes, in full right and without request, debtor of the interest of that sum, from the day it was to be paid.

The same applies to the sums it has taken in the social register, from the day it has taken them for its particular benefit.

All without prejudice to further damages, if applicable.

### Art. 24

The partners who have submitted to bring their industry to society, must account for all the gains they made by the industry species that is the subject of this company.

### Art. 25

When one of the partners is, for his particular account, a creditor of an amount due to a person who is also required to the corporation an amount also payable, the imputation of what he receives from that debtor must be done on the debt of the corporation and on his or her own in the proportion of the two receivables, even though he had by his or her commandment directed the full imputation on his particular receivable; but if he expressed in his quittance that imputation would be made in full on the debt of society, this stipulation will be executed.

### Art. 26

When one of the associates has received his whole share of the common debt, and the debtor has since become insolvent, the partner is obliged to report to the common mass what he has received, even though he had specially given quittance "for his part".

### Art. 27

Each partner is liable to the company for damages caused by his fault, without being able to compensate for the profits that his industry would have earned in other cases.

### Art. 28

If things whose enjoyment only has been put in society are certain and determined bodies, which do not consume by use, they are at the risk of the owner partner.

If these things are consumed, if they are deteriorating by keeping them, if they have been destined to be sold, or if they have been put into society on an estimate carried by an inventory, they are at the risk of society.

If the thing has been estimated, the partner can only repeat the amount of his estimate.

### Art. 29

An associate has an action against society, not only because of the sums he paid for it, but also because of the obligations he has undertaken in good faith for the affairs of society, and the inseparable risks of his management.

### Art. 30

When the corporation does not determine the share of each partner in the profits or losses, the share of each partner is in proportion to the share of the corporation.

In respect of the person who brought only his industry, his share in the profits or losses is settled as if his bet was equal to that of the partner who brought the least.

### Art. 31

If the partners have agreed to refer to one of them or to a third party for the settlement of the shares, this regulation cannot be attacked if it is of course not contrary to fairness.

No claim is allowed in this respect, if more than three months have elapsed since the party claiming to be injured has been aware of the settlement, or if the settlement has been received from it a commencement of execution.

### Art. 32

The agreement that would give one of the partners all the benefits is zero.

The same is true of the stipulation that exempted any contribution to the losses, amounts or effects placed in the fund of the corporation by one or more of the partners.

### Art. 33

The partner responsible for the administration by a special clause of the company contract, may, notwithstanding the opposition of the other partners, do all the acts that depend on his administration, provided that it is without fraud.

This power cannot be revoked without legitimate cause as long as society lasts; but if it was only given by act after the company contract, it is revocable as a simple mandate.

### Art. 34

When several partners are responsible for administering, without their functions being determined, or without expressing that one could act without the other, they can do all the acts of that administration separately.

### Art. 35

If it has been stipulated that one of the directors will not be able to do anything without the other, one cannot, without a new convention, act in the absence of the other, even if it would be in the present impossibility to contribute to the acts of administration.

### Art. 36

In the absence of special stipulations on the mode of administration, the following rules are followed:

1° The partners are supposed to have given each other the power to administer each other. What each does is valid even on the part of its associates, without their consent; except for the right of these, or one of them, to oppose the operation before it is concluded.

2° Each partner may use the things belonging to the society, provided that he uses them to their destination fixed by use, and that he does not use them against the interest of the society, or so as to prevent his associates from using them according to their right.

3° Each partner has the right to oblige his associates to make with him the expenses that are necessary for the preservation of the things of society.

4° One of the partners can't make innovations on the company's dependent buildings, even when they support this company, if the other partners consent to it.

### Art. 37

A partner who is not a director cannot alienate or engage the same securities that depend on the corporation.

### Art. 38

Each partner may, without the consent of its partners, associate a third person with respect to his or her share in the corporation; he cannot, without this consent, associate him with the company, even if he would have the administration.

## PART III. - Different ways the society ends

### Art. 39

The company ends:



- 1° by the expiration of the time for which it was contracted;
- 2° by the extinction of the thing, or the consumption of the negotiation;
- 3° by the natural death of one of the associates;
- 4° by banning or decaying one of them;
- 5° by the will that one or more express not to be in society.

Art. 40

The extension of a limited-time corporation can only be proved by a written form in the same form as the company contract.

Art. 41

When one of the associates promised to share ownership of one thing, the loss that occurred before the bet took place, operates the dissolution of the company against all the partners.

The company is also dissolved in all cases by the loss of the thing, when the enjoyment alone has been shared, and the property has remained in the hands of the partner.

But the company is not broken by the loss of the property that has already been brought to society.

Art. 42

If it has been stipulated that in the event of the death of one of the partners, the company would continue with its heir, or only between the surviving partners, these provisions will be followed: in the second case, the heir of the deceased is entitled only to the sharing of the society, in view of the situation of that society during the death, and does not participate in the subsequent rights as long as they are a necessary follow-up of what has been done

Art. 43

The dissolution of the corporation by the will of one of the parties shall apply only to companies whose duration is unlimited, and shall be effected by a notified waiver to all partners, provided that such renunciation is in good faith, and not made against time.

Art. 44

The renunciation is not in good faith when the partner renounces to take on himself the benefit that the partners had proposed to withdraw in common.

It is done in time when things are no longer complete, and it is important for society to postpone its dissolution.

Art. 45

The dissolution of futures societies cannot be requested by one of the associates before the agreed term, especially since there are fair grounds, such as when another partner fails to commit, or that an usual infirmity renders it unfit for the business of society, or other similar cases, whose legitimacy and gravity are left to the arbitration of the judges.

LIVRE III

The common law society, the momentary society and the internal society

You're the first. - Definitions

Art. 46

The common law society is a civil or commercial object society that does not enjoy the legal personality.

Art. 47

The momentary society is a society without a legal personality that is intended to deal with, without social reason, one or more specific trade transactions.

Art. 48

Internal society is a society without a legal personality by which one or more people are interested in the operations that one or more others manage in their own name.

PART II. - Evidence

Art. 49

The company contract referred to in this book may, according to its purpose, be proved according to the rules of proof of civil law or commercial law.

PART III. - Liability of partners

Art. 50

The stipulation that the obligation is contracted on behalf of the company, binds only the contracting partner and not the others, unless they have given him power, or that the thing has not turned to the profit of the society.

Art. 51

One of the associates of a common law society cannot oblige others if they have not conferred power on them.

Art. 52

The partners of a common law society are held to third parties either by virile shares, when the object of the society is civil or in solidarity, when this object is commercial. It can only be derogated from this responsibility by an express stipulation of the act with third parties.

Art. 53

The partners of a momentary society are held in solidarity with third parties with whom they have treated. They will be assigned directly and individually.

Art. 54

There is no direct action between third parties and associates of an internal corporation that has been held in terms of a mere participation.

PART IV. - Liquidation

Art. 55

The rules relating to inheritance sharing, the form of such sharing, and the resulting obligations between the coheritors, apply to liquidations between associates of companies covered by this book.

LIVRE IV

Provisions common to legal persons governed by this Code

You're the first. - Provisions of private international law

Art. 56

A company whose real seat is in Belgium is subject to Belgian law, although the constitutive act has been passed in a foreign country.

Art. 57

Managers, administrators, commissioners and liquidators, domiciled abroad, are expected to elect domicile at the headquarters for the duration of their duties, where all assignments and notifications may be given to them in respect of the affairs of the company



and the responsibility for their management and control.

## Global-Regulation

Companies incorporated in a foreign country and having their real headquarters will be able to carry out their operations in Belgium and legalize and establish a branch.

However, actions taken by foreign companies that have a branch in Belgium or that have made or publicly appealed to savings in Belgium within the meaning of Article 88 are inadmissible if they have not deposited their constituent instruments in accordance with Articles 81, 82 or 88.

Art. 59

Persons involved in the management of the Belgian branch of a foreign company are subject to the same responsibility to third parties as if they run a Belgian company.

PART II. - Commitments on behalf of a training company

Art. 60

If there is no agreement to the contrary, those who, on behalf of a company in formation, and before the acquisition by it of the legal personality, have made a commitment in any way, are personally and in solidarity with them, unless the company has filed the extract referred to in section 68 within two years of the birth of the undertaking and if these commitments are resumed by it within two months of the aforementioned deposit. In the latter case, the undertaking is deemed to have been contracted by the corporation from the beginning.

PART III. - Organs

CHAPTER PREMIER. - Corporate representation

Art. 61

Companies act by their bodies whose powers are determined by this code, the social object and the statutory clauses. Members of these bodies do not take personal responsibility for the commitments of society.

Art. 62

Individuals who represent a corporation must, in all acts involving the responsibility of that corporation, immediately precede or follow their signature of the quality indication under which they act.

CHAPTER II. - Rules of deliberation and sanctions

Art. 63

In the absence of statutory provisions, the ordinary rules of the legislative assemblies shall apply to the colleges and assemblies provided for in this Code, unless otherwise provided by this Code.

Art. 64

The decision taken by a general assembly shall be null and void:

1° where the decision is entered into a formal irregularity, if the applicant proves that this irregularity may have influenced the decision;

2° in the event of a violation of the rules relating to its operation or in the event of deliberation on a foreign matter to the agenda when there is fraudulent intention;

3° when the decision is entered into by any other excess of power or power;

4° where voting rights that are suspended under a legal provision not included in this Code have been exercised and that, without such illegally exercised voting rights, quorums of presence or majority required for decisions of general assembly would not have been brought together;

5° for any other cause provided in this code.

PART IV. - Company name

Art. 65

Each corporation is designated by a corporation that must be different from that of any other corporation.

If it is identical, or if resemblance may induce in error, any interested person may cause it to be altered and claim damages, if applicable.

The founders, or in the event of further modification of the name, the members of the management body shall be held in solidarity with the persons concerned of the damages referred to in paragraph 2.

PART V. - Constitution and advertising formalities

CHAPTER PREMIER. - Form of the constitutive act

Art. 66

Collectively-named companies, single-supervised companies, unrestricted cooperative societies, economic interest groups and agricultural companies are, barely null and void, formed by authentic acts or private seing, in the latter case conforming to article 1325 of the Civil Code. It is enough of two originals for cooperative companies with unlimited liability.

Limited liability private companies, limited liability cooperative companies, anonymous companies and share-sponsored companies are, barely null and void, constituted by authentic acts.

Any treaty amendment to the constitutive act shall, in a matter of nullity, be made in the form required for that act.

CHAPTER II. - Advertising forms

Section 1. - Belgian companies

First sub-section. - Forms of advertising on the occasion of the constitution

Art. 67

§ 1<sup>er</sup>. Shipments of authentic acts, duplicates or originals of acts under private seing and excerpts of which the following articles prescribing the deposit or publication are deposited in the registry of the commercial court in the territorial jurisdiction of which the company has its head office.

Subsequent deposits must be made at the same graft.

§ 2. The documents filed are placed in an open registry file for each company or economic interest group. This record is held, as the case may be, in a special division of the trade register, abbreviated RC, in the register of civil commercial corporations, abbreviated CSR, in the register of economic interest groups, abbreviated RGIE, or in the register of agricultural companies, abbreviated RSG.

§ 3. It is given receipt of the filing of documents.

The King determines the modalities for the constitution and consultation of the file.

Art. 68

An extract of the constitutive act is deposited at the time of the constitution in the fifteenth of the date of the final act.

At the same time, the following documents are filed:

At the same time, the following documents are filed:

- 1° an expedition of the authentic constitutive act or a double of the constitutive act under private seing;
- 2° a shipment of authentic warrants or an original of private seing mandates, annexed to the act to which they relate.

#### Art. 69

The exemption from the constitutive act of the companies, with the exception of economic interest groups, contains:

- 1 the form of the society and its name; in the case of a cooperative corporation, if it is limited or unlimited; in the case provided for in Book X, these references must be followed by the words "social purpose";
- 2° the precise designation of the head office;
- 3° the duration of the company when it is not unlimited;
- 4° the precise designation of the identity of the solidarity partners, founders and associates who have not yet released their contribution; in the latter case, the extract contains for each partner the amount of the values to be released;
- 5° where applicable, the amount of social capital; the amount of the released party; the amount of the authorized capital; for sponsorship companies, the amount of the securities released or released in sponsorship and for cooperative companies, the amount of the fixed share of the capital;
- 6° how the social capital or, if not, the social fund is formed and, where appropriate, the conclusions of the report of the company reviewer concerning in-kind contributions;
- 7° the beginning and end of each social exercise;
- 8° the provisions relating to the establishment of reserves, the distribution of profits and bonuses resulting from the liquidation of the company;
- 9° the designation of persons authorized to administer and engage the corporation, the extent of their powers and the manner in which they are exercised, either by acting alone or jointly or in college;
- 10° the appointment of commissioners;
- 11° the precise designation of the social object;
- 12° the place, day and hour of the ordinary general assembly of the associates and the conditions for the admission and exercise of the right to vote.

Items 11° and 12° are not applicable to companies in collective name and in simple sponsorship.

Items 8°, 10° and 12° are not applicable to agricultural companies.

#### Art. 70

The extract of the contract constituting an economic interest group contains:

- 1° the name of the economic interest group; In the case provided for in Book X, this mention must be followed by the words "social purpose";
- 2° the precise designation of the object of the economic interest group;
- 3° the name, first name, domicile, or, in the case of a legal person, name, form, social object and head office, and, where applicable, registration number in the trade register of each member of the economic interest group;
- 4° the duration for which the economic interest group is constituted when it is not indeterminate;
- 5° the precise designation of the seat of the economic interest group;
- 6° the conditions of appointment and revocation of the manager(s);
- 7° the nature and value of potential contributions, as well as the name, trade reason or social name of the contributing members;
- 8 the place and day of the assembly of the members;
- 9° where applicable, the clause exempting a new member from payment of debts prior to admission;
- 10° where applicable, the provision giving quality to one or more managers to represent the economic interest group alone, jointly or collegially.

#### Art. 71

The extract of the acts of the societies is signed for authentic acts, by the notaries, and for acts under private seing, by all the solidarity partners or by one of them, invested to this effect by the others of a special mandate.

#### Art. 72

The extract of the constitutive act is deposited and published at the expense of the interested parties.

#### Art. 73

The publication takes place in the Annexes of the Belgian Monitor within fifteen days of the deposit, only in damages against officials to whom the omission or delay would be attributable.

The King shall designate officials who shall receive the acts or extracts of acts and shall determine the form and conditions of filing and publication.

#### Sub-section II. - Other advertising formalities

#### Art. 74

Are filed and published in accordance with the preceding articles:

- 1° acts that bring change to the provisions of this Code which prescribe publication;
- 2° the extract of the acts relating to the appointment and termination of office:
  - (a) persons authorized to administer and engage the corporation;
  - (b) Commissioners;
  - (c) liquidators; in the event that the liquidator is a legal entity, the extract shall contain the designation or modification to the designation of the natural person who represents it for the exercise of the winding-up powers;
  - (d) Provisional administrators.

The extract specifies the extent of the powers of these persons and the manner in which they are exercised, either by acting alone or jointly or in college;

- 3° the extract of the judicial decision passed in force of a matter judged or enforceable by provision stating the dissolution of the society, as well as the extract of the judicial decision reforming the enforceable judgment by provision mentioned above.

This extract will contain:

- (a) the name and head office;
- (b) the date of the decision and the court that pronounced it;
- (c) where appropriate, names, names and addresses of liquidators; in the event that the liquidator is a legal entity, the extract shall contain the designation or modification to the designation of the natural person who represents it for the exercise of the winding-up powers;
- 4° a declaration, signed by the competent bodies of the society, stating:
  - (a) the dissolution of the society;



(a) the dissolution of the society;

5° the acts or extracts of which the publication is prescribed by this code.

Art. 75

Are filed in accordance with the preceding sections:

1° the amending acts of the constitutive act which are not subject to publication by extracts;

2° after each amendment of the statutes, the full text of these statutes in an updated drafting, accompanied by a document mentioning the date of publication of the constitutions and amendments of the statutes;

3° the acts whose deposit alone is prescribed by this code.

A reference to the Annexes of the Belgian Monitor published in accordance with the preceding articles indicates the subject matter of the acts prescribed by paragraph 1<sup>er</sup>.

Sub-section III. - Opposability

Art. 76

The acts and indications for which the advertisement is prescribed are only enforceable to third parties from the day of their publication by extracts or by mention to the Annexes of the Belgian Monitor, unless the company proves that these third parties had previously known them.

However, third parties may avail themselves of acts that have not been advertised.

For the operations that occurred before the sixteenth day following that of the publication, these acts are not enforceable to third parties who prove that they were unable to know them.

In the event of a discrepancy between the text and the text that is published in the Annexes of the Belgian Monitor, the latter is not opposable to third parties. However, they may avail themselves of it, unless the company proves that they have been aware of the text filed.

Art. 77

The completion of the publicity formalities relating to persons who, as an organ of the society, have the power to engage it, renders any irregularity in their appointment unopposable to third parties, unless the society proves that these third parties were aware of it.

Sub-section IV. - Certain indications to be made in the acts

Art. 78

All acts, invoices, advertisements, publications, letters, order notes and other documents issued:

- limited liability private companies;

- cooperative societies;

- Anonymous companies;

- companies sponsored by shares;

- economic interest groups;

shall contain the following indications:

1° the name of the company;

2° the form, in whole or shortened, as well as, as the case may be, the words "commercial civil society" reproduced legibly and placed immediately before or after the name of the society; in the case of a cooperative corporation, if it is limited or unlimited; in the case provided for in Book X, such mention or initials must be followed by the words "social purpose";

3° the precise indication of the company's seat;

4° the words "trade register" or the initials "CR" or, as the case may be, the words written in all letters "commercial civil society register", "register of economic interest groups", or the abbreviation "RSC", "RGIE", accompanied by the registration number;

5° the indication of the seat of the court in the territorial jurisdiction of which the company has its head office.

Art. 79

In the event that an anonymous corporation, a limited liability private corporation or a share-sponsored corporation mentions in the documents referred to in Article 78 of its social capital, the corporation must be the released capital, as it results from the last balance sheet. If the latter shows that the released capital is no longer intact, mention must be made of the net assets as it results from the last balance sheet.

In the event that an amount exceeds the amount allowed and the corporation remains in default, the third party will be entitled to claim from the person who intervened for the corporation in that act an amount sufficient to be in the same situation as if the correct amount had been stated.

Art. 80

Any person who intervenes for a corporation referred to in Article 78 in an act where the requirements referred to therein would not be met may, under the circumstances, be personally responsible for the commitments made by the company.

Section II. - Foreign companies with a branch in Belgium

First sub-section. - Advertising forms during the opening of the branch

Art. 81

Any foreign company under the right of another EU Member State and in Belgium a branch is required to deposit, prior to the opening of the branch, the documents and indications listed below:

1° the constitutive act and the statutes if the latter are the subject of a separate act or the full text of these documents in an updated drafting if the latter have been amended;

2° the name and form of the society;

3° the register to which the record referred to in Article 3 of Council Directive 68/151/EEC of 9 March 1968 is opened for the company and the registration number of the company in that register;

4° a document from the register referred to in 3° attesting to the existence of the society;

5° the address and indication of the activities of the branch, and its name if it does not correspond to that of the company;

6° the appointment and identity of persons who have the power to engage the corporation with respect to third parties and to represent it in court:

(a) as a body of society legally planned or as members of that body;

(b) as representatives of the company for the activity of the branch, indicating the powers of such representatives;

7° the company's annual accounts and consolidated accounts, in respect of the last closed year, in the form in which these accounts have been established, controlled and published in accordance with the law of the member State of which the company reports.

Art. 82

Any company under the law of a State other than a Member State of the European Union and in Belgium a branch is required to

Any company under the law of a state other than a member state of the European Union and in Belgium a branch is required to deposit, prior to the opening of its branch, the following documents and indications:

- 1° the address of the branch;
- 2° indication of branch activities;
- 3° the right of the state to which the society is raised;
- 4° if this right provides, the register in which the company is registered and the registration number of the company in that register;
- 5° a document from the register referred to in 4° attesting to the existence of the society;
- 6 the constitutive act and the statutes, if the latter are the subject of a separate act and any modification of the documents;
- 7° the form, seat and subject matter of the company and, at least annually, the amount of the capital subscribed if these indications are not in the documents referred to in 6°;
- 8° the name of the company and the name of the branch if it does not correspond to that of the corporation;
- 9° the appointment and identity of persons who have the power to engage the corporation with respect to third parties and to represent it in court:
  - (a) as a body of society legally planned or as members of such a body;
  - (b) as permanent representatives of the company for the activity of the branch;
- 10° the extent of the powers of the persons referred to in point 9° and if they may exercise them alone or shall do so jointly;
- 11° the company's annual accounts and consolidated accounts for the last fiscal year closed, in the form in which these accounts have been established, controlled and published according to the law of the state of which the company is reporting.

Sub-section II. - Other advertising formalities

Art. 83

Any foreign company that has established a branch in Belgium shall make public the following documents and indications:

1° within 30 days after the decision or event:

- (a) any modification to the documents and indications referred to in article 81, 1°, 2°, 3°, 5° and 6° respectively, or to article 82, 1°, 2°, 3°, 4°, 6°, 7°, 8°, 9° and 10°;
- (b) the dissolution of the company, the appointment, identity and powers of liquidators, and the closing of the liquidation;
- (c) any bankruptcy, concordat or other similar procedure to which the corporation is subject;
- (d) the closure of the branch;

2° annually, within the month following the General Assembly and not later than seven months after the year-end closing date, the annual accounts and consolidated accounts, as provided in Article 81, 7°, and Article 82, 11°.

Sub-section III. - Advertising procedure

Art. 84

§ 1<sup>er</sup>. The documents and indications referred to in sections 81, 82 and 83 shall be made public by deposit at the office of the Commercial Court, in accordance with section 75, with the exception of the annual and consolidated accounts deposited at the National Bank of Belgium.

In the event of a plurality of branches opened in Belgium by the same foreign company, the advertisement referred to in sections 81, 82 and 83, with the exception of the annual and consolidated accounts, may be made at the office of the commercial court in which a branch is established, according to the company's choice. In this case, the requirement for advertising in respect of other branches relates to the indication of the trade register of that branch.

§ 2. The documents filed are placed in a record held at the Registry for each corporation. These records are held, as the case may be, either from the special division of the trade register or from the civil commercial register.

§ 3. It is given receipt of the deposit of documents.

The King determines the procedure for establishing and consulting the file.

§ 4. Documents filed are subject to third parties in accordance with section 76.

Art. 85

Documents referred to in sections 81, 82 and 83 shall, for the purpose of filing, be written or translated into the language or in any of the official languages of the court in which the branch is established.

Sub-section IV. - Certain indications to be made in acts from branches

Art. 86

All acts, invoices, advertisements, publications, letters, notes of order and other documents from branches in Belgium of foreign companies must contain the following indications:

- 1° the name of the company;
- 2° the shape;
- 3° the precise indication of the head office;
- 4° the register in which the company is registered, followed by its registration number in that register;
- 5° the seat of the commercial court in which the branch is established, followed by the registration number;
- 6° where applicable, the fact that the company is in liquidation.

If the parts indicated in paragraph 1<sup>er</sup> mention the social capital, it must be the released capital as it results from the last balance sheet. If the asset reveals that the released capital is no longer intact, mention must be made of the net assets as a result of the last balance sheet.

Art. 87

The persons involved in the management of the Belgian branch are required to perform the advertising formalities set out in the previous articles.

Section III. - Foreign companies that publicly appeal in Belgium without a branch

Art. 88

Foreign companies who wish to make a public appeal to savings in Belgium within the meaning of Article 438 without having a branch, are required to file their constituent instruments and their statutes before the office of the Brussels Commercial Court. The documents filed are placed in a record held at the Registry for each corporation. These files are kept in the register of foreign companies that do not have a branch in Belgium.

The King may make derogatory provisions in the preceding paragraph in respect of foreign companies whose financial instruments are admitted to a Belgian regulated market within the meaning of Article 1<sup>er</sup>, § 3, of the Law of 6 April 1995 on secondary markets, the status of investment companies and their control, to intermediaries and investment advisers.

The King shall determine the procedure for the formation and consultation of the records referred to in paragraph 1<sup>er</sup>.

A reference to the Internet to the Belgian Monitor indicates the subject matter of the acts prescribed by this section.

## CHAPTER III. - Criminal provisions

### Art. 90

Directors and managers who have not filed the full text of the statutes of their company in an updated drafting, in accordance with Article 75, within three months from the date of these acts, will be punished with a fine of 50 francs to ten thousand francs.

This section is not applicable to economic interest groups.

### Art. 91

Will be punished by a fine of fifty francs to ten thousand francs:

1<sup>st</sup> persons involved in the management of a branch in Belgium who contravene any of the obligations referred to in Articles 81 to 87;

(2) those who have not made the statements required by section 69 in the acts or extracts of acts, in the power of attorney or in the subscriptions;

3<sup>o</sup> the founders of a group of economic interest constituted without the declarations provided for in Article 70, 1<sup>o</sup> to 5<sup>o</sup>, 7<sup>o</sup> and 8<sup>o</sup>, were made in the contract constituting the group of economic interest.

Will be punished by imprisonment from one month to one year and a fine of 50 francs to ten thousand francs, or only by one of these penalties, the managers, administrators or liquidators who contravene for fraudulent purposes one of the obligations referred to in sections 81 to 87.

## PART VI. - Annual accounts and consolidated accounts

### CHAPTER PREMIER. - Annual accounts, management report and advertising formalities

#### Section 1. - Annual accounts

### Art. 92

§ 1<sup>er</sup>. Each year, managers or administrators draw up an inventory and establish annual accounts, the form and content of which are determined by the King. These annual accounts include the balance sheet, the results account and the schedule and form a whole.

Annual accounts must be submitted to the General Assembly for approval within six months of the year's closing.

If the annual accounts have not been submitted to the General Assembly within that period, the damage suffered by third parties is, unless otherwise proved, presumed to result from this omission.

§ 2. The obligation referred to in § 1<sup>er</sup> is also applicable to foreign companies in respect of their branches established in Belgium, except where these branches do not have any specific products related to the sale of goods or the provision of services to third parties or goods delivered or services presumed to the foreign company of which they are responsible, and whose operating expenses are borne entirely by the latter.

§ 3. The rules determined by the King under § 1<sup>er</sup> are not applicable:

1<sup>o</sup> to companies whose purpose is insurance or reinsurance, subject to the King's power to otherwise dispose of the Crown;

2<sup>o</sup> to companies governed by the Act of 22 March 1993 relating to the status and control of credit institutions, the National Bank of Belgium, the Institute of Repayment and Guarantee and the Caisse des dépôts et consignations;

3<sup>o</sup> to companies governed by Royal Decree No. 64 of 10 November 1967 organizing the status of portfolio companies;

4<sup>o</sup> to investment companies referred to in the Law of 6 April 1995 on secondary markets, the status of investment companies and their control, to intermediaries and investment advisors;

5<sup>o</sup> to agricultural companies.

### Art. 93

Small corporations have the ability to establish their annual accounts according to an abridged scheme established by the King.

Collectively-named companies and single-line companies whose turnover of the last fiscal year, excluding the value-added tax, does not exceed an amount fixed by the King, have the power not to establish annual accounts according to the rules established by the King under section 92, § 1<sup>er</sup>.

Paragraph 1<sup>er</sup> and paragraph 2 are not applicable:

1<sup>o</sup> to companies whose purpose is insurance and which have been admitted by the King under the legislation on the control of insurance companies;

2<sup>o</sup> to companies whose purpose is the mortgage.

#### Section II. - Management report

### Art. 94

This section is not applicable:

1<sup>o</sup> to small companies;

2<sup>o</sup> to collectively-named companies, single-owned companies and unlimited-claimed cooperative societies, all of which are unrestricted partners are natural persons;

3<sup>o</sup> to groups of economic interest;

4<sup>o</sup> to agricultural companies.

Small corporations must, however, resume the justification referred to in section 96, 6<sup>o</sup>, in the schedule to the annual accounts.

### Art. 95

Administrators or managers report on their management.

### Art. 96

The annual report referred to in section 95 includes:

1<sup>o</sup> a comment on the annual accounts with a view to accurately exposing the evolution of business and the situation of society;

2<sup>o</sup> data on important events that occurred after the fiscal year ended;

3<sup>o</sup> of the indications on circumstances that may have a significant influence on the development of society, provided that they are not of a nature to seriously prejudice society;

4<sup>o</sup> of information on research and development activities;

5<sup>o</sup> of the indications relating to the existence of branches of the company;

6<sup>o</sup> in case the balance sheet reveals a deferred loss or the results account discloses a loss of the fiscal year for two successive years, a justification for the application of the continuity accounting rules;

7<sup>o</sup> all information to be inserted under this code.

## Section III. - Advertising forms

### First sub-section. - Belgian companies

## ART. 97 Global Regulation

The provisions are applicable:

- 1° to small companies that have adopted the form of a partnership in collective name, a single limited partnership or an unlimited liability cooperative corporation;
- 2° to companies in collective name, single-owned companies and unreasonable cooperative societies, all of which are boundlessly liable individuals.

### Art. 98

The annual accounts are deposited by directors or managers at the National Bank of Belgium.

This deposit takes place within thirty days of their approval.

If the annual accounts have not been filed pursuant to paragraph 2, the damage suffered by third parties is, unless otherwise proved, presumed to result from that omission.

### Art. 99

Small corporations may publish their established annual accounts under section 93, paragraph 1<sup>er</sup>, according to an abbreviated schema, in this abbreviated schema.

### Art. 100

Are deposited together with the annual accounts and in accordance with section 98:

- 1° a document containing the following information: the names, names, occupation and domicile of directors or managers, as the case may be, and commissioners on duty. If the annual accounts have been audited and/or corrected by an external auditor or company reviewer, they must also be mentioned the names, names, professions, domicile of the external auditor or company reviewer and their membership number with their institutes. The administrator or manager mentions, where appropriate, that no audit or recovery mission has been entrusted to an external auditor or a business reviewer.
- 2° a table showing the allocation of the result, if this assignment does not result from the annual accounts;
- 3° a document indicating, as the case may be, the date of the filing of the shipment of the authentic constitutive act or the double of the constitutive act under private seing, or the date of the filing of the full text of the statutes in an updated drafting;
- 4° the report of the commissioners established in accordance with Article 144;
- 5° a document indicating, unless that information is already mentioned in the annual accounts:
  - (a) the amount of debts or debts guaranteed by the Belgian public authorities at the closing date;
  - (b) the amount, on that same date, of payable debts, whether or not payment deadlines have been obtained, to tax administrations and to the National Social Security Office;
  - (c) the amount for the fiscal year ended, capital or interest subsidies paid or allocated by public authorities or institutions;
- 6° a document including the guidance of the management report provided for in Article 96. Any person addressing the company's headquarters may read the management report and obtain it free of charge, even by correspondence, full copy. This obligation is not applicable to small corporations;
- 7° any other document that must be filed together with the annual accounts under this code.

### Art. 101

The King shall determine the terms and conditions for the filing of the documents referred to in sections 98 and 100, as well as the amount and modes of payment of advertising fees.

It determines on what conditions this formality may be performed other than by the filing of paper documents.

### Art. 102

The deposit shall be accepted only if the provisions of Article 101 are complied with. Unless otherwise notified to the company by the National Bank of Belgium within eight working days after the date of receipt of the documents, the deposit is considered to be accepted on the date of filing.

Within fifteen working days after acceptance of the deposit, the deposit shall be marked in a collection prepared by the National Bank of Belgium on a medium and in the manner determined by the King. The collection is published in the Annexes of the Belgian Monitor. Section 76 applies.

The text of this mention is sent by the National Bank of Belgium to the Registry of the Commercial Court where the record of the company referred to in Article 67, § 2, is held to be paid. Section 75 is not applicable to the depot of this document on file.

If the arithmetic and logical controls carried out by the National Bank of Belgium reveal errors in the annual accounts deposited, it informs the company and, where appropriate, its Commissioner.

If it appears from this information that, in the opinion of the National Bank of Belgium, the annual accounts deposited contain substantial errors, the company proceeds to a corrective deposit within two months of the date of the sending of the list of errors.

### Art. 103

The National Bank of Belgium and the Registry of the Commercial Courts are responsible for issuing copies, in the form determined by the King, to those who apply, of the documents referred to in articles 98 and 100, relating to companies named and to specified years.

The King determines the amount of fees to be paid to the National Bank of Belgium for the receipt of copies referred to in paragraph 1<sup>er</sup>.

Only copies issued by the National Bank of Belgium are proof of the documents filed. The Registry of the Commercial Courts shall obtain without charge and without delay from the National Bank of Belgium, a copy of all documents referred to in Articles 98 and 100, in the form determined by the King.

### Art. 104

Where, in addition to the advertising required by sections 98 and 100, the company proceeds through other channels to the full dissemination of its annual accounts or management report, their form and content must be identical to those of the documents that have been the subject of the Commissioners' report. They must be accompanied by the text of this report. If the auditors have certified the annual accounts without formulating reservations, the text of their report may be replaced by their certificate.

### Art. 105

Without prejudice to the publication provided for in sections 98 and 100, companies may issue their annual accounts in an abridged version, provided that they do not alter the image of the heritage, the financial situation and the company's results. In this case, mention is made that this is an abridged version and reference is made to the publication made under the Act. If the annual accounts have not yet been filed, reference is made. Neither the report nor the audit certificate can accompany these shortened annual accounts. However, it must be specified if the annual audit certificate issued by the Commissioners has been given with or without reservation, or if it has been refused.

### Art. 106

The National Institute of Statistics shall transmit to the National Bank of Belgium, at the request of the National Bank of Belgium, the accounting documents whose communication to the National Institute of Statistics would be imposed pursuant to the Act of 4 July 1962 authorizing the Government to conduct statistical and other investigations into the demographic, economic and social situation of the country.

The National Bank of Belgium is empowered to prepare and publish, as determined by the King, comprehensive and anonymous statistics relating to all or part of the material contained in the documents transmitted to it pursuant to paragraph 1<sup>er</sup> and articles 98 and 100.

Sub-section II. - Foreign societies

Art. 107

§ 1<sup>er</sup>. Any company with a branch in Belgium, as well as any foreign corporation whose securities are admitted to the first market of a securities exchange, to the official rating of a securities exchange located in a Member State of the European Union or on a regulated market or to another regulated market, within the meaning of Article 1<sup>er</sup>, § 3, of the law of 6 April 1995 relating to secondary markets, the status of investment enterprises and their control, to intermediaries and investment advisers, recognized by the King as equivalent for the application of this article, are required to deposit their annual accounts and, where applicable, their consolidated accounts relating to the last fiscal year ended with the National Bank of Belgium, in the form in which these documents were established, controlled and published.

This filing shall take place annually, within the month following their approval and not later than seven months after the year's closing date.

Securities of companies that do not comply with these obligations cannot be maintained in the securities exchange or the regulated market concerned.

The King may make derogatory provisions in the preceding paragraphs in respect of foreign companies whose financial instruments are admitted to a Belgian regulated market within the meaning of Article 1<sup>er</sup>, § 3, of the Law of 6 April 1995 on secondary markets, the status of investment companies and their control, to intermediaries and investment advisers.

§ 2. Articles 100 to 104 are applicable to the parts referred to in § 1<sup>er</sup>.

§ 3. The obligation referred to in § 1<sup>er</sup> is not applicable to the annual accounts of the branch established in accordance with Article 92, § 2.

CHAPTER II. - Consolidated accounts, management report and advertising formalities

Section 1. - Scope of application

Art. 108

Without prejudice to provisions that are contrary to other laws, this chapter is not applicable:

1° to companies governed by the Act of 22 March 1993 relating to the status and control of credit institutions, the National Bank of Belgium, the Institute of Repayment and Guarantee and the Caisse des dépôts et consignations;

2° to companies governed by Royal Decree No. 64 of 10 November 1967 organizing the status of portfolio corporations;

3° to investment companies referred to in the Law of 6 April 1995 on secondary markets, the status of investment companies and their control, to intermediaries and investment advisers;

4° to groups of economic interest;

5° to agricultural companies.

Section II. - General: the obligation to consolidate

Art. 109

For the purposes of this chapter, the following means:

- "consolidating society", the firm that establishes consolidated accounts;

- "Companies included in consolidation", the consolidating company and its subsidiaries and foreign affiliates consolidated by global integration or by proportional integration; are not considered to be companies included in consolidation, foreign affiliates and companies whose share of equity and result is included in the accounts consolidated by the equivalence method;

- "a foreign subsidiary company", an organization, with or without a proper legal personality, which carries on a commercial, financial or industrial activity under the control of a Belgian company;

- "consolidated set", the set of companies included in consolidation.

Art. 110

Any parent company is required to establish consolidated accounts and a management report on consolidated accounts if, alone or jointly, it controls one or more subsidiary companies, Belgian law or foreign law, or one or more foreign affiliates.

Art. 111

In the case of a consortium, consolidated accounts must be established, encompassing companies forming the consortium and their subsidiaries.

Each of the companies forming the consortium is considered a consolidating society.

The establishment of consolidated accounts and the management report on consolidated accounts and their publication is jointly the responsibility of the companies forming the consortium.

Art. 112

A corporation is exempted from the requirement to establish consolidated accounts and a management report on consolidated accounts when it is part of a small group.

Art. 113

§ 1<sup>er</sup>. A company shall, under the conditions set out in § 2, exempt from establishing consolidated accounts and a management report on consolidated accounts if it is itself a subsidiary of a parent company that establishes, controls and publishes consolidated accounts and a management report on consolidated accounts.

§ 2. The use of the exemption provided for in § 1<sup>er</sup> is decided by the general assembly of the corporation in question, for not more than two exercises; this decision may be renewed.

The exemption may only be decided if the following conditions are met:

1° the exemption was approved in the general assembly by a number of votes reaching nine tenths of the number of votes attached to all the titles or, if the corporation in question is not constituted in the form of an anonymous corporation or a share-sponsored corporation, by a number of votes reaching the eight tenths of the number of votes attached to all the rights of associates;

2° the company concerned and, without prejudice to Article 116, all its subsidiaries are included in the consolidated accounts established by the parent company referred to in § 1<sup>er</sup>;

3° (a) if the parent company referred to in § 1<sup>er</sup> reports on the right of a Member State of the European Union, its consolidated accounts and its management report on consolidated accounts are prepared, controlled and published in accordance with the



provisions of that Member State pursuant to Council Directive 83/349/EEC of 13 June 1983; the consolidated accounts referred to in paragraph 1<sup>er</sup> does not fall under the right of a Member State of the European Union, its consolidated accounts and its management report on the consolidated accounts are prepared in accordance with Directive 83/349/EEC referred to above or equivalent to accounts and reports prepared in accordance with this directive; these consolidated accounts shall be controlled by a person authorized under the right of which the parent corporation is responsible for the certification of the accounts;

4(a) a copy of the consolidated accounts of the parent company referred to in § 1<sup>er</sup>, the control report on these accounts and a document comprising the indications provided for in section 119 is, within two months of their availability to the partners and, no later than seven months after the closing of the fiscal year to which they are related, deposited by the directors or managers of the exempt corporation, to the National Bank of Belgium. Articles 101, 102, paragraphs 1<sup>er</sup> to 3, and 103 are applicable. For the purposes of section 102, paragraph 3, the file referred to is the file of the exempt corporation;

(b) any person addressing the headquarters of the exempt corporation may be aware of the management report on the consolidated accounts of the parent corporation referred to in § 1<sup>er</sup> and obtain it free of charge, even by correspondence, full copy;

(c) the consolidated accounts, the management report on the consolidated accounts and the monitoring report on the consolidated accounts of the parent company referred to in § 1<sup>er</sup> shall, for the purpose of making available to the public in Belgium in accordance with the preceding paragraphs, be written or translated into the language(s) in which the exempt society is required to publish its annual accounts;

(d) the consolidated accounts of the parent company referred to in § 1<sup>er</sup> and the management and control reports relating to these accounts, however, shall not be the subject of the publication provided for in (a) and (b) if they have already been the subject of an advertisement in the language or languages referred to in (c) pursuant to sections 120 and 121 or (a).

§ 3. The schedule of the exempt corporation's annual accounts:

1° mentions that it made use of the faculty opened by § 1<sup>er</sup> not to prepare and publish consolidated accounts and a management report on consolidated accounts;

2° indicates the name and seat and, if it is a Belgian law company, the VAT number or the national number of identification of the company that establishes and publishes the consolidated accounts referred to in § 2, 2°, of this article;

3° indicates in case of application of § 2, d), the date of filing of the documents concerned;

4° specifically justifies compliance with the conditions provided for in this article.

§ 4. In case of consolidation of a consortium, the exception referred to in § 1<sup>er</sup> is also applicable, provided that, for the purposes of §§ 2 and 3, the consolidated accounts of the consortium replace the consolidated accounts of the parent company.

Art. 114

The exemptions provided for in sections 112 and 113 do not apply if the shares or shares issued by one of the companies to be consolidated are, in whole or in part, listed within the meaning of section 4.

Art. 115

Sections 112 and 113 do not prejudice the legal and regulatory provisions concerning the establishment of consolidated accounts or a management report on consolidated accounts when required:

1° for information of workers or their representatives;

2° at the request of an administrative or judicial authority for its own information.

Section III. - Consolidation factor and consolidated accounts

Art. 116

The King sets the rules according to which the consolidation perimeter is determined.

Art. 117

§ 1<sup>er</sup>. The King determines the form and content of the consolidated annual accounts.

§ 2. In case of consolidation of a consortium, consolidated accounts may be established according to the law and currency of the country of a foreign company, member of the consortium, if most of the activities of the consortium are carried out by that company or in the currency of the country where it has its headquarters.

The capital items to be included in the consolidated accounts are the sums added to each of the companies forming the consortium.

Art. 118

The consolidated annual accounts are prepared by the corporation's management body.

Section IV. - Management report on consolidated accounts

Art. 119

A management report on the consolidated accounts is attached to the consolidated accounts by the directors or managers.

The report includes:

1° a comment on the consolidated accounts with a view to accurately exposing the evolution of business and the situation of the consolidated whole;

2° data on important events that occurred after the fiscal year ended;

3° provided that they are not of a nature to seriously prejudice a society included in the consolidation, indications of circumstances that may have a significant influence on the development of the consolidated set;

4° of information on research and development activities. The consolidated account management report may be combined with the management report prepared pursuant to section 96, provided that the prescribed information is provided in a separate manner for the consolidating corporation and the consolidated whole.

Section V. - Advertising forms

Art. 120

The consolidated accounts and the consolidated accounts report are made available to the consolidating company partners on the same terms and conditions as the annual accounts. These documents are communicated to the General Assembly and are published within the same time frame as the annual accounts.

It may be derogated from paragraph 1<sup>er</sup> in the event that consolidated accounts are not settled on the same date as the annual accounts to take into account the closing date of the accounts of the largest or largest corporations included in consolidation. In this case, consolidated accounts and consolidated reports must be made available to partners and issued no later than seven months after the closing date.

Art. 121

Articles 100, 1°, and 101 to 106, as well as decrees for their execution, are applicable to consolidated accounts and consolidated accounts.





For the purposes of section 102, paragraph 3, the file referred to is that of the consolidating society. **Global Regulation** may, in addition to the publication imposed by paragraph 1<sup>er</sup>, in the currency in which they are established, be published in the currency of a member state of the Organisation for Economic Co-operation and Development, using the exchange rate at the closing date of the consolidated balance sheet. This course is listed in the schedule.

#### CHAPTER III. - Royal Enforcement Orders of this Title and Exceptions

##### Art. 122

The King may adapt and supplement the rules relating to the form and content of the annual accounts established under section 92 according to the branches of business or economic sectors.

The King may, in respect of companies that do not exceed a certain size that he or she defines, adapt and supplement the rules established under section 92, or provide for the exemption of all or part of these rules. These adaptations and exemptions may vary according to the purpose of the above-mentioned orders and according to the legal form of the corporation.

##### Art. 123

§ 1<sup>er</sup>. The King may adapt and supplement the rules relating to the establishment and advertising of consolidated accounts, as well as the establishment and advertising of a management report, and the rules relating to the form and content of consolidated accounts that he has issued under section 117, according to the branches of business or economic sectors.

Articles 109 to 121, as well as the decrees taken for their execution, are only applicable to Belgian law insurance companies and to Belgian law reinsurance companies, since the King does not derogate from them.

§ 2. The King may, with respect to companies that do not exceed a certain size that He defines, adapts and supplements the rules relating to the establishment and advertising of consolidated accounts as well as to the establishment and advertising of a management report, and the rules relating to the form and content of the consolidated accounts that he has issued under section 117, or provide for the exemption of all or part of these rules. These adjustments and exemptions may vary depending on the purpose of the above-mentioned orders and depending on the form of the corporation.

##### Art. 124

The Royal Decrees under this title are submitted to the Central Council of the Economy for advice and deliberated in the Council of Ministers.

##### Art. 125

§ 1<sup>er</sup>. The Minister who has the Economic Affairs in his or her responsibilities may authorize, in special cases and with the reasoned advice of the Accounting Standards Commission, derogations from the Royal Decrees issued pursuant to this title.

This jurisdiction is exercised by the Minister who has the middle classes in his or her duties, with respect to small corporations.

The Accounting Standards Board is informed of the Minister's decision.

§ 2. § 1<sup>er</sup> is not applicable to companies whose purpose is insurance and which are approved by the King pursuant to the legislation relating to the control of insurance companies.

#### CHAPTER IV. - Criminal provisions

##### Art. 126

§ 1<sup>er</sup>. Will be punished with a fine of fifty to ten thousand francs:

1° Directors or managers who contravene Article 92, § 1<sup>er</sup>2;

2° Directors, managers, directors or agents of companies who knowingly contravene the provisions of the decrees made under articles 92, § 1<sup>er</sup>Paragraph 1<sup>er</sup>122 and 123;

3° Directors, managers, directors or agents of companies who knowingly contravene sections 108 to 121 and their enforcement orders.

In cases referred to in paragraph 1<sup>er</sup>, 2° and 3°, they are punished by imprisonment from one month to one year and a fine of fifty to ten thousand francs or only one of these penalties, if they acted with fraudulent intent.

However, corporate managers, directors or agents will not be punished by the penalties provided for in paragraph 1<sup>er</sup> for misunderstood Article 92, § 1<sup>er</sup>Paragraph 1<sup>er</sup>only if the company was declared bankrupt.

§ 2. Societies will be civilly responsible for the fines imposed under § 1<sup>er</sup> against their directors, managers, directors, agents.

##### Art. 127

Will be punished by imprisonment and a fine of twenty six francs to two thousand francs:

1° those who have committed a false, with a fraudulent intention or intend to harm, in the annual accounts of the companies, prescribed by law or by statutes:

- either by false signatures;

- either by counterfeit or alteration of writings or signatures;

- either by the manufacture of conventions, provisions, obligations or discharges or by their subsequent insertion into the annual accounts;

- either by adding or altering clauses, declarations or facts which these acts are intended to receive and observe;

2° those who have made use of these falsehoods.

For the purposes of paragraph 1<sup>er</sup>, annual accounts exist as soon as they are subject to the inspection of the partners.

##### Art. 128

Managers and administrators and persons responsible for the management of an institution in Belgium who contravene one of the obligations of articles 81 to 85, 95, 96, 98 and 100 will be punished with a fine of 50 francs to ten thousand francs.

If the violation of these provisions takes place for fraudulent purposes, they may also be punished by imprisonment from one month to one year or two cumulative penalties.

This section is not applicable to economic interest groups.

##### Art. 129

shall be punished by the penalties provided for in Article 458 of the Criminal Code for any person performing functions at the National Bank of Belgium who has communicated to a person outside the National Bank or published either individual information transmitted to the National Bank of Belgium under Article 106, paragraph 1<sup>er</sup>, without the prior authorization of the declarant or the enumerated, either comprehensive and anonymous statistics that have been prepared by the National Bank of Belgium under Article 106 and in which items that have been transmitted to the National Bank of Belgium pursuant to Article 106, paragraph 1<sup>er</sup>but not yet published by the National Statistical Institute or the National Bank of Belgium.

#### PART VII. - Control of annual and consolidated accounts

#### CHAPTER PREMIER. - General control provisions

##### Section 1. - Appointment

##### Art. 130

The commissioners are appointed among the members, natural or legal persons, of the Institute of Business Reviewers, by the General Assembly.

Any decision to appoint or renew the mandate of a Commissioner made without complying with paragraph 1<sup>er</sup> is zero. The invalidity is pronounced by the president of the commercial court of the head office of the company serving as a reference.

Art. 131

in the absence of commissioners, or where all commissioners are unable to perform their duties, they shall be immediately appointed or replaced. If not, the President of the Commercial Court, acting as a reference, on the request of any interested person, appoints a revisor of undertakings for which he or she determines the emolument and who is responsible for the performance of the duties of Commissioner until he or she has been regularly appointed or replaced. If the Commissioner is to be appointed by the General Assembly, such an appointment or replacement will only be effective after the first annual general meeting following the appointment of the business reviewer by the President.

Art. 132

Each time a review mission is entrusted to a civil society referred to in Article 33, § 1<sup>er</sup>, of the Act of 22 July 1953 creating an Institute of Business Reviewers, the Institute is required to designate a representative of its associates, managers or administrators responsible for the execution of this mission on behalf of the company. The representative shall be subject to the same conditions and shall be liable to the same civil, criminal and disciplinary responsibilities as if he carried out this mission on his own behalf, without prejudice to the solidarity of the civil society he represents. The latter can only revoke its representative by simultaneously appointing its successor.

The designation and termination of the functions of the permanent representative shall be subject to the same advertising rules as if he or she carried out this mission on his or her own behalf.

Art. 133

Can not be designated as a Commissioner those who are in conditions that may jeopardize the independence of the exercise of their duties as a Commissioner, in accordance with the rules of the business review profession. Commissioners must ensure that they are not placed, after designation, under such conditions.

In particular, the commissioners may not accept, either in the corporation under their control or in a corporation related to it, any other function, mandate or mission to be exercised during or after the commissioner's mandate and that would jeopardize the independence of the performance of their duties as Commissioner.

Paragraph 2 is also applicable to persons with whom the Commissioner has entered into a contract of employment or with whom he is, from a professional perspective, in collaborative relationships.

Section II. - Remuneration

Art. 134

§ 1<sup>er</sup>. The Commissioners' emoluments are established at the beginning of their term by the General Assembly. These emoluments consist of a fixed sum guaranteeing compliance with the revision standards established by the Institute of Business Reviewers. They may only be amended from the consent of the parties.

§ 2. The commissioner's performance of exceptional benefits or special missions may not be paid by special emoluments unless it is reported in the management report of their object and the related remuneration.

§ 3. Apart from these emoluments, Commissioners may not receive any benefits from the company in any form.

The company may not grant them loans or advances, or give or constitute guarantees for their benefit.

§ 4. The performance by a person with whom the Commissioner has entered into a contract of work or with whom he or she is, from a professional perspective, in collaborative relationships, a function, a mandate or a mission, may only be paid by the company as long as it is reported in the management report of the purpose of the function, mandate or mission, as well as related remuneration.

Section III. - Resignation and revocation

Art. 135

The commissioners are appointed for a term of three years renewable. Under penalty of damages, they can only be revoked in the course of a warrant for just cause by the General Assembly.

Commissioners may, except for serious personal reasons, resign in the course of their term only at a general meeting and after having made a written report on the reasons for their resignation.

Art. 136

If the General Assembly is called to deliberate on the revocation of a Commissioner, the inclusion of this issue on the agenda must immediately be notified to the interested party. The Commissioner may make written submissions to the corporation. These comments are announced in the agenda and are made available to the partners in accordance with sections 269, 381 and 535. A copy of these observations is also transmitted without delay to persons who have completed the formalities required to be admitted to the assembly.

The corporation may, by request addressed to the President of the Commercial Court and previously notified to the Commissioner or revisor referred to in paragraph 1<sup>er</sup>, requesting permission not to communicate to the partners any observations that are irrelevant or in a manner that would unfairly harm the credit of the corporation. The President of the Commercial Court shall hear the corporation and the Commissioner or the Board House Reviewer and shall rule in public hearing. His decision is not subject to opposition or appeal.

Section IV. - Skills

Art. 137

§ 1<sup>er</sup>. Commissioners may, at any time, be aware, without displacement, of books, correspondence, minutes and generally of all documents and writings of the society. They may require the management body, officers and employees of the company all the explanations or information and carry out all the necessary audits.

They may require the management body to be in possession, at the company's headquarters, of information relating to related companies or other companies with which there is a link of participation, to the extent that such information is necessary for them to control the financial situation of the corporation.

They may require the management body that it requires third parties to confirm the amount of their receivables, debts and other relationships with the controlled company.

§ 2. The powers referred to in § 1<sup>er</sup> may be exercised by the Commissioners jointly or individually.

If several commissioners have been appointed, they form a college. They can be divided among them the charge of the control of society.

Each semester shall be given to them at least by the management body an accounting statement based on the balance sheet and the results account.

Commissioners who note, during their audits, serious and consistent facts that may jeopardize the business continuity, inform the management body in writing and in a focused manner.

In this case, the management body must deliberate on the steps that should be taken to ensure business continuity for a reasonable period of time.

Commissioners may waive the information referred to in the first paragraph when they find that the management body has already deliberated on the actions that should be taken.

If within one month of the communication of the information referred to in the first paragraph, the Commissioners were not informed of the deliberation of the management body on the measures taken or envisaged to ensure the business continuity for a reasonable period of time, they may communicate their findings to the President of the Commercial Court. In this case, section 458 of the Penal Code is not applicable.

In the event that it is not appointed a Commissioner, where serious and consistent facts are likely to compromise the business continuity, the management body is also required to deliberate on the steps that should be taken to ensure business continuity for a reasonable period of time.

Art. 139

Commissioners may, in the exercise of their duties and at their own expense, be assisted by staff or other persons to whom they respond.

Section V. - Accountability

Art. 140

The commissioners are responsible to the society for the faults committed by them in the performance of their duties.

They shall be in solidarity with society and with others of any damage resulting from breaches of the provisions of this Code or the statutes. It is not discharged from their responsibility, as to the offences to which they have not taken part, that if they prove that they have performed the normal diligences of their function and that they have denounced these offences to the management body and, if so, if they have not been adequately corrected, to the general assembly, the sooner after they have been aware of it.

CHAPTER II. Annual accounts oversight

Art. 141

This chapter is not applicable:

1° to collectively-named companies, single-supervised companies and unreliable cooperative societies, all of which have unlimited liability are natural persons;

2° to small companies within the meaning of Article 15, provided that, for the purposes of this chapter, each company shall be considered individually, except:

(a) corporations that are part of a group that is required to establish and publish consolidated annual accounts;

(b) portfolio corporations that fall under the application of Royal Decree No. 64 of 10 November 1967, which provides for the status of portfolio corporations;

(c) companies whose securities are listed in the official rating of a stock exchange;

3° to economic interest groups whose members are not subject to control by a Commissioner;

4° to agricultural companies.

Art. 142

The control in companies of the financial situation, annual accounts and regularity under this Code and the statutes, of the transactions to be found in the annual accounts shall be entrusted to one or more commissioners.

Art. 143

The Commissioners prepare a written and detailed report on the annual accounts. for this purpose, the management body of the corporation shall hand over the documents to them one month before the expiry of the legal period in which the report must be submitted under this Code.

Art. 144

The report of the Commissioners referred to in section 143 specifically states:

1° how they carried out their controls and if they obtained from the management body and company staff the explanations and information they requested;

2° if accounting is held and annual accounts are established in accordance with applicable legal and regulatory provisions;

3° if, in their opinion, the annual accounts give a true picture of the company's heritage, financial situation and results, taking into account the legal and regulatory provisions governing them and the justifications given in the schedule are adequate;

4° if the management report includes the information required by sections 95 and 96 and is consistent with the annual accounts;

5° if the distribution of the benefits proposed to the assembly is in accordance with the statutes and this code;

6° if they have not been aware of any transactions or decisions taken in violation of the statutes or this code. However, this mention may be omitted when the disclosure of the offence is likely to cause unjustified harm to society, in particular because the management body has taken appropriate measures to correct the illegality situation thus created.

In their report, the Commissioners will provide and warrant with precision and clarity the reservations or objections they consider to be required to formulate. Otherwise, they will expressly mention that they have none to formulate.

CHAPTER III. - Control of consolidated accounts

Section 1. - General regime

Art. 145

Except as otherwise provided in other legislation, this chapter is not applicable in respect of:

1° of credit institutions governed by the Act of 22 March 1993 relating to the status and control of credit institutions, the National Bank of Belgium, the Institute of Repayment and Guarantee and the Caisse des dépôts et consignations;

2° of companies governed by Royal Decree No. 64 of 10 November 1967 organizing the status of portfolio corporations;

3° of the investment companies referred to in the Law of 6 April 1995 on secondary markets, the status of investment companies and their control, to intermediaries and investment advisors;

4° of economic interest groups;

5° of agricultural companies.

Art. 146

The consolidated accounts shall be controlled by the consolidating corporation's commissioner(s) or by one or more revisors of designated companies. In the latter case, the appointment is the competence of the General Assembly.

In the case of a consortium consolidated accounts are controlled by the commissioner(s) of at least one of the companies forming

in the case of a consortium, consolidated accounts are controlled by the commissioner(s) or at least one of the companies, forming the consortium, or by one or more revisors of designated undertakings in common agreement to that effect; in case the consolidated accounts are established according to the law and in the currency of the country of a foreign company, member of the consortium, they may be controlled by the controller to the accounts of that foreign company.

Articles 133, 134, §§ 1<sup>er</sup> and 3, 135 and 136 are applicable to the reviewer responsible for the control of consolidated accounts without being appointed as Commissioner of the consolidated corporation.

Art. 147

The consolidating company must use its control authority to obtain subsidiaries understood or to understand in the consolidation that they allow the revisor responsible for the control of the consolidated accounts to carry out the necessary audits on site and that they provide it with the information and confirmations required to comply with its obligations under the provisions decreed by the King in respect of the establishment, control and advertising of the consolidated accounts.

Art. 148

The auditors or auditors designated for the control of consolidated accounts shall prepare a written and detailed report that specifically states:

1° how they have completed the revision of the consolidated accounts and have obtained the explanations and information required for their controls;

2° if the consolidated accounts are established in accordance with the applicable legal and regulatory provisions;

3° if, in their opinion, the consolidated accounts give a true picture of the heritage, financial situation and results of the consolidated set, taking into account the legal and regulatory provisions governing them and the justifications given in the schedule are adequate;

4° if the consolidated accounts management report includes information required by law and is consistent with consolidated accounts.

In their report, the auditors or reviewers will accurately and clearly indicate the reservations they consider to be required to formulate. Otherwise, they will expressly mention that they have none to formulate.

Section II. - Royal Decrees on the Control of Consolidated Accounts

Art. 149

§ 1<sup>er</sup>. The King may adapt and supplement the rules relating to the control of consolidated accounts and the establishment of a control report according to the branches of business or economic sectors.

Paragraph 1<sup>er</sup> is not applicable to companies whose purpose is insurance and which are approved by the King pursuant to the legislation relating to the control of insurance companies.

§ 2. The King may, with respect to companies that do not exceed a certain size that He defines, adapts and supplements the rules relating to the control of consolidated accounts and the establishment of a control report, or for the exemption of all or part of these rules. These adaptations and exemptions may vary according to the purpose of the above-mentioned orders and according to the legal form of the corporation.

Art. 150

The Minister who has the Economic Affairs in his or her powers may authorize, in special cases and with the reasoned advice of the Accounting Standards Commission, exemptions to sections 146 to 148 and the rules established pursuant to section 149.

The Accounting Standards Board is informed of the Minister's decision.

Paragraph 1<sup>er</sup> is not applicable to companies whose purpose is insurance and which are approved by the King pursuant to the legislation relating to the control of insurance companies.

CHAPTER IV. - Control in companies

where there is a business council

Section 1. - Nature of control

Art. 151

In each company where a board of business is to be established pursuant to the Act of 20 September 1948 on the organization of the economy, with the exception of subsidiated educational institutions, one or more corporate reviewers are designated as:

1° to report to the Corporate Board on the annual accounts and management report, in accordance with sections 143 and 144;

2° to certify the faithful and completeness of the economic and financial information that the management body transmits to the board of business, provided that this information results from the accounting, annual accounts of the company or other verifiable documents;

3° to analyze and explain, in particular, to the members of the company council appointed by the workers, the economic and financial information that has been transmitted to the board of business, as to their significance regarding the financial structure and the evolution of the financial situation of the company;

4° if it considers that it is unable to issue the certification referred to in 2°, or if it finds any deficiencies in the economic and financial information transmitted to the board of business, to refer the certification to the management body, and, if it does not follow up in the month following its intervention, to inform the board of business of initiative.

Art. 152

The management body shall transmit to the business reviewer copies of the economic and financial information it discloses in writing to the business board.

Art. 153

The agenda and minutes of business council meetings where economic and financial information is provided or discussed are communicated to the business reviewer at the same time as to the members.

Art. 154

The business reviewer may attend the business council meetings.

However, it is required to attend when invited by the management body or by the members appointed by the workers who decide to do so by a majority of the votes cast by them.

Section II. - Companies where a commissioner is appointed

Art. 155

When a Commissioner is to be appointed to a corporation under this title, the mission referred to in sections 151 to 154 is carried out by the Commissioner.

Art. 156

Commissioners of the corporation referred to in section 155 shall be appointed upon presentation of the board of business deliberating on the initiative and on the proposal of the governing body and by a majority of the votes cast by its members and by a majority of the votes cast by the members appointed by the workers.

majority of the votes cast by the members appointed by the workers.

The King decides on the renewal of their mandate.

Art. 157

If the majority referred to in Article 156, paragraph 1<sup>er</sup>, may not be obtained within the board of business on this proposal and generally, in the absence of the appointment of one or more commissioners under section 156, paragraph 1<sup>er</sup>, the President of the Commercial Court in whose jurisdiction the company has established its seat, deciding on the application of any interested person and serving as a reference, appoints a revisor of undertakings to which it sets the emolument and which is responsible for performing the duties of Commissioner and the duties referred to in sections 151 to 154 until it is regularly provided for its replacement.

This appointment by the President of the Commercial Court shall be made on the advice of the Business Council in the event that the Board was not required to deliberate on the appointment of the Commissioner in accordance with section 156, paragraph 1<sup>er</sup>.

Art. 158

The amount of the remuneration of the commissioners is communicated as information to the board of business. Such remuneration shall repay the duties of Commissioner and the duties of Commissioner under sections 151 to 154. at the request of the members of the board of directors appointed by the workers, by a majority of the votes cast by them, the reviser shall submit to the board an estimate of the amount of benefits required for the performance of these duties and missions.

Art. 159

The Commissioner may not, in the course of a term of office, be revoked only on a proposal or in accordance with the firm's advice by a majority of the votes cast by its members and by a majority of the votes cast by the members appointed by the workers.

In the event of a resignation, the Commissioner must inform the board of business in writing of the reasons for his resignation.

Art. 160

Any decision to appoint, renew or revocation made without complying with sections 156 to 159 is void. The invalidity is pronounced by the president of the commercial court of the head office of the company serving as a reference.

Section III. - Companies where no commissioner has been appointed

Art. 161

In companies where no Commissioner has been appointed, the General Assembly shall appoint a business reviewer for the mission referred to in sections 151 to 154.

Art. 162

Except as derogated by this Code, sections 130 to 140 apply to corporate reviewers appointed in companies where there is no Commissioner.

The submission, renewal of the mandate and referral shall be made in accordance with sections 156 to 160.

Art. 163

The mission of the President of the Commercial Court referred to in Articles 157 and 159 is carried out, in respect of civil societies that have taken one of the forms referred to in Book V, by the President of the Labour Court in whose jurisdiction the company has established its seat, sitting as a reference.

Section IV. - Royal orders on corporate control

where there is a business council

Art. 164

§ 1<sup>er</sup>. The King may agree on the terms and conditions for the application of Articles 151 to 163. It may provide that these or some of the rules of these sections are applicable only to the extent that the board of business has not decided otherwise.

§ 2. Before stopping the regulatory measures provided by § 1<sup>er</sup>, the King takes the opinion of either the National Labour Council or the competent parity commission or, in its absence, representative organizations, business leaders, workers and executives.

When these measures raise, regardless of the social aspect, issues of economic interest, the King also takes the opinion, either of the Central Council of the Economy or of the competent special consultative commission.

The organizations consulted under this article shall submit their notice within two months of the application made to them, if not otherwise, it may be overtaken.

CHAPTER V. - Individual powers of investigation and control of partners

Art. 165

In the event that, pursuant to section 141, no Commissioner shall be appointed, the management body is nevertheless required to submit to the competent body the request of one or more associates for the appointment of a Commissioner, who is responsible for the functions referred to in section 142.

Art. 166

In case no commissioner is appointed, each associate has, notwithstanding any contrary stipulation of the statutes, individually the powers of investigation and control of the commissioners. He can be represented by an accountant.

Art. 167

The remuneration of the accounting expert referred to in section 166 is the responsibility of the corporation if it has been designated with its agreement or if the remuneration has been paid by judicial decision. In these cases, the observations of the accounting expert are communicated to the company.

CHAPTER VI. - Auditors

Art. 168

If there are indications of serious impairment or risk of serious breach of the interests of the corporation, the Commercial Court may, at the request of one or more associates with at least 1% of the votes attached to all existing securities, or having securities representing a fraction of the capital of at least 50 million francs, appoint one or more experts whose mission is to verify the books and accounts of the corporation and the transactions performed by its organs.

Art. 169

The application under section 168 is filed by citation. The court shall hear the parties in the board's chamber and shall rule in public hearing.

The judgement specifies the issues or categories of issues that will be dealt with in the investigations. It sets out the pre-designation to provide, where appropriate, by the applicants for the payment of costs.

These fees may be included in those of the proceeding to which the facts found would be given. The court determines whether the report must be advertised. In particular, it may impose its publication at the company's expense, in accordance with the terms and conditions it sets.

CHAPTER VII. - Criminal provisions

Art. 170



with imprisonment from one month to one year and a fine of fifty to ten thousand francs, or only one of these penalties:

1<sup>st</sup> directors, managers and commissioners who contravene section 134;

2° those who obstruct the verifications to which they are required to submit under this heading or refuse to provide the information that they are required to provide under the same heading or knowingly give inaccurate or incomplete information.

Paragraph 1<sup>er</sup> is not applicable to economic interest groups.

Art. 171

§ 1<sup>er</sup>. Directors, managers, directors or agents of companies who knowingly contravene the provisions of Chapter III of this Consolidated Accounts Control Title are liable to a fine of 50 to ten thousand francs.

They are punished by imprisonment from one month to one year and a fine of fifty to ten thousand francs or only one of these penalties, if they have acted with fraudulent intent.

§ 2. Those who, as Commissioner, Reviewer or Independent Expert, certify or approve accounts, annual accounts, balances and corporate results accounts, where the provisions referred to in § 1<sup>er</sup> are not respected, either knowing that they had not been, or having failed to perform normal diligence to ensure that they had been respected, will be punished with a fine of fifty to ten thousand francs.

They will be punished by imprisonment from one month to one year and a fine of fifty to ten thousand francs or only one of these penalties, if they have acted with fraudulent intent.

§ 3. Societies will be civilly responsible for the fines imposed under § 1<sup>er</sup> against their directors, managers, directors or agents.

PART VIII. - Procedure and effects of corporate nullities and decisions of the General Assembly

CHAPTER PREMIER. - Procedure and effects of corporate nullity and conventional changes to corporate acts

Art. 172

The nullity of a society must be pronounced by a judicial decision.

This nullity produces its effect as of the decision which pronounces it.

However, it is only applicable to third parties from the publication prescribed by articles 67, 73 and 173.

Art. 173

The extract of the judicial decision taken in force of a matter judged or enforceable by provision stating the nullity of the society, as well as the extract of the judicial decision reforming the enforceable judgment by provision referred to above, are filed and published in accordance with sections 67 and 73.

This extract will contain:

1° the social name and head office;

2° the date of the decision and the court that pronounced it;

3° where applicable, the names, names and addresses of liquidators; in the event that the liquidator is a legal entity, the extract shall contain the designation or modification to the designation of the natural person who represents it for the exercise of the liquidation powers.

Art. 174

The nullity for defects in the form of a company may not be opposed by the company or by a partner to third parties, even by way of exception, unless it has been found by a judicial decision published in accordance with Article 173.

Art. 175

The nullity of a corporation pronounced by a judicial decision in accordance with Article 172 entails the liquidation of the corporation as in the case of a dissolution.

The invalidity does not affect by itself the validity of the company's or its commitments, without prejudice to the effects of the liquidation state.

The courts may designate liquidators. They may determine the method of liquidation of the company cancelled between the partners, unless the nullity is pronounced on the basis of articles 66, 227, 1° or 2°, or 403, 1° or 2°, or 454, 1° or 2°.

Art. 176

Where a regularization of the situation of the society is possible, the court concerned may grant a time limit for making such regulation.

Art. 177

Sections 172 and 174 apply to invalidity for defects in the form of conventional amendments to the acts of the companies.

CHAPTER II. - Procedure and effects of nullity decisions of the General Assembly

Art. 178

The court of commerce shall declare to the request of any interested person the invalidity of a general assembly decision.

It is not admissible to invoke nullity the person who voted in favour of the decision under appeal, except where his consent has been emptied, or who expressly or tacitly, has waived to avail himself of it, unless nullity results from a public order.

Art. 179

§ 1<sup>er</sup>. The action in nullity is directed against the company. If there are any serious grounds to justify it, the plaintiff may apply to refer the provisional suspension of the execution of the appealed decision. The order of suspension and the judgment pronouncing nullity produce their effects on all.

§ 2. The extract of the judicial decision in force of a matter deemed or enforceable by provision for the suspension or invalidity of a decision of the General Assembly, as well as the extract of the judicial decision reforming the enforceable judgment by provision referred to above, shall be filed and published in accordance with sections 67 and 73.

This extract will contain:

(a) the name and head office;

(b) the date of the decision and the court that pronounced it.

§ 3. The extract of the judicial decision taken in force of a matter judged or enforceable by provision stating the invalidity of an amendment of the statutes, as well as the extract of the judicial decision reforming the enforceable judgment by provision referred to above, are filed and published in accordance with sections 67 and 73.

This extract will contain:

(a) the name and head office;

(b) the date of the decision and the court that pronounced it.

Art. 180



Global Regulation where nullity is likely to affect the rights acquired in good faith by a third party in respect of the corporation on the basis of the decision of the court may declare nullity in respect of such rights without effect, subject to the right of the applicant to damages.

PART IX. - Dissolution and liquidation

CHAPTER PREMIER. - Proposal for liquidation

Art. 181

§ 1<sup>er</sup>. The proposal for the dissolution of a limited liability cooperative corporation, a share-sponsored corporation, a limited liability private corporation or an anonymous corporation is the subject of a supporting report prepared by the management body and announced in the agenda of the general assembly to be decided.

to this report is attached a statement summarizing the active and passive situation of the society, which was arrested on a date not more than three months. Except as a reasoned derogation, this condition shall be established in accordance with the assessment rules established pursuant to section 92 for cases where the corporation abandons its activities or where the prospect of continuity of its activities cannot be maintained.

The Commissioner or, if not, a business reviewer or an external auditor designated by the management body shall report on this condition and shall indicate, in particular, whether it fully, faithfully and correctly reflects the situation of the corporation.

§ 2. A copy of the reports and state summarizing the active and passive situation referred to in § 1<sup>er</sup>, is addressed to the partners in accordance with sections 269, 381 and 535, as the case may be, if it is a private corporation with responsibility, a cooperative corporation, an anonymous corporation or a share-sponsored corporation.

§ 3. The decision of the General Assembly taken in the absence of the reports provided for in this article shall be null and void.

§ 4. Before drawing up the authentic act of the decision of dissolution of the society, the notary must verify and attest the existence and external legality of the acts and formalities, under § 1<sup>er</sup>, to the society to which it instruments.

The act reproduces the conclusions of the report prepared in accordance with § 1<sup>er</sup> by the Commissioner or by the business reviewer or the external auditor.

CHAPTER II. - The judicial dissolution of societies that are no longer active

Art. 182

§ 1<sup>er</sup>. at the request of any interested person or the Public Prosecutor's Office, the court may declare the dissolution of a corporation that is in default of meeting the obligation to file the annual accounts in accordance with sections 98 and 100 for three consecutive years, unless a regularization of the situation is possible and intervenes before it is decided on the merits.

§ 2. Dissolution action referred to in § 1<sup>er</sup> may be introduced only after the expiry of a seven-month period following the closing date of the third accounting year.

This action is directed against society.

Dissolution produces its effects as of the decision which pronounces it.

However, it is only enforceable to third parties from the publication of the decision prescribed in section 74 and the conditions provided for in section 67, unless the company proves that those third parties had previously known.

§ 3. The court may either issue the immediate closure of the liquidation or determine the method of liquidation and designate one or more liquidators. When the liquidation is completed, the liquidator reports to the court and, where appropriate, submits a situation of social values and their employment.

The court shall close the liquidation.

§ 4. The King determines the procedure for consigning assets that would belong to society and the fate of these assets in the event of new liabilities.

CHAPTER III. - From liquidation

Art. 183

§ 1<sup>er</sup>. The companies are, after their dissolution, deemed to exist for their liquidation.

All parts from a dissolved company mention that it is in liquidation.

§ 2. Any change in the name of a liquidation corporation is prohibited.

§ 3. A procedure for the transfer of the seat of a winding-up company may only be implemented after approval by the trade tribunal in the jurisdiction of which the company's seat is located.

The registration is requested by request for the diligence of the liquidator.

The court rules all cases. The Public Prosecutor's Office is heard. The court shall grant the approval if it considers that the transfer of the seat is useful for the liquidation.

An act transferring a winding-up corporation may only be validly filed in accordance with section 12 if the Commercial Court encloses a copy of the registration decision.

Art. 184

If there is no agreement to the contrary, the method of liquidation is determined and the liquidators are appointed by the General Assembly. In societies in collective name and in simple limited companies, decisions are validly taken only by the consent of half of the associates with three-quarters of the social ownership; in the absence of this majority, it is decided by the courts.

Liquidators form a college.

In the event that the liquidator is a corporation, the natural person who represents the liquidator must be designated in the act of appointment. Any modification to the designation of this natural person must be decided in accordance with paragraph 1<sup>er</sup>, and filed and published in accordance with Article 74, 2°.

Art. 185

in the absence of a liquidator appointment, the managing partners in the collective or limited partnership, and directors or managers in the anonymous companies, limited liability private companies, cooperative companies and economic interest groups, will be considered liquidators in respect of third parties.

The same applies to the immediate closure of the liquidation in accordance with section 182.

Art. 186

Unless otherwise provided in the statutes or in the notice of appointment, liquidators may sue and support all actions, receive all payments, release with or without quittance, achieve all securities of the company, endorse all commercial effects, transact or compromise on all disputes. They may dispose of buildings by public auction, if they consider the sale necessary to pay social debts.

Art. 187

They may, but only with the authorization of the General Assembly, given in accordance with Article 184, continue, until realisation, industry or trade, borrow to pay social debts, create commercial effects, hypothecate property, give them in pledges, alienate

buildings, even at will, and bring property to other societies.

Liquidators may require partners to pay the amounts they have pledged to pay and appear to be necessary for the payment of debts and liquidation costs.

Art. 189

Liquidators must convene the general assembly on the request of partners representing the fifth of the social capital.

Art. 190

§ 1<sup>er</sup>. Liquidators, without prejudice to the rights of privileged creditors, will pay all debts, proportionally and without distinction between debts due and debts not payable, under deduction of the discount for them.

However, under their personal guarantee, they may first pay due claims, if the asset significantly exceeds the liability or if the term receivables have sufficient guarantee and except the creditor's right to resort to the courts.

§ 2. After the payment or designation of the amounts required for the payment of a corporation's debts, liquidators will distribute to the partners the sums or values that may form equal distributions; they will hand over the property that should have been kept to be shared.

They may, under the authorization set out in section 187, redeem the shares of the corporation, either on the stock exchange, or by subscription or bid, to which all members of the corporation would be eligible to participate.

Art. 191

In anonymous companies and limited liability private companies, a member of the Liquidator College who has, directly or indirectly, an opposing interest in a heritage nature to a decision or operation submitted to the College is required to comply with sections 259 and 523, applicable by analogy.

In the event that a single liquidator is appointed and is in this opposition of interest, it refers to the partners and the decision cannot be taken or the operation can only be carried out on behalf of the company by an ad hoc agent.

If the liquidator is the sole partner of a limited liability private corporation, section 261 is applicable by analogy.

Art. 192

Liquidators are responsible both to third parties and to partners, to carry out their mandate and to mismanagement.

Art. 193

Each year, liquidators submit to the General Assembly of the Company the annual accounts with the indication of the causes that prevented the liquidation from being completed.

If it is an anonymous corporation, a cooperative corporation, a share-sponsored corporation or a limited liability partnership, they must prepare annual accounts in accordance with section 92, submit them to the General Assembly and, within thirty days of the date of the meeting, file them with the National Bank of Belgium, together with other documents provided for in this section; Articles 101 and 102 are applicable to this deposit.

Art. 194

After liquidation and at least one month before the general assembly or meeting of the partners, liquidators file a report on the use of social values at the company's headquarters and submit the accounts and supporting documents. These reports are controlled by the Commissioner. In the absence of such a commissioner, the partners have an individual right of investigation, for which they may be assisted by an accountant or a company reviewer.

The Assembly shall hear the report of the Commissioner and shall rule on the discharge of liquidators.

Art. 195

§ 1<sup>er</sup>. The closure of the liquidation will be published in accordance with articles 67 and 73.

This publication will also include:

1° the indication of the place designated by the General Assembly, where social books and documents must be deposited and kept for at least five years;

2° the indication of the measures taken to determine the sums and values to the creditors or associates and whose surrender could not have been made to them.

§ 2. In the case of a judicial closure of the liquidation of the corporation, the extract of the judicial decision imposed by provision for the judicial closure of the liquidation of the corporation, as well as the extract of the judicial decision reforming the enforceable judgment by provision referred to above, will be published in accordance with sections 67 and 73.

This extract will contain:

1° the social name and head office;

2° the date of the decision and the court that pronounced it;

3° where applicable, names, names and addresses of liquidators; in the event that the liquidator is a legal entity, the extract shall contain the designation or modification to the designation of the natural person who represents it for the exercise of the winding-up powers;

4° the indication of where social books and documents are deposited and will be retained for at least five years and the indication of the consignment of the sums and values to the creditors or associates and whose surrender could not have been made to them.

CHAPTER IV. - Criminal provision

Art. 196

Will be punished by a fine of fifty francs to ten thousand francs:

1st directors or managers who have not submitted the special report together with the report of the Commissioner, the Business Reviewer or the External Accountant pursuant to section 181;

2° Liquidators that contravene one of the obligations of sections 81 to 85, 95, 96, 98 and 100;

3° the liquidators who have neglected to summon the general assembly in accordance with Article 189 within three weeks of the requisition made to them;

4° Liquidators who fail to submit to the General Assembly the annual accounts or the results of the liquidation, in accordance with sections 193 and 194, or who fail to file the annual accounts in accordance with section 193.

If the violation of the provisions referred to in paragraph 1<sup>er</sup>, 2°, takes place for a fraudulent purpose, they may also be punished by imprisonment from one month to one year or both cumulative penalties.

Paragraph 1<sup>er</sup>, 1°, 2° and 4°, is not applicable to liquidators of an economic interest group.

TITRE X. - Actions and requirements

Art. 197

The shares against companies are prescribed at the same time as the shares against natural persons.

Art. 198

## Global Regulation

§ 1<sup>er</sup>. Five years are prescribed:

- all actions against partners, from the publication of their retirement from the company, if not from the publication of an act of dissolution or the expiration of the term of contract;
- any shares of third parties in return of unduly distributed dividends from the distribution;
- any actions against liquidators, in that capacity or, if not, against persons considered liquidators under section 185, from the publication prescribed by section 195;
- all actions against managers, directors, commissioners, liquidators, for acts of their functions, from these facts or, if they have been celed by dol, from the discovery of these facts;
- all actions in nullity of a limited liability private corporation, an anonymous corporation, or a share-sponsored corporation based on a form-offering, from the publication, where the contract was executed for at least five years, without prejudice to any damages that would be due.

§ 2. Any action in nullity of a merger or split under section 689 shall no longer be commenced after the expiration of a period of six months from the date on which the merger or split is opposable to the person who invokes nullity, or if the situation has been regulated.

The nullity of an operation referred to in section 688 shall no longer be brought after the expiration of a period of six months from the date on which the transaction is opposable to the person who invokes invalidity.

Proceedings in nullity of a decision of the general assembly provided for in section 178 shall no longer be brought after the expiration of a period of six months from the date on which the decisions taken are enforceable to the person who invokes nullity or are known to him.

### Art. 199

Creditors may, in all societies, enforce by law the payments stipulated in the statutes and which are necessary for the preservation of their rights; the company can discard the action by paying their debt to its value, after deduction of the discount.

Managers or administrators are personally obliged to execute the judgements rendered for this purpose.

Creditors may exercise, in accordance with Article 1166 of the Civil Code, against associates, the rights of society in respect of payments to be made and payable under the statutes, social decisions or judgments.

### Art. 200

Articles 5, 6, 7 and 8 of the decree of 20 July 1831 on the press are applicable to imputations directed against managers, administrators and commissioners of private limited liability companies, cooperative companies, anonymous companies and companies sponsored by shares.

### LIVRE V

The company in collective name and the limited partnership

You're the first. - Definitions

### Art. 201

The society in collective name is that of responsible and solidarity partners and that has the social purpose of carrying out a civil or commercial activity under a social reason.

### Art. 202

The simple sponsorship company is the one that one or more responsible and supportive partners contract, that is called commandities, and one or more simple funders associates, which are named sponsors.

### PART II. - Responsibilities

### Art. 203

No judgment on the basis of the company's commitments, bearing personal condemnation of the partners in collective or in simple sponsorship, can be rendered before there is a conviction against society.

### Art. 204

The partners in collective name are in solidarity for all the commitments of the company, although only one of the partners has signed, provided that this is under social reason.

### Art. 205

When there are several partners indefinitely responsible, the company is in collective name for them and in command with respect to the simple donors.

### Art. 206

The sponsoring partner is liable to debts and losses of the company only up to the funds he promised to bring there.

It may be compelled by third parties to report the interests and dividends it has received if they have not been taken from the real profits of the company and, in this case, if there is fraud, bad faith or serious negligence on the part of the manager, the sponsor may sue him in payment of what he should have returned.

### Art. 207

§ 1<sup>er</sup>. The sponsoring partner cannot, even under proxy, make any management act.

Notices and advice, control acts and authorizations given to managers for acts that come out of their powers do not involve the sponsoring partner.

§ 2. The sponsoring partner is jointly and severally bound, in respect of third parties, all the commitments of the company to which he has participated in contrary to the prohibition of § 1<sup>er</sup>.

It is held in solidarity with third parties, even commitments to which it would not have participated, whether it has usually managed the business of the corporation or whether its name is part of the social name.

### Art. 208

In the case of the death of the manager, as well as in the case of legal incapacity or incapacity, if it has been stipulated that the company would continue, the president of the court of commerce may, if the statutes have otherwise provided, designate, at the request of any interested person, a sponsor or other administrator, who will make the urgent and simple administration acts during the period that will be fixed by the order, without delay.

The provisional administrator is solely responsible for the execution of his or her mandate.

Any interested person may object to the order; the opposition is served on both the designated person and the person who requested the designation. She's judged as a referee.

### PART III. - Separation from shares

### Art. 209

Without prejudice to section 38, the assignment of shares or interests authorized by the contract may only be made on the basis of civil law; it cannot have effect on the company's commitments prior to publication.

You're the first. - Nature and qualification

Art. 210

Limited liability private society is a company where partners only engage in their contribution and where their rights are communicated under certain conditions.

She can't publicly appeal to savings.

Art. 211

A limited liability private corporation may be incorporated by a person.

Art. 212

The single associate natural person of a limited liability private corporation is deemed to be a bond in solidarity with the obligations of any other limited liability private corporation that it would then constitute alone or of which it would then become the sole partner, unless the shares are transmitted to it for cause of death.

This natural person shall no longer be deemed to be in solidarity with the obligations of the companies referred to in paragraph 1<sup>er</sup> upon entry of a new partner into the company or upon publication of its dissolution.

Art. 213

Notwithstanding any stipulation to the contrary, the founder and legal person is responsible in solidarity with all the commitments undertaken as long as the company counts as a single partner only the legal person who has constituted the corporation alone.

When in a limited liability private corporation that has become a single partner, the sole partner is a legal entity and, within one year, a new partner has not entered the corporation or that it is not dissolved, the sole partner is deemed to be a solidarity bond of all the obligations of the corporation that have been born after the meeting of all the shares in his hands until the entry of a new partner.

PART II. - Constitution

CHAPTER PREMIER. - Amount of capital

Art. 214

Social capital must be at least seven hundred and fifty thousand francs.

Art. 215

Prior to the formation of the society, the founders hand over to the notary a financial plan in which they justify the amount of the social capital of the society to be constituted. This document is not published at the same time as the act, but is retained by the notary.

CHAPTER II. - Subscription of capital

Section one. - Full subscription

Art. 216

The social capital of the society must be fully subscribed.

Art. 217

The company may not subscribe its own shares or certificates relating to such shares issued on the occasion of the issuance of such shares, either directly or by a subsidiary corporation, or by a person acting on its own behalf but on behalf of the affiliate company or corporation.

The person who has subscribed shares or certificates referred to in paragraph 1<sup>er</sup> in its own name but on behalf of the affiliate company or company is considered to have subscribed for its own account.

All rights relating to shares and certificates referred to in paragraph 1<sup>er</sup> subscribed by the company or its affiliate are suspended, until such shares or certificates have been alienated.

Section II. - In-kind transport

Art. 218

Contributions other than cash may only be paid by representative shares of social capital if they consist of assets that are subject to economic valuation, other than assets that are constituted by commitments to perform work or services. These contributions are called in-kind contributions.

Art. 219

In the event of in-kind intake, a company reviewer is designated before the founding of the company.

The reviewer reports, including the description of each in-kind contribution and the methods of evaluation adopted. The report indicates whether the values to which these valuation modes are conducted correspond at least to the number and nominal value or, if not nominal, to the accounting pairs of the shares to be issued in consideration.

The report indicates the actual compensation for contributions.

The founders prepare a special report in which they set out the interest of in-kind contributions to society and, where appropriate, the reasons why they deviate from the reviewer's conclusions. This report is filed at the same time as that of the Registrar at the Court of Commerce Registry in accordance with section 75.

Section III. - Quasi-apport

Art. 220

Any property owned by a founder, manager or partner, that the corporation proposes to acquire within two years of its constitution, if applicable under section 60, for a counter-value not less than one tenth of the capital subscribed, is the subject of a report prepared either by the Commissioner or, for the corporation that has not, by a revisor of enterprises designated by the Commissioner.

Paragraph 1<sup>er</sup> is applicable to the assignment made by a person acting on his or her own behalf but on behalf of a person referred to in paragraph 1<sup>er</sup>.

Art. 221

Section 220 does not apply to acquisitions made within the limits of the day-to-day transactions entered into under the conditions and guarantees normally required by the company for the transactions of the same species, or to the acquisitions on the stock exchange, or to acquisitions resulting from an orderly sale by law.

Art. 222

The report referred to in section 220 refers to the name of the owner of the property that the company proposes to acquire, the description of the property, the actual remuneration awarded in return for the acquisition and the methods of valuation adopted. It indicates whether the values to which these valuation modes are conducted correspond to at least the compensation awarded in return for the acquisition.

This report is attached to a special report in which the management body sets out, on the one hand, the interest of the proposed



acquisition for the company and, on the other hand, the reasons why, possibly, it departs from the conclusions of the annexed report and the reviewer's report and the special report of the management body are filed at the office of the commercial court in accordance with sections 67 and 73.

This acquisition is subject to prior authorization from the General Assembly. The reports under paragraph 2 are announced in the agenda.

A copy of these reports is transmitted in accordance with section 269.

The absence of the reports provided for in this article results in the invalidity of the decision of the General Assembly.

#### CHAPTER III. - Release of capital

##### Art. 223

As soon as the company is formed, capital must be released at least 250,000 francs.

In addition:

1° each share subscribed in cash must be released from at least one fifth;

2° the social parts or parts of social parts corresponding to in-kind contributions must be fully released.

##### Art. 224

In the event of cash contributions to be released at the time of the transaction, the funds are, prior to the formation of the company, deposited by payment or transfer to a special account opened on behalf of the company in training at La Poste (Poscheque) or a credit institution established in Belgium, other than a communal savings fund, governed by the law of 22 March 1993 relating to the status of the institutions. A certificate justifying this deposit is attached to the certificate.

The special account must be at the exclusive disposal of the corporation to be established. It can only be disposed of by the persons authorized to engage the company and after the notary instrumentant had informed the body of the passing of the act.

If the corporation is not incorporated within three months of the opening of the special account, the funds are returned to their application to those who have deposited them.

#### CHAPTER IV. - Constitution forms

##### Art. 225

Notwithstanding any stipulation to the contrary, the comparants to the constitutive act are considered to be founders.

##### Art. 226

In addition to the information contained in the excerpt intended for publication under section 69, the corporation's act states:

1° compliance with the conditions referred to in articles 214, 216 and 223;

2° the number and nominal value of the shares and, where applicable, the particular conditions limiting their assignment;

3° the specification of each in-kind contribution, the name of the contributor, the name of the company reviewer and the conclusions of the report, the number and nominal value of the shares issued in consideration of each contribution and, where applicable, the other conditions to which the contribution is made;

4° the cause and consistency of the particular benefits attributed to each founder, or to anyone who has participated directly or indirectly in the constitution of the society;

5° the amount, at least approximate, of costs, expenses and remuneration or expenses, in any form, that is the responsibility of the corporation or that is borne by the corporation on the basis of its constitution;

6° the depositary body of the contributions to be released in cash in accordance with Article 224;

7° the expensive changes in which the buildings brought to society were the object of the preceding five years and the conditions to which they were made;

8° the mortgage charges or collateral encumbering the goods brought;

9° the conditions to which the realization of the optional rights is subordinated.

The powers of attorney must reproduce the statements provided for in article 69, 1°, 2°, 3°, 4°, 5°, 9° and 11°.

#### CHAPTER V. - Nullity

##### Art. 227

The invalidity of a private limited liability company may only be pronounced in the following cases:

1° if the constitutive act is not established in the required form;

2° if this act contains no indication of the social name of the corporation, the social object, the contributions or the amount of the capital subscribed;

3° if the social object is unlawful or contrary to public order;

4° if there is no validly committed founder.

##### Art. 228

If the clauses of the constitutive act determining the distribution of profits or losses are contrary to section 32, these clauses are deemed to be non-written.

#### CHAPTER VI. - Responsibilities

##### Art. 229

The founders are held in solidarity with the people concerned, despite any stipulation to the contrary:

1° of the whole part of the capital that would not be validly subscribed in accordance with section 216, as well as the possible difference between the minimum capital required by section 214 and the amount of the subscriptions; they are of full right deemed to be subscribers;

2° of the effective release of at least one fifth of the shares of the corporation subscribed in cash and the full release of the shares or parts of the shares that represent in kind, as well as of the part of the capital of which they are deemed to be subscribers under the 1st;

3° of the release of shares in violation of Article 217;

4° of compensation for the damage that is an immediate result of the nullity of the corporation imposed by application of section 227, or of the absence or misleading of the statements prescribed by section 226, or of the manifest over-evaluation of in-kind contributions, as well as of the damages provided for in section 65;

5° of the company's commitments in a proportion fixed by the judge, in the event of bankruptcy, pronounced within three years of the constitution if the social capital was, at the time of the constitution, manifestly insufficient to ensure the normal exercise of the planned activity for at least two years.

The financial plan prescribed by section 215 is to this effect transmitted to the court by the notary, at the request of the judge-commissary or the Crown Prosecutor.

##### Art. 230

Managers shall be held in solidarity with the persons concerned, despite any stipulation to the contrary, of compensation for



managers shall be held in solidarity with the persons concerned, despite any separation of the liability, or compensation for damage which is an immediate and direct result of the manifest over-evaluation of property acquired under the conditions set out in section 220. =

#### Art. 231

Those who have made a commitment for third parties are deemed to be personally obliged if the name of the principals has not been given in the act or if the mandate is not valid. The founders are in solidarity with these commitments.

#### PART III. - Titles and their transfer

##### CHAPTER PREMIER. - General provisions

#### Art. 232

There may be shares and obligations in private companies with limited liability.

These titles are nominal. They're wearing an order number.

It cannot be issued from non-representative shareholders of capital.

#### Art. 233

A share register and a bond registry are held at the headquarters. Holders of shares or bonds may be aware of the register relating to their securities. Any interested third party may be aware of the share register.

The shares register contains:

1° the precise designation of each partner and the number of shares owned by each partner;

2° the indication of payments made;

3° transfers of shares with their date, dated and signed by the assignor and the assignee in case of transfer between live, by the manager and the beneficiary in case of transmission for cause of death.

The bond registry contains:

1° the precise designation of each bond and the number of bonds owned by it;

2° transfers of bonds with their date.

#### Art. 234

The management body may decide to split a register into two parts, one of which will be retained at the company's headquarters and the other, outside the headquarters, in Belgium or abroad.

A copy of each volume will be retained at the place where the other part is deposited; for this purpose, copies will be used.

This copy will be regularly kept up to date and, if it proved impossible, it will be completed as soon as the circumstances permit.

The holders of the relevant titles have the right to be registered in one of the two volumes of the register at their choice. They can read both parts of the registry and their copy.

The management body makes known where the second volume of the register is deposited, by a publication in the Annexes of the Belgian Monitor. This place can be changed by simple decision of the management body.

The decision of the management body to split a register of titles in two parts can only be modified by a decision of the general assembly in the forms prescribed for the modification of the statutes.

The King rules the terms and conditions of registration in both volumes.

#### Art. 235

The ownership of the titles is determined by a registration in the register for which they are prescribed by section 233.

Certificates of registration will be issued to the holders of the securities.

Certificates relating to nominal mortgage bonds shall indicate the constitutive act of mortgage and shall mention the date of registration, the rank of the mortgage and the provision of section 246, paragraph 5, relating to the renewal of registration.

#### Art. 236

If there are several owners of a title, the corporation has the right to suspend the exercise of the related rights until a single person has been designated as the owner of the title.

#### Art. 237

When the sole partner has died, unless otherwise provided by the statutes, the rights relating to the shares are exercised by the heirs and legatees regularly seized or sent in possession, proportionally to their rights in the succession, to the sharing of the said shares or to the issue of the bequests relating to them.

Derogation from paragraph 1<sup>er</sup> and unless otherwise provided by the statutes, the person who inherits the usufruct from the shares of a single partner shall exercise the rights attached to them.

#### CHAPTER II. - Parts

##### Section 1. - General provisions

#### Art. 238

The capital is divided into equal shares, whether or not the right to vote, with or without reference to value. The shares are indivisible.

#### Art. 239

Without prejudice to what is provided for shares without voting rights, each share confers an equal right in the distribution of profits and proceeds of liquidation.

##### Section II. - Shares without the right to vote

#### Art. 240

§ 1<sup>er</sup>. In the event of the issuance of shares without the right to vote, these shall:

1° may not represent more than one third of social capital;

2° shall confer, in the event of a distributable profit within the meaning of section 320, the right to a privileged dividend and, unless otherwise provided by the statutes, recoverable, the amount of which is fixed at the time of the issuance, as well as a right in the distribution of the surplus of profits that cannot be less than that allocated to the voting shares;

3° must give a privileged right to refund the increased capital intake, if any, of the emission premium and a right in the distribution of the liquidation bonus.

§ 2. Notwithstanding any provision to the contrary of the statutes, the holders of the voting rights shall nevertheless have a right to vote in the following cases:

1° when one of the conditions laid down in § 1<sup>er</sup> is not filled or ceases to be. However, when § 1<sup>er</sup>, 1°, is not respected, the recovery of the exercise of the right to vote excludes the application of the 2° and 3° of the same paragraph;

2° that provided for in Article 288;

3° where the general assembly must deliberate on the reduction of social capital, the modification of the social object, the transformation of the society or the dissolution, fusion or splitting of the society;

4° those where, for any reason, the privileged and recoverable dividends were not fully paid for three successive years and that until the time that these dividends were fully recovered



the time that these dividends were fully recovered.

Art. 241  
In the event of the creation of shares without the right to vote, by means of the conversion of shares with the right to vote already issued, the General Assembly, deciding on the conditions required for the amendments of the statutes, determines the maximum number of shares to be converted and sets the conditions for conversion.

The Regulations may, however, authorize the management body to determine the maximum number of shares to be converted and to set the conversion conditions.

The offer of conversion must be made at the same time to all partners, in proportion to their share in social capital. It indicates the period in which the conversion may be exercised. This deadline is determined by the management body and must be at least one month.

The partners must be informed by registered letter to the position.

#### CHAPTER III. - Certificates

##### Art. 242

§ 1<sup>er</sup>. Certificates relating to shares may be issued, in collaboration or not with the corporation, by a corporation that retains or acquires the ownership of the shares to which the certificates relate and undertakes to reserve any product or income from these shares to the holder of the certificates. These certificates must be nominal.

The issuer of the certificates shall exercise all rights attached to the shares to which they relate, including the right to vote.

The issuer of the certificates is required to be known in this capacity to the company that issued the certified shares.

The latter will refer to the shares register.

The issuer of certificates shall make payment immediately, unless otherwise provided, under deduction of any costs, to the holder of certificates the dividends and the proceeds of liquidation, if any, distributed by the corporation and any amount derived from the reduction or amortization of the capital.

Unless otherwise provided, the certificate issuer may not assign the shares to which the certificates relate.

Certificates are, unless otherwise provided, exchangeable in shares to which they report. Clauses prohibiting trade must be limited in time.

Notwithstanding any provision to the contrary, the exchange may be obtained at any time by each holder of certificates in the event of failure to comply with the obligations of the issuer in respect of the issuer or where the interests of the issuer are seriously unknown.

§ 2. In the event of bankruptcy of the issuer of certificates or any other competitive situation, the certificates shall be exchanged in full right notwithstanding any contrary provision and the certificate holders shall collectively exercise their claim on the universality of the certified shares issued by the same company, owned by the issuer of certificates.

If, in the case referred to in the preceding paragraph, this universality is insufficient to ensure full restitution of shares, it will be distributed among certificate holders in proportion to their rights.

#### CHAPTER IV. - Obligations

##### Art. 243

Limited liability private companies may borrow by issuing nominal bonds.

The nominal value of bonds may not be less than one thousand francs unless it is written in foreign currency.

##### Art. 244

The resolute condition is always implied, in the loan contract in the form of bond issuance, in the event that one of the two parties will not meet its commitment.

In this case, the contract is not resolved in full right. The party to which the undertaking has not been carried out has the choice or to force the other party to the performance of the agreement where it is possible, or to request the resolution with damages.

The resolution must be sought in court, and the defendant may be granted a time limit under the circumstances.

##### Art. 245

Limited liability private companies may issue repayable bonds by way of a random draw at a rate higher than the issuance price only provided that the bonds report at least 3% of interest, that all are repayable by the same amount, and that the amount of annuity including amortization and interest is the same throughout the borrowing period.

The amount of these obligations cannot, in any case, exceed the freed social capital.

##### Art. 246

The corporation may establish a mortgage for the security of a loan made or to be made in the form of bonds.

Registration is made in the ordinary form for the benefit of the mass of bonds or future bonds, under the following two restrictions:

1° the designation of the creditor is replaced by that of the representative securities of the secured receivable;

2° the provisions relating to the election of domicile are not applicable.

The inscription is published in the Annexes of the Belgian Monitor.

The mortgage ranks on the date of registration, regardless of the time of bond issuance.

Registration must be renewed, at the diligence and responsibility of the management body, before the expiry of the twenty-ninth year. In the absence of renewal by the company, any bond has the right to renew the registration.

##### Art. 247

The registration shall be terminated or reduced by the consent of the bonds, gathered in a general assembly, in accordance with section 316.

The demand for delisting or reduction by main action is continued against the mass of bonds represented by a designated agent in accordance with section 297, paragraph 2, 3°. Failed by the general assembly of bondholders, duly summoned, to designate this agent, the president of the civil court of the district where the head office is located, at the request of the company, a representative of bondholders.

The bond-debitor company called a total or partial refund and whose bearer did not show up in the year following the date set for the payment, is authorized to record the amounts due. The consignment will take place at the agency of the Caisse des dépôts et consignations de l'arrondissement where the head office is located.

##### Art. 248

At the request of the most diligent of the persons concerned, he is appointed an agent to represent the mass of the bonds in the proceedings for the purge or expropriation of the encumbered buildings. The appointment is made by the president of the civil court of the district where the head office is located, the company heard.

The agent is required to record, within eight days of the receipt, the amounts paid to the agency referred to in section 247, as a result of the procedures set out in paragraph 1<sup>er</sup> of this article.

Payments to the Fund for consignations on behalf of bondholders may be withdrawn on a nominal payment order or on a carrier

Global-Regulation.com  
 Payments to the fund for consignations on behalf of bondholders may be withdrawn on a nominal payment order or on a bearer order issued by the agent, and subject to the President of the Tribunal. The execution of the nominative payment orders will take place on the grant of the beneficiaries; the bearer's payment orders will be paid after they have been paid by the agent.

No order of payment shall be issued by the agent only on representation of the obligation. The agent will mention on the obligation the amount for which he gave the order of payment.

#### CHAPTER V. - Transfers of titles

##### Section 1. - Transfer in general

###### Art. 249

Except as more restrictive provisions of the statutes, the shares of a partner may not, as a matter of nullity, be disposed of between alive or transmitted for cause of death only with the approval of at least half of the partners, having at least three quarters of the capital, deducting from the rights proposed for assignment.

However, unless otherwise provided by the statutes, such approval is not required where the shares are assigned or transmitted:

- 1° to an associate;
- 2° to the spouse of the assignor or the testator;
- 3° to direct-line ascendants or descendants;
- 4° to other persons registered in the statutes.

The rules applicable in the case of transfer between live apply in the case of assignment by or in favour of a legal person.

###### Art. 250

Disposals or transmissions shall only affect the corporation and third parties when they are registered in the share register in accordance with section 235.

##### Section II. - Breaking out the bright parts

###### Art. 251

Except as special provisions of the statutes, the refusal to authorize an assignment between live may give rise to the appeal of the person or persons concerned before the competent court acting in return, the opponents duly assigned.

The competent court shall be that of the head office.

If the refusal is deemed arbitrary, opponent partners have three months to date the order to find buyers at the prices and conditions set out in the statutes. If there is no statutory clause, the price and the terms shall, unless agreed by the concerned, be fixed by the competent court at the request of the most diligent party, the other party being regularly assigned; in no case may it be granted a period of more than five years from the date of the option lift: the shares purchased will be incessant until the full payment of the price.

If the redemption has not been made within the three-month period provided above, the transferor may require the dissolution of the corporation; but he must exercise this right within forty days after the expiry of the three-month period.

##### Section III. - Transmission of parts because of death

###### Art. 252

The heirs and legatees of shares, which cannot become associated because they have not been approved as such, are entitled to the value of the shares transmitted.

They may request the purchase by registered letter to the position, addressed to the management body of the company and whose recommended copy will be forwarded by the management body to the various partners.

In the absence of agreement between the parties or statutory provisions, the prices and conditions of redemption shall be determined in accordance with section 251, without taking into account the estimates of the will; the shares purchased will be inconvertible up to full payment of the price.

If the redemption has not been completed within three months, heirs or legatees will be entitled to demand the early dissolution of the company.

##### Section IV. - Transfer of bonds

###### Art. 253

The assignment of obligations is only enforceable to the corporation and to third parties from the time the transfer declaration, dated and signed by the assignor and the assignee or by their credentials, is entered into the bond registry; it may also intervene in accordance with the rules relating to the assignment of receivables established by article 1690 of the Civil Code.

###### Art. 254

It is lawful for the company to accept and register on the registry a transfer that would be recognized by the correspondence or other documents establishing the agreement of the assignor and the assignee.

#### PART IV. - Organs

##### CHAPTER PREMIER. - Management and representation bodies

##### Section 1. - Status of managers

###### Art. 255

Limited liability private companies are managed by one or more physical, paid or unpaid, associated or unrelated individuals.

###### Art. 256

Managers are appointed by the partners for a limited or fixed-term time.

Unless otherwise stipulated by the statutes, or unanimous agreement of the partners, the managers, associates or not, appointed by the partners in the act of society without limitation of time shall be deemed to be appointed for the duration of the corporation; their powers are revocable in whole or in part only for serious reasons.

##### Section II. - Skills and operation

###### Art. 257

Each manager may perform all the acts necessary or useful to the fulfilment of the social object of society, except those that this code reserves to the general assembly.

The statutes may restrict the powers of the managers. These restrictions are not applicable to third parties, even if they are published.

Each manager represents the corporation in respect of third parties and in court, either by asking, or by defending. However, the statutes may state that the company is represented by one or more specially designated managers or by several joint managers. This clause is only applicable to third parties if it concerns the general power of representation and if it has been published in accordance with section 74, 2°.

###### Art. 258

The company is bound by the acts performed by the managers, even if these acts exceed the social object, unless it proves that the third party knew that the act exceeded the social object or that it could not ignore it, given the circumstances, without the only

the third party knew that the act exceeded the social object or that it could not ignore it, given the circumstances, without the only possibility of the statement being sufficient to prove it.

Art. 259

§ 1<sup>er</sup>. A member of a management college who has, directly or indirectly, an opposing heritage interest in a decision or operation submitted to the management college is required to communicate it to other managers prior to deliberation to the management college. His statement, as well as the reasons for the opposing interest that exists in the manager's head, must be included in the minutes of the management college that will have to make the decision. In addition, when the company has appointed one or more commissioners, it must inform them.

For publication in the management report referred to in section 95 or, in the absence of such a report, in a document to be filed at the same time as the annual accounts, the management college shall describe in the minutes the nature of the decision or operation referred to in paragraph 1<sup>er</sup> and a rationale for the decision that was taken as well as the heritage consequences for society. The management report contains the entire record referred to above.

The report of the Commissioners, referred to in section 143, must contain a separate description of the heritage consequences for the corporation of the decisions of the Management College, which had an interest opposing the meaning of paragraph 1<sup>er</sup>.

§ 2. The company may act in nullity of the decisions taken or of the transactions carried out in violation of the rules laid down in this article, if the other party to these decisions or transactions had or had to have known that violation.

§ 3. § 1<sup>er</sup> is not applicable where decisions or transactions under the Management College relate to decisions or transactions between companies with a direct or indirect holding of 95% or more of the votes attached to all securities issued by the other or between companies, of which 95% or more of the votes attached to all securities issued by each of them are held by another corporation.

Similarly, § 1<sup>er</sup> is not an application where the decisions of the Management College relate to normal operations under normal market conditions and guarantees for similar transactions.

Art. 260

If there is no management college and a manager is placed in the opposition of interest referred to in Article 259, § 1<sup>er</sup>, it refers to the partners and the decision cannot be taken or the operation can only be carried out on behalf of the company by an ad hoc agent.

Art. 261

When the manager is the sole partner and is placed in the opposition of interest referred to in Article 259, § 1<sup>er</sup>, it may make the decision or enter into the transaction, but it will have to report specifically to the transaction in a document to be filed together with the annual accounts.

It will be held both vis-à-vis society and vis-à-vis third parties to repair the damage resulting from an advantage that it would have been improperly procuring at the expense of society.

Contracts between the company and the corporation are, except in respect of the day-to-day transactions entered into under normal conditions, in the document referred to in paragraph 1<sup>er</sup>.

Section III. - Responsibilities

Art. 262

Managers are responsible, in accordance with the common law, for the fulfilment of their mandate and for the faults committed in their management.

Art. 263

Managers shall be jointly and severally liable, either to the corporation or to the third party, for any damages arising from breaches of the provisions of this Code or social statutes.

They will not be discharged from this responsibility, as to the offences to which they have not taken part, only if no fault is attributed to them and if they have denounced these offences to the next general assembly after they have been aware of them.

Art. 264

Without prejudice to section 263, the managers are personally and in solidarity with the prejudice suffered by the company or the third parties as a result of decisions taken or transactions carried out in accordance with section 259 if the decision or operation has given them or has given one of them an abusive financial advantage to the detriment of the company.

Art. 265

In the event of failure of the company and insufficiency of the asset and if it is established that a serious and characterized fault in their leader has contributed to the bankruptcy, any manager or former manager, as well as any other person who has actually held the power to manage the company, may be declared personally obligated, with or without solidarity, of all or part of the social debts up to the insufficiency of assets.

Paragraph 1<sup>er</sup> However, it is not applicable when the bankruptcy corporation has made, in the three fiscal years preceding the bankruptcy, an average turnover of less than 25 million francs, excluding the value added tax, and when the balance sheet at the end of the last fiscal year has not exceeded 15 million francs.

CHAPTER II. - General Assembly of Associates

Section 1. - Common provisions

First sub-section. - Skills

Art. 266

The general assembly of associates has the widest powers to do or ratify acts of interest to society.

Art. 267

When the company has only one partner, it exercises the powers vested in the general assembly. He can't delegate them.

Sub-section II. - Convening of the General Assembly

Art. 268

The management body and commissioners, if any, may convene the General Assembly. They must call it on the request of partners representing the fifth of the social capital.

The convocations for any general assembly contain the agenda with the indication of the subjects to be dealt with.

They are made by registered letters sent fifteen days before the meeting to the partners, holders of certificates issued in collaboration with the company, holders of bonds, commissioners and managers.

Art. 269

At the same time as the convocation to the General Assembly, a copy of the documents to be transmitted under this Code is sent to the partners, commissioners and managers.

A copy of these documents is also transmitted without delay and free of charge to other persons called upon.

## Sub-section III. - Participation in the General Assembly

The statutes determine the formalities to be performed to be admitted to the General Assembly.

## Art. 271

The holders of certificates issued in collaboration with the company and the holders of bonds may attend the general assemblies, but with advisory voice only.

## Art. 272

The commissioners attend the general assemblies when they are called to deliberate on the basis of a report prepared by them.

## Sub-section IV. - Holding of the General Assembly

## Art. 273

A list of presences is maintained at each General Assembly.

## Art. 274

Managers answer the questions asked by the partners about their report or the items on the agenda, to the extent that the disclosure of data or facts is not likely to seriously prejudice the company, partners or personnel of the company.

The Commissioners responded to questions raised by the associates regarding their report. They have the right to speak to the General Assembly in relation to the fulfilment of their functions.

## Art. 275

Each part gives a voice.

The exercise of the right to vote on shares on which payments have not been made is suspended as long as such payments, regularly called and payable, have not been made.

## Art. 276

Apart from cases where a right of vote is recognized to them, it is not taken into account the privileged shares without the right to vote for the determination of the conditions of presence and majority to be observed in the general assemblies.

It is not taken into account the shares that are suspended for the determination of the conditions of presence and majority to be observed in the General Assembly.

## Art. 277

The statutes may limit the number of votes each partner has in the assemblies, provided that this limitation applies to any partner regardless of the shares for which he or she participates in the vote.

## Art. 278

Minutes of the General Meetings are signed by the members of the Bureau and by the partners who request it; shipments to be issued to third parties are signed by one or more managers, in accordance with the statutes.

## Art. 279

The decisions of the single partner, acting instead of the general assembly, are recorded in a register held at the head office.

## Sub-section V. - Procedures for the exercise of the right to vote

## Art. 280

The partners may, unless otherwise provided by the statutes, issue their votes by correspondence or be represented by an agent.

## Art. 281

§ 1<sup>er</sup>. The exercise of the right to vote may be the subject of agreements between partners.

These conventions must be limited in time and justified by the social interest at any time.

However, they are zero:

(1) Conventions that are contrary to the provisions of this Code or to the social interest;

2° the conventions by which a partner undertakes to vote in accordance with the directives given by the company, by a subsidiary or by one of the bodies of these companies;

3° the conventions by which a partner commits to the same companies or bodies to approve proposals from the bodies of the society.

§ 2. The votes cast in general assembly under the conventions referred to in § 1<sup>er</sup> Paragraph 3, are void. These votes result in the invalidity of the decisions taken unless they had no impact on the validity of the vote. The invalidity action is prescribed six months after the vote.

## Section II. - Regular General Assembly

## Art. 282

It shall be held, each year, at least one general assembly in the commune, on the day and hour indicated by the statutes.

## Art. 283

Fifteen days before the general assembly, the partners, the holders of certificates issued with the collaboration of the company and the holders of bonds may be read at the head office:

1° of annual accounts;

2°, if any, consolidated accounts;

3° of the list of public funds, shares or shares, bonds and other corporate securities that make up the portfolio;

4° of the list of associates who have not released their shares, with the indication of the number of their shares and that of their domicile;

5° of the management report and the report of the commissioners.

Annual accounts and reports referred to in paragraph 1<sup>er</sup>, 5°, shall be transmitted to the partners in accordance with Article 269, paragraph 1<sup>er</sup>.

## Art. 284

The General Assembly hears the management report and the report of the Commissioners and discusses the annual accounts.

After the approval of the annual accounts, the General Assembly shall take a special vote on the discharge of managers and commissioners. This discharge is valid only if the annual accounts contain no omission or misleading statement concealing the actual situation of the corporation and, in respect of acts made outside the statutes or in contravention of this Code, only if they have been specifically indicated in the summons.

## Art. 285

The management body has the right to extend the decision on approval of the three-week annual accounts. This extension does not cancel any other decisions taken unless the General Assembly decides otherwise. The second meeting has the right to finalize the annual accounts.

## Section III. - Special General Assembly

First sub-section. - Amendment of the statutes in general

The General Assembly, unless otherwise provided, has the right to make amendments to the statutes.

The General Assembly may not validly deliberate and decide on amendments to the statutes unless the purpose of the proposed amendments has been specifically indicated in the convocation, and if those attending the meeting represent at least half of the social capital.

If the latter condition is not met, a new convocation will be necessary and the second assembly will deliberately, regardless of the portion of the capital represented by the partners present.

No change is allowed unless it brings together three quarters of the vote.

Sub-section II. - Modification of the social object

Art. 287

If the amendments to the Regulations relate to the social object, a detailed justification for the proposed amendment must be provided by the management body in a report announced in the agenda. This report is attached to a statement summarizing the active and passive situation of the society, which was arrested on a date not more than three months. The Commissioners report separately on this status. A copy of these reports is transmitted in accordance with section 269.

The absence of reports results in the nullity of the decision of the General Assembly.

The General Assembly can only validly deliberate and decide on the modification to the social object if those attending the meeting represent half of the social capital.

If this condition is not fulfilled, a new convocation will be necessary. In order for the second assembly to deliberate and rule validly, one portion of the capital shall be represented therein.

No amendment is allowed unless it brings together at least four fifths of the vote.

Sub-section III. - Change of title rights

Art. 288

If there are several categories of shares, the General Assembly may, in spite of any provisions that are contrary to the Statutes, amend their respective rights or decide to replace the shares of one category with those of another.

The detailed purpose and justification of the proposed amendments are set out by the management body in a report on the agenda. A copy of this report is transmitted in accordance with section 269.

The absence of the report results in the invalidity of the decision of the General Assembly.

In the hypothesis referred to in this article, the limitations resulting from section 277 are not applicable and the General Assembly shall meet in each category the conditions of presence and majority required for an amendment of the statutes.

CHAPTER III. - Social action and minority action

Section 1. - Social action

Art. 289

The General Assembly decides whether social action should be taken against managers or commissioners. It may charge one or more agents for the execution of this decision.

Section II. - Minority Action

Art. 290

§ 1<sup>er</sup>. An action may be brought against managers on behalf of society by minority partners.

This minority action is brought, by one or more associates having, on the day of the general assembly which pronounced itself on the discharge of the managers, securities to which is attached at least 10% of the votes attached to all the titles that exist to date. For the partners entitled to vote, the action can only be brought by those who did not vote the landfill and by those who voted the landfill in that case, if it is not valid.

In addition, for holders of shares without the right to vote, the action can only be brought in cases where they exercised their right to vote in accordance with Article 240, § 2, and for the acts of management relating to the decisions made pursuant to the same article.

§ 2. The fact that in the course of a proceeding, one or more associates cease to represent the group of minority associates, either that they no longer have titles or that they waive their participation in the action, is without effect on the prosecution of the proceeding or on the exercise of remedies.

§ 3. If the legal representatives of the society exercise social action and that the minority action is also brought by one or more holders of titles, the proceedings are joined for connexity.

§ 4. Any transaction entered into prior to the action may be cancelled at the request of holders of securities meeting the conditions set out in § 2 if it has not been made to their common advantage.

After the initiation of the action, the company cannot transfer with the defendants without the unanimous consent of those who remain seeking the action.

Art. 291

If the minority claim is rejected, the applicants may be sentenced personally at the expense and, where applicable, to damages to the defendants.

If the application is received, the amounts that the claimants made the advance, and which are not included in the dependant costs of the respondents, are refunded by the corporation.

CHAPTER IV. - General Assembly of Bonds

Section 1. - Skills

Art. 292

When social capital is fully called, the general assembly of bonds has the right:

1° to extend one or more maturity of interest, to consent to the reduction of the interest rate or to amend the terms of payment;

2° to extend the duration of the refund, suspend it and make amendments to the conditions under which it is to be made;

3° to accept the substitution of shares to the claims of bondholders; unless the partners have previously given their consent, the decisions will have effect in this regard only if they are accepted, within the three-month period, by the partners deliberating in the forms prescribed for the amendments to the statutes.

In addition, the General Assembly of Bonds has the right to:

1° to accept provisions intended to either grant special security rights to the holders of obligations or to modify or delete the security rights already assigned;

2° to decide on the precautionary acts to be done in the common interest;

3° to designate one or more agents to execute decisions made under this section and to represent the mass of bonds in all



procedures relating to the reduction or cancellation of mortgage registrations.  
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Section II. - The General Assembly

Art. 293

The management body and the commissioners may convene bondholders in the general assembly.

They must convene this meeting on the request of bonds representing the fifth of the amount of securities in circulation.

Art. 294

The convocations to the General Assembly contain the agenda and are made eight days before the meeting by Missive Letters, recommended to the post.

The agenda contains the indication of the topics to be addressed and the proposals for decisions.

Section III. - Participation in the General Assembly

Art. 295

The statutes determine the formalities to be performed to be admitted to the General Assembly.

Section IV. - Holding of the General Assembly

Art. 296

A list of presences is maintained at each General Assembly.

Art. 297

The assembly can only validly deliberate and decide if its members represent at least half the amount of the securities in circulation. If this condition is not fulfilled, a new convocation is necessary and the second assembly shall deliberate validly, regardless of the amount represented in circulation.

No proposal shall be accepted only if it is voted by members representing together, by themselves or by their constituents, at least three-quarters of the amount of obligations for which it is taken part in the vote.

In cases where a decision has not brought together a majority representing at least one third of the amount of obligations in circulation, it may only be enforced after being approved by the Court of Appeal in the jurisdiction of which the company's headquarters is located.

The registration is requested by request, by the diligence of the directors or by any interested bond.

Bonds that have voted against resolutions or have not attended the meeting may intervene in the proceeding.

The court rules all business, the public prosecutor hears.

If the application for approval is not filed within eight days after the vote of the decision, the decision will be considered non-agreement.

However, the conditions of presence and majority specified above are not required in the cases provided for in article 292, paragraph 2, 2° and 3°. The decisions, in the above cases, may be taken by a simple majority of the obligations represented.

The decisions taken are published in the fifteenth year in the Annexes of the Belgian Monitor.

Art. 298

Where there are several categories of obligations and the deliberation of the General Assembly is likely to change their respective rights, deliberation must, in order to be valid, bring together in each category the conditions of presence and majority required by section 297.

Holders of bonds of each class may be summoned to a special assembly.

Art. 299

Minutes of the General Meetings are signed by the members of the office and by the bonds requested; shipments to be issued to third parties are signed by one or more managers, in accordance with the statutes.

Section V. - Methods of exercising the right to vote

Art. 300

All bondholders may vote themselves or by proxy.

Art. 301

§ 1<sup>er</sup>. The exercise of the right to vote may be subject to agreements between bonds.

These conventions must be limited in time and justified by the social interest at any time.

However, they are zero:

(1) Conventions that are contrary to the provisions of this Code or to the social interest;

2° the conventions by which a bondman agrees to vote in accordance with the directives given by the company, by a subsidiary or by one of the bodies of these companies;

3° the conventions by which a bondor undertakes to the same companies or bodies to approve proposals from the bodies of the society.

§ 2. The votes cast in general assembly under the conventions referred to in § 1<sup>er</sup> Paragraph 2, are void. These votes result in the invalidity of the decisions taken unless they had no impact on the validity of the vote. The invalidity action is prescribed six months after the vote.

PART V. - Capital

CHAPTER PREMIER. - Capital increase

Section 1. - Common provisions

Art. 302

The increase in capital is decided by the General Assembly on the terms and conditions required for the amendment of the statutes, if applicable by applying section 288.

Art. 303

If the advertised capital increase is not fully subscribed, the capital is only increased to the subscriptions collected if the conditions of the program expressly provided for this possibility.

Art. 304

The company cannot subscribe its own shares, either directly or directly, or by a subsidiary corporation, or by a person acting on its own behalf, but on behalf of the affiliate corporation or corporation.

The person who has subscribed on his or her own behalf but on behalf of the affiliate corporation or corporation is considered to have subscribed on his or her own behalf.

All rights relating to the shares of the corporation or its subsidiary are suspended, until such shares have been disposed of.

Art. 305

Each share subscribed in cash must be released at least one fifth.

Social shares or parts of social shares corresponding to in-kind contributions must be fully released.



Art. 306  
If a new share is issued, the amount of this premium must be paid in full upon subscription.

Art. 307

The only decision to increase capital must be found by an authentic act, which is the subject of a deposit in the registry in accordance with section 75.

If the realisation of the capital increase is observed at the same time, the act also mentions respect for the legal conditions relating to the subscription and release of capital.

Art. 308

The realization of the increase, if it is not consistent with the decision to increase capital, is found by an authentic act, filed at the request of the management body or of one or more managers specially delegated to this effect, upon presentation of the supporting documents of the operation. The act shall be deposited in accordance with section 75.

The Act also mentions compliance with the legal conditions relating to the subscription and release of capital.

Section II. - Increase in capital by cash flows

First sub-section. - Right of preference

Art. 309

The shares to be subscribed in cash must be offered by associated preferences proportionally to the part of the capital that their shares represent.

Shareholders without the right to vote have a right of preference in the event of issuance of new shares with or without the right to vote unless the increase of capital is realized by the issuance of two proportional shares, ones with the right to vote and the other without the right to vote, the first of which is offered by preference to the holders of voting shares and the second to the holders of voting shares without the right to vote.

Art. 310

The right of preference may be exercised for a period not less than fifteen days from the date of the opening of the subscription.

This deadline is set by the General Assembly.

The opening of the subscription and its period of exercise are announced by a notice notified to the partners by registered letter.

The shares that have not been subscribed pursuant to section 309 may only be subscribed by the persons listed in section 249, paragraph 2, except for the approval of at least half of the partners with at least three quarters of the capital.

Sub-section II. - Release of cash contributions

Art. 311

In the event of cash contributions to be released at the time of the issuance of the act recognizing the increase in capital, the funds are pre-paid or transferred to a special account opened on behalf of the company at La Poste (Postchèque) or a credit institution established in Belgium, other than a communal savings fund, governed by the Act of 22 March 1993 on the Status and Control of Institutions. A certificate justifying this deposit is attached to the certificate.

The special account must be at the exclusive disposal of the corporation. It can only be disposed of by the persons authorized to engage the company and after the notary instrumentant had informed the body of the passing of the act.

If the increase is not made within three months of the opening of the special account, the funds will be returned to their application to those who have deposited them.

Section III. - Capital increase by in-kind contributions

Art. 312

In-kind contributions may only be paid by representative shares of social capital if they consist of assets that are subject to economic valuation, other than assets that are constituted by commitments to perform work or services.

Art. 313

In the event that the capital increase includes in-kind contributions, a report is previously prepared by the Commissioner, or, if there is no one, by a business reviewer designated by the management body.

This report includes the description of each in-kind contribution and the methods of evaluation adopted. It indicates whether the estimates to which these valuation modes are conducted correspond to at least the number and nominal value, and, where applicable, to the emission premium of the shares to be issued in consideration. The report indicates the actual compensation awarded in return for contributions.

This report is attached to a special report in which the management body sets out, on the one hand, the interest of the company both intakes and the proposed capital increase and, on the other, the reasons why, eventually, it departs from the conclusions of the annexed report.

The reviewer's report and the special report of the management body are filed at the office of the commercial court in accordance with section 75. These reports are announced in the agenda of the general assembly called to deliberate on the increase in capital. A copy of the reports is transmitted in accordance with section 269.

The absence of the report under this article results in the invalidity of the decision of the General Assembly.

Section IV. - Responsibilities

Art. 314

Managers are held in solidarity with the concerned, despite any stipulation to the contrary:

1° of the whole part of the capital that would not be validly subscribed, as well as the possible difference between the amount referred to in section 214 and the amount of the subscriptions; they are of full right deemed to be subscribers;

2° of the effective release of at least one fifth of the shares of the corporation subscribed in cash and the full release of the shares or parts of the shares that represent in kind, as well as of the part of the capital of which they are deemed to be subscribers under the 1st;

3° of the release of shares in violation of Article 304;

4° of compensation for damage that is an immediate result either of the absence or misleading of the statements prescribed in sections 226 and 313, or of the manifest over-evaluation of in-kind contributions.

Art. 315

Those who have made a commitment for third parties are deemed to be personally obliged if the name of the principals has not been given in the act or if the mandate is not valid. Managers are in solidarity with these commitments.

CHAPTER II. - Reduction of capital

Art. 316

Any reduction of social capital may only be decided by the general assembly in the conditions required for amendments to the statutes by equal treatment of associates in identical conditions. If applicable, the application of section 288 is made.

The convocations to the General Assembly indicate how the proposed reduction will be made and the purpose of this reduction.

If the reduction of capital is effected by a refund to the partners or by a total or partial exemption from the payment of the balance of contributions, creditors whose debt was born prior to the publication, have, within two months of publication to the Annexes of the Belgian Monitor of the decision to reduce capital, despite any provision to the contrary, the right to require a security right for claims not yet expired at the time of publication. The corporation may deviate this claim by paying the debt at its value after deduction of the discount.

If there is no agreement or if the creditor is not paid, the contestation is submitted by the most diligent party to the president of the trade tribunal in whose jurisdiction the company has its seat. The procedure is introduced and instructed and the decision is carried out according to the forms of the referee.

All rights except on the merits, the President shall determine the security to be provided by the corporation and shall set the time limit within which it shall be constituted, unless the President decides that no security rights shall be provided in respect of either the guarantees and privileges enjoyed by the creditor or the solvency of the corporation.

No refund or payment to the partners may be made and no exemption from the payment of the balance of contributions may be granted as long as the creditors, having claimed their rights within the two-month period referred to above, have been satisfied, unless an enforceable judicial decision has rejected their claims to obtain a guarantee.

Art. 318

Section 317 does not apply to capital reductions to compensate for a loss suffered or to create a reserve to cover a foreseeable loss.

The reserve constituted to cover a foreseeable loss may not exceed 10% of the capital subscribed after capital reduction. This reserve may not, except in the event of subsequent capital reduction, be distributed to the partners; it can only be used to compensate for losses incurred or to increase capital by incorporation of reserves.

In the cases referred to in this section, capital may be reduced below the amount set out in section 214. However, the reduction below this amount only emerges from the time when an increase in the amount of capital occurs at a level not less than the amount set out in section 214.

CHAPTER III. - Maintenance of social capital

Section 1. - Beneficiary distribution

First sub-section. - Establishment of a reserve fund

Art. 319

The General Assembly shall, on net profits, make an annual debit of at least one twentieth allocated to the formation of a reserve fund; This withdrawal ceases to be mandatory when the reserve fund has reached the tenth of the social capital.

Sub-section II. - Distributable benefits

Art. 320

§ 1<sup>er</sup>. No distribution may be made when, at the closing date of the last fiscal year, the net assets as a result of the annual accounts are, or would become, as a result of such distribution, less than the amount of the released capital or, if that amount is higher, of the capital called, increased from all reserves that the law or statutes do not permit to distribute.

By net assets, the total of the assets as shown in the balance sheet must be understood, deducting provisions and debts.

For the distribution of dividends and fortieths, the asset cannot include:

1° the amount not yet amortized from the settlement fee;

2° except in exceptional cases to be mentioned and justified in the schedule to the annual accounts, the amount not yet amortized for research and development costs.

§ 2. Any distribution made in contravention of § 1<sup>er</sup> must be returned by the beneficiaries of this distribution if the company proves that they knew the irregularity of the distributions made in their favour or could not ignore it in the circumstances.

Section II. - Acquisition of own shares or certificates

First sub-section. - Conditions of Acquisition

Art. 321

Notwithstanding any contrary provisions of the statutes, the corporation may not acquire its own shares or certificates relating to it by way of purchase or exchange, directly or by persons acting on their own behalf but on behalf of the corporation, or subscribe to such certificates after the issuance of the corresponding shares, only after a decision of the general assembly of the partners.

Unless more restrictive provisions of the statutes, the decision of the General Assembly is acquired only if it collects the approval of at least half of the associates with at least three-quarters of the capital, deducting the rights proposed for acquisition. It is not taken into account the statutory limitation of the right to vote in accordance with Article 277.

In particular, the General Assembly determines the maximum number of shares or certificates to be acquired, the duration for which the authorization is granted and which cannot exceed 18 months, as well as the minimum and maximum countervalues.

Art. 322

The acquisition may take place only under the following conditions:

1° the nominal value of the acquired shares or shares to which the acquired certificates relate, including those previously acquired by the corporation and that it would have in the portfolio, as well as those acquired by a person acting on his or her own behalf, but on behalf of that corporation, cannot exceed 10% of the capital under consideration;

2° the acquisition of shares or certificates may take place only to the extent that the amounts assigned to that acquisition are likely to be distributed in accordance with section 320;

3° the operation can only be carried on parts entirely released or on certificates relating to shares fully released;

4° the offer of acquisition of shares or certificates must be made under the same conditions to all partners or, where applicable, to all holders of certificates unless the acquisition was unanimously decided by a general assembly to which all partners were present or represented and the conditions unanimously agreed by that assembly.

Art. 323

The shares and certificates acquired in violation of articles 321 and 322 are invalid. When a certificate becomes null in full right, the share that thus becomes the ownership of the corporation becomes simultaneously null in full right.

The management body expressly mentions the invalidity in the share register.

Paragraph 1<sup>er</sup> applies proportionally to the number of shares and certificates of the same class held by the corporation.

Art. 324

Articles 321, 322 and 326, paragraph 1<sup>er</sup>, do not apply:

1° to the shares acquired for their immediate destruction. in execution of a decision of the General Assembly to reduce capital in

1° to the shares acquired for their immediate absorption, in execution of a decision of the general assembly to reduce capital in accordance with Article 316;

2° to shares or certificates acquired as a result of a universal heritage transmission;

3° to fully released shares or to certificates relating to the wholly released shares acquired during a sale made in accordance with articles 1494 et seq. of the Judicial Code with a view to recovering a debt of the company on the owner of these shares.

The shares or certificates acquired in the cases referred to in 2° and 3° above shall be disposed of within twelve months from the date of their acquisition, up to the number of shares or certificates required for the nominal value of the shares or shares to which the certificates so acquired, including, where applicable, the shares and certificates acquired by a person acting on his or her behalf but on behalf of the corporation, not exceeding 10%

The shares and certificates that were to be disposed of under paragraph 2 and that have not been disposed of within the prescribed time limit are free of charge. Section 323 is applicable by analogy.

Sub-section II. - Sort of shares and certificates acquired

Art. 325

§ 1<sup>er</sup>. As long as the shares are accounted for in the assets of the balance sheet, an unavailable reserve equal to the value to which the shares acquired are accrued must be incorporated.

In case of cancellation of the shares, this unavailable reservation is deleted. If, by offence under paragraph 1<sup>er</sup>, the unavailable reserve had not been established, the available reserves must be reduced to competition and, in the absence of such reserves, the capital will be reduced by the general assembly convened no later than the closing of the current fiscal year.

§ 2. The rights relating to acquired shares are suspended until they have been alienated or have become null and void in full law.

As long as the shares acquired remain in the company's heritage, the dividends are distributed among the shares whose exercise of rights is not suspended.

§ 3. The right to dividends attached to the acquired certificates is suspended. The same applies to the voting rights attached to the shares to which the certificates acquired relate, since these certificates were issued with the company's collaboration.

As long as the acquired certificates remain in the company's heritage, the dividends are distributed among the shares whose exercise of the rights is not suspended.

Art. 326

The shares and certificates acquired pursuant to sections 321 and 322 shall be disposed of by the corporation within two years of the acquisition under a decision of a general assembly that rules on the terms and conditions of quorum and majority set out in section 321, paragraph 2, and in the manner determined by that same assembly.

The shares and certificates that were to be disposed of under paragraph 1<sup>er</sup> and which were not within the prescribed time limit, are free of charge. Section 323 is applicable by analogy.

Art. 327

Losing a company becomes owner of its own shares and certificates free of charge, these shares are void of full right. Section 323 is applicable by analogy.

Sub-section III. - Information in social documents

Art. 328

The management report of the corporation that has acquired its own shares or certificates, by itself or by a person acting on its own behalf but on behalf of the corporation is completed at least by the following indications:

1° the reason for acquisitions;

2° the number and the nominal value or, in the absence of a nominal value, the accounting pair of the shares acquired or disposed of and the shares to which the certificates acquired or disposed of during the fiscal year, as well as the fraction of the capital subscribed to which they represent;

3° the countervalue of the shares or certificates acquired or disposed of;

4° the number and the nominal value of all shares acquired and held in portfolios, and the shares to which the certificates acquired and held in portfolios, as well as the fraction of the capital that they represent.

Where the corporation is not required to prepare a management report, the information referred to in paragraph 1<sup>er</sup>, must be listed in the schedule to the annual accounts.

Sub-section IV. - Financing the acquisition of shares

or certificates by a third party

Art. 329

§ 1<sup>er</sup>. A limited liability private corporation may not advance funds, grant loans, or grant security rights for the acquisition of its shares by a third party or for the acquisition or subscription by a third party of certificates relating to its shares.

§ 2. § 1<sup>er</sup> does not apply to advances, loans and security rights granted:

1° to employees of the company for the acquisition of shares of the company or certificates relating to the shares of the company;

2° to related companies with at least half of the voting rights held by members of the company's staff, for the acquisition by these related companies of shares of the company or of certificates relating to the shares of the company, to which at least half of the voting rights are attached.

However, such transactions may only take place as the sums allocated to the operations set out in § 1<sup>er</sup> may be distributed in accordance with section 320.

Sub-section V. - Gage take-off of own parts or certificates

Art. 330

The acquisition by a company of its shares or certificates relating to its shares, either by itself or by a person acting in its own name but for the company's account, is considered to be an acquisition for the purposes of articles 321, 322, 1° and 2°, 324, paragraph 1<sup>er</sup>, 2°, and 328.

Notwithstanding any provision to the contrary, the corporation or the person acting on its own behalf but on behalf of the corporation may not exercise the right to vote attached to the shares which have been pledged to them.

Sub-section VI. - Buying shares without voting rights

Art. 331

The statutes may give the corporation the power to demand the redemption of all its own shares without the right to vote. A particular stipulation is inserted to this effect in the statutes before the issuance of these shares.

The redemption of shares can only be made if the preferred dividend due to the prior-period and current-period securities has been fully paid.

The redemption is decided by the General Assembly in the conditions required for the amendments of the statutes, with the equal treatment of associates who are in identical conditions. If applicable, the application of section 288 is made. The provisions of

Article 317 shall apply.  
 Global Regulation  
 Shares without voting rights are cancelled and capital is reduced in full right.

The price of the shares without the right to vote shall be determined on the day of the redemption, by mutual agreement between the company and a special assembly of the associates sellers gathered in accordance with Articles 293 and 294 and deliberating and ruling according to the conditions of quorum and majority provided for in Article 288. In the event of a disagreement on the price and in spite of any contrary provision of the statutes, the price shall be fixed by a designated expert of mutual agreement by the parties in accordance with Article 31 or, in the absence of an agreement on the expert, by the president of the trade tribunal deciding as a reference.

Section III. - Social losses

Art. 332

Unless more stringent provisions of the statutes, if, as a result of loss, the net assets are reduced to less than half of the social capital, the general assembly must be reunited within a period not exceeding two months from the time when the loss has been recognized or should have been recognized under the legal or statutory obligations, with a view to deliberating and deciding, if any, in the forms prescribed for the modification

The management body justifies its proposals in a special report made available to partners at the headquarters of the company fifteen days before the general assembly. If the management body proposes the continuation of the activities, it sets out in its report the measures it intends to adopt in order to correct the financial situation of the society. This report is announced on the agenda. A copy of this report is transmitted in accordance with section 269.

The same rules are observed if, as a result of loss, the net assets are reduced to less than a quarter of the social capital but, in this case, the dissolution will take place if approved by a quarter of the votes cast at the assembly.

Where the General Assembly has not been convened in accordance with this article, the damage suffered by third parties is, unless otherwise proved, presumed to result from the absence of summons.

The absence of the report under this article results in the invalidity of the decision of the General Assembly.

Art. 333

When the net asset is reduced to less than 250,000 francs, any interested person may apply to the court for the dissolution of the corporation. The court may, where appropriate, grant the company a time limit to regulate its situation.

PART VI. - The internal conflict resolution procedure

CHAPTER PREMIER. - Exclusion

Art. 334

One or more associates with each other, representing 30% of the voices attached to all existing securities, or shares with a nominal or an accountant value of 30% of the corporation's capital, may apply to justice, for fair reasons, that a partner assigns to the applicant its shares and all the securities it holds and that may be converted or give the right to subscription or exchange in shares of the corporation.

The legal action cannot be brought by the company or by a subsidiary of the company.

Art. 335

The action is brought before the president of the court of commerce of the judicial district in which the company has its seat, sitting as referred.

The company must be summoned to appear. If the judge fails, the case will be returned to a close date. The company in turn informs the other partners.

Art. 336

The defendant may not, after the summons has been served, dispose of its shares or encumber them of real rights except with the agreement of the judge or the parties to the case. The judge's decision is not subject to appeal.

The judge may order the suspension of the rights related to the shares to be transferred with the exception of the right to the dividend. This decision is not subject to appeal.

Art. 337

When filing its first findings, the respondent encloses a copy of the coordinated statutes and a copy or excerpt of any conventions restricting the validity of its shares. The judge shall ensure that the rights resulting from these rights are respected when ordering the forced assignment. The judge may, however, substitute for any party designated by these statutes or conventions to determine the cost of exercising a right of pre-emption, to reduce the time limits for the exercise of pre-emption rights with a discount, and to exclude the application of the terms of licence applicable to the partners.

As long as the beneficiaries have been called to the case, the judge may decide on the legality of any agreement restricting the validity of the shares in the defendant's head or, where appropriate, order the transfer of such agreements to the buyers of the shares.

Art. 338

The judge condemns the defendant to transfer, within the time limit set by the judge on the date of the meaning of the judgment, its shares to the plaintiffs, and the plaintiffs to accept the shares against payment of the price fixed by the judge.

For the surplus, the decision is a title for the completion of the disposal procedures when the titles are nominal.

The recovery shall be made, if any, after the exercise of any pre-emption rights referred to in the judgment, prorated to the number of shares held by each, unless otherwise agreed.

Applicants are jointly held to pay the price. The judge's decision is enforceable by provision, despite opposition or appeal. If the decision is executed and an appeal is filed, section 336 applies to shareholders.

Art. 339

One or more associates with a set of securities representing 30% of the votes attached to all existing securities, i.e., shares with a nominal or an accountant value of 30% of the corporation's capital, may apply to justice that, for fair reasons, the person exercising the right to vote in any other title than that of the owner transfers his or her right to vote to the licensee or other licensees on the part. As soon as the application is inadmissible, the other licensee(s) must be quoted to appear, unless they are also applicants.

Sections 334, paragraph 2, 335, 336 and 337 apply to the procedure provided for in this section.

The judge's decision takes place as a title for the completion of all formalities related to the transfer of the right to vote.

CHAPTER II. - From withdrawal

Art. 340

Any partner may, for just reasons, seek justice that the associates at the origin of these just motives, return all their shares.

Sections 335, 336, paragraph 2, and 337, paragraph 2, shall apply. Article 337, paragraph 1<sup>er</sup>, is applicable by analogy to the applicant.

The judge condemns the defendant to accept, within the time limit set by the judge on the date of the judgment, the shares against payment of the fixed price and the plaintiff to hand over his securities to the defendants.

For the surplus, the decision is a title for the completion of the disposal procedures.

The recovery is made, if any, after the exercise of any pre-emption rights referred to in the judgment. The defendants are jointly held to pay the price.

The judge's decision is enforceable by provision, despite opposition or appeal. If the decision is executed and an appeal is filed, section 337 applies to shareholders.

CHAPTER III. - From the publication

Art. 342

The extract of the judicial decision in force of a matter deemed or enforceable by provision for exclusion or withdrawal under sections 334 and 340 is filed and published in accordance with section 74.

PART VII. - Duration and dissolution

Art. 343

Except as otherwise provided in the statutes, limited liability private companies are established for an unlimited period of time.

If a period is fixed, the General Assembly may decide, in the forms prescribed for the modification of the statutes, the extension for a limited or unlimited duration.

Dissolution of the limited or unlimited-term corporation may be sought in court for fair reasons. Apart from this, the dissolution of the society can only result from a decision made by the General Assembly in the forms prescribed for the modification of the statutes.

Sections 39, 5°, and 45 are not applicable.

Art. 344

In the event of the death of the single partner and in the absence of any success, the succession will be acquired in the state and the society will be dissolved in full right.

In this case, the President of the Commercial Court will appoint a liquidator at the request of any interested person. Sections 1025 to 1034 of the Judicial Code are applicable.

PART VIII. - Criminal provisions

Art. 345

Will be punished by a fine of fifty francs to ten thousand francs:

1° the managers, commissioners and liquidators who have neglected to convene the general assembly of associates or bondholders within three weeks of the requisition that has been made to them;

2° the managers who have not submitted the acquisitions of property to the authorization of the general assembly in accordance with section 222;

3° those who have not made the statements required by section 226;

4° the managers who have not submitted the special report accompanied by the report of the Commissioner or the company reviewer or, as the case may be, the external auditor, as provided for in sections 219, 222 and 313.

Art. 346

Will be punished by a fine of 50 francs to ten thousand francs, those who, directly or through person, have opened a public subscription to social shares or to the sale of the obligations of a private limited liability company.

Art. 347

Will be punished by a fine of fifty francs to ten thousand francs and may be punished by imprisonment from one month to one year:

1° Managers who, in the absence of annual inventories or accounts, despite annual inventories or accounts or through fraudulent annual accounts, have contravened section 320;

2° the Commissioner or manager who contravened sections 321 to 328 or 330;

3° the commissioner or manager who have made, by any use, payments to the company's expenses, on the shares or admitted as facts of the payments that are not actually made in the manner and times prescribed;

4° those who contravened Article 217, Article 304 or Article 329.

Art. 348

They shall be considered guilty of fraud and punished by the penalties imposed by the Criminal Code, those who have caused either subscriptions or payments, or purchases of shares, bonds or other securities:

1° by simulation of subscriptions or payments to a company;

2° by the publication of subscriptions or payments that they know do not exist;

3° by the publication of names of persons designated as being or to be attached to society in any way, while they know these designations contrary to the truth;

4° by the publication of all other facts that they know to be false.

Art. 349

Will be punished by a fine of fifty francs to ten thousand francs:

1° those who, knowingly speaking as owners of titles that do not belong to them, have taken part in the vote in a general assembly;

2° those who have given the titles to make the above use;

3° those who knowingly have taken part in the vote in a general assembly, while the voting rights they claim to exercise are suspended under this code.

LIVRE VII

Cooperative society

You're the first. - Common provisions

to all cooperative societies

CHAPTER PREMIER. - Nature and qualification

Art. 350

The cooperative society is that which consists of partners whose numbers and contributions vary.

Art. 351

By derogation from Article 1<sup>er</sup> the cooperative society must be composed by at least three persons.

Art. 352

The statutes must specify whether the liability of the partners of the cooperative society is limited or unlimited.

When the cooperative company has opted for unlimited liability, the partners are personally and in solidarity with the social debts and it is called an unlimited liability cooperative corporation; when it has chosen limited liability, the partners are liable to social



and it is called an unlimited liability cooperative corporation; when it has chosen limited liability, the partners are liable to social ed only for the extent of their contributions and bears the name of a limited liability cooperative corporation.

Art. 353

The statutes make no distinction between associates from the point of view of their responsibility.

## CHAPTER II. - Constitution

### Section II. - Full subscription

Art. 354

The company cannot, for the fixed share of the capital, subscribe its own shares, either directly or by a subsidiary corporation, or by a person acting on its own behalf, but on behalf of the affiliate company or company.

The person who has subscribed on his or her own behalf but on behalf of the affiliate corporation or corporation is considered to have subscribed on his or her own behalf.

All rights relating to the shares of the corporation or its subsidiary are suspended, until such shares have been disposed of.

### Section II. - Disclaimer of the act of society

Art. 355

The constitutive act mentions, in addition to the indications contained in the publication excerpt:

1° the designation of contributions;

2° the conditions of admission, resignation and exclusion of partners and the conditions of withdrawal of payment;

3° the rules that determine the number and mode of designation of the members of the bodies responsible for the administration, representation in respect of third parties, control of society, and the division of competence between those bodies and the duration of their mandate;

4° the rights of associates;

5° the method of convening the general assembly, the majority required for the validity of the deliberations, the method of voting;

6° the distribution of profits and losses.

The powers of attorney must reproduce the statements provided by article 69, 1°, 2°, 4°, 5° and 11°, and by the 1° of this article.

## CHAPTER III. - Titles and their transfer

### Section 1. - General provisions

Art. 356

The shares of a cooperative society are nominal. They're wearing an order number.

Apart from these shares representing the contributions, no other kind of securities may be created that represent social rights or give a share of profits.

The issuance of the obligations and the rights attached to them are regulated by the statutes.

Art. 357

§ 1<sup>er</sup>. It is held at the head office of the cooperative society a register of shares, which each partner may consult.

§ 2. The shares register contains:

1° the name, first name and domicile of each partner;

2° the number of shares each partner holds and the subscriptions of new shares and refunds of shares, with their date;

3° transfers of shares, with their date;

4° the date of admission, resignation or exclusion of each partner;

5° the amount of payments made;

6° the amount of the amounts withdrawn in the event of resignation, partial withdrawal of shares and withdrawal of payments.

§ 3. The management body is responsible for registrations. Registrations are made on the basis of evidence that is dated and signed. They are done in the order of their date.

With respect to registrations in the Register of Name Shares of an Unlimited Liability Cooperative, the signature referred to in paragraph 1<sup>er</sup> engages the author only on the condition that it be preceded by the manuscript mention "Good for unlimited and solidarity-based engagement".

Art. 358

The management body may decide to split the share register into two parts, one of which is retained at the company's headquarters and the other outside the company's headquarters, in Belgium or abroad.

A copy of each volume will be retained at the place where the other part is deposited; for this purpose, copies will be used.

This copy will be regularly kept up to date and, if it proved impossible, it will be completed as soon as the circumstances permit.

The shareholders have the right to register them in one of the two volumes of the register to their choice. They can read both parts of the registry and their copy.

The management body makes known where the second volume of the register is deposited, by a publication in the Annexes of the Belgian Monitor. This place can be changed by simple decision of the management body.

The decision of the management body to split the register of nominative shares into two parts can only be modified by a decision of the general assembly in the forms prescribed for the modification of the statutes.

Art. 359

The ownership of the shares is established by a registration in the share register.

Certificates of registration will be issued to shareholders.

Art. 360

If there are several owners on the one hand, the corporation has the right to suspend the exercise of the related rights until a single person has been designated as the owner of the rights on the other.

Art. 361

The personal creditors of the partner may seize only the interest and dividends reverted to him and the share that will be attributed to him to the dissolution of the corporation.

### Section II. - Transfer of shares

Art. 362

The shares are freely closed to associates, if any under the conditions provided by the statutes.

Art. 363

The shares of an unrestricted and solidarity-based cooperative corporation representing in-kind contributions may, however, be transferred only ten days after the filing of the second annual accounts following their creation. Mention of their nature, the date of their creation and their temporary inconvertibility will be made on the certificates and the share register.

Art. 364

The shares of a cooperative corporation may be transferred to third parties only to persons and under the conditions set out in

Art. 365

Disposal and transfer of shares shall be subject only to the corporation and third parties from the time the transfer declaration is entered on the share register.

#### CHAPTER IV. - Changes in the composition of society and the social fund

##### Section one. - Changes in the composition of society

Art. 366

Third parties may only be admitted to society if:

1° they are nominally designated in the statutes;

2° they are part of categories that the statutes determine and meet the requirements required by law or statutes to be associated; in this case, the approval of the General Assembly is required, unless the statutes have entrusted this competence to another body.

Art. 367

Unless otherwise provided in the statute, the partners have the right to resign or withdraw part of their shares. This right can only be exercised in the first six months of the social year.

Art. 368

The admission of the partners and, except in the case referred to in section 369, paragraph 2, their resignation shall be effective only from the date of their registration in the share register in accordance with section 357.

Art. 369

The resignation is recorded in the share register on the margins of the name of the resigning partner by the management body.

If the management body refuses to note the resignation, it is received at the office of the peace justice office. The Clerk shall prepare a report and inform the company by registered letter, sent within 24 hours. Where applicable, the resignation has effect from the day following the sending of the recommended letter.

Art. 370

§ 1<sup>er</sup>. Any partner may be excluded for just reasons or for any other cause specified in the statutes.

Exclusion is pronounced by the General Assembly unless the statutes assign this power to another organ.

A member whose exclusion is requested must be invited to make his observations in writing before the body responsible for deciding, in the month, on the sending of a recommended fold containing the reasoned proposal for exclusion.

If asked in the letter containing his observations, the partner must be heard.

Any exclusion decision is motivated.

§ 2. The exclusion decision is found in a report prepared and signed by the management body. This record mentions the facts on which exclusion is based. Reference is made to the exclusion on the share register. A true copy of the decision is sent by registered letter within fifteen days to the excluded partner.

§ 3. The statutes cannot hinder the application of this section.

Art. 371

Any resigning partner, excluded or withdrew part of his or her shares, shall remain personally held within the limits where he or she has committed, for five years from these facts, except for the shorter statute of limitation, all commitments made before the end of the year in which his or her exclusion, resignation or partial withdrawal of his or her shares took place.

Art. 372

A copy of the records relating to them, which are included in the share register, is issued to the partners who apply for them, according to the manner defined by the statutes. These copies may not be used as evidence against the records of the shares.

Art. 373

The management body of a cooperative corporation whose partners are responsible in an unlimited manner will have to file every six months at the Registry of the Commercial Court, a list indicating in alphabetical order the names, occupation and domicile of all partners, dated and certified true by the signatories.

Any person may be free of charge aware of the lists of the associates and obtain a copy of the lists for payment of the transplant fee.

The management body will be responsible for any false statement in the lists.

#### Section II. - Refund of shares

Art. 374

Any resigning partner, excluded or withdrew part of his or her shares, is entitled to receive the value of his or her shares as a result of the balance sheet of the social year during which these facts took place.

Art. 375

In the event of death, bankruptcy, distrust or prohibition of a partner, his or her heirs, creditors or representatives shall recover the value of his or her shares in the manner determined by section 374.

Art. 376

Resigned or excluded associates or, in the event of death, bankruptcy, distrust or prohibition of an associate, its heirs, creditors or representatives may not cause the company to be dissolved.

#### Section III. - Changes in the liberation of capital

Art. 377

Unless otherwise provided in a statutory provision, where applicable in accordance with the provisions of Articles 397 and 398 relating to the minimum amount of capital to be released, each partner has the right to withdraw the amounts that he or she has released, if the General Assembly or another body authorized by the statutes, authorizes it. This withdrawal does not exempt it from its obligation to make a contribution.

#### CHAPTER V. - Organs and control

##### Section 1. - Management

Art. 378

In the event of silence of the statutes, the cooperative corporation is administered by a director, whether associated or not, appointed by the General Assembly.

Art. 379

Within eight days of their appointment or termination of office of directors, an extract from the act recognizing their power or termination of office and bearing their signature shall be deposited at the Registry of the Commercial Court.

Any person may be free of charge aware of these acts and obtain a copy of the act upon payment of the transplant fee.

Administrative bodies shall act in accordance with the common law, for the fulfilment of their mandate and for errors committed in their administration.

## Section II. - General Assembly of Associates

### Art. 381

Fifteen days before the General Assembly, the administrative body shall address the partners who request it, without delay and free of charge, a copy of the documents for which this Code provides this possibility.

### Art. 382

Unless otherwise prescribed by statute, all associates may vote in the general assembly and each share shall give a vote.

Without prejudice to the specific provisions of this book and unless otherwise provided by statutory provisions, resolutions shall be made with majority and by following the rules applicable to anonymous companies.

### Art. 383

Unless otherwise provided by statute, the summons to the General Assembly shall be made at least fifteen days before the General Assembly by registered letter, signed by the directors.

### Art. 384

Unless otherwise provided by statute, the General Assembly shall decide on the allocation of profits and losses.

## Section III. - Control

### Art. 385

By derogation from section 166, the statutes may provide that the powers of investigation and control of individual partners are delegated to one or more associates responsible for this control. These supervisory associates are appointed by the general assembly of associates. They cannot exercise any other function or accept any other mandate in society. They can be represented by an external auditor. The remuneration of the external auditor is the responsibility of the corporation if it has been designated with its agreement or if the remuneration has been paid by judicial decision. In these cases, the observations of the external accountant are communicated to the company.

## CHAPTER VI. - Duration and dissolution

### Art. 386

Unless otherwise provided in the statutes, the following rules apply:

1° the cooperative corporation is constituted for an unlimited duration;

2° if a period is fixed, the General Assembly may decide, in the forms prescribed for the modification of the statutes, the extension for a limited or unlimited duration;

3° the dissolution of the limited-term or unlimited-term cooperative society may be requested in court for fair reasons. Apart from this, the dissolution of the society can only result from a decision made by the General Assembly in the forms prescribed for the modification of the statutes. Sections 39, 5°, and 45 are not applicable to the dissolution of the cooperative society.

## CHAPTER VII. - Criminal provisions

### Art. 387

Will be punished by a fine of fifty francs to ten thousand francs and may be punished by imprisonment from one month to one year:

1° the Commissioner or administrator who, by any means, made payments at the expense of the corporation on the shares or admitted as made payments that are not actually made in the manner and times prescribed;

2° those who contravened section 354.

### Art. 388

They shall be considered guilty of fraud and punished by the penalties imposed by the Criminal Code, those who have caused either subscriptions or payments, or purchases of shares, bonds or other securities:

1° by simulation of subscriptions or payments to a company;

2° by the publication of subscriptions or payments that they know do not exist;

3° by the publication of names of persons designated as being or to be attached to society in any way, while they know these designations contrary to the truth;

4° by the publication of all other facts that they know to be false.

### Art. 389

Will be punished by a fine of fifty francs to ten thousand francs:

1° those who, knowingly speaking as owners of titles that do not belong to them, have taken part in the vote in a general assembly;

2° those who have given the titles to make the above use;

3° those who knowingly have taken part in the vote in a general assembly, while the voting rights they claim to exercise are suspended under the law.

## PART II. - Provisions specific to the limited liability cooperative corporation

### CHAPTER PREMIER. - Constitution

#### Section 1. - Fixed share and variable share of capital

### Art. 390

The statutes determine the amount of the fixed share of social capital.

This amount cannot be less than 750,000 francs.

### Art. 391

Prior to the formation of the company, the founders hand over a financial plan to the notary in which they justify the fixed share of capital. This document is not published at the same time as the act but retained by the notary.

### Art. 392

The portion of the social capital that exceeds the amount of the fixed share may vary, without a change in the statutes being required, due to the withdrawal of additional shares or subscriptions by the partners, or the admission, resignation or exclusion of partners.

## Section II. - Subscription of capital

### First sub-section. - General provision

### Art. 393

The social capital of the society must be fully subscribed.

### Sub-Section II. - In-kind transport

### Art. 394

Contributions that do not consist of cash, may only be paid by representative shares of social capital if they consist of assets that

are subject to economic valuation, other than assets that are constituted by commitments for the performance of work or the provision of services. Contributions in kind are called in-kind contributions.

Art. 395

In the event of in-kind intake, a company reviewer is designated before the founding of the company.

The reviewer reports, including the description of each in-kind contribution and the methods of evaluation adopted. The report indicates whether the estimates to which these valuation modes are conducted correspond to at least the number and nominal value of the shares to be issued in consideration.

The report indicates the actual compensation for contributions.

The founders prepare a special report in which they set out the interest of in-kind contributions to society and, where appropriate, the reasons why they deviate from the reviewer's conclusions. This special report is filed in conjunction with that of the Registrar at the Court of Commerce Registry in accordance with section 75.

Sub-Section III. - Quasi-apport

Art. 396

§ 1<sup>er</sup>. Any property belonging to one of the founders, director or partner that the company proposes to acquire within two years of its constitution, if applicable under section 60, for a counter-value of at least one tenth of the fixed share of the social capital, is the subject of a report prepared either by the Commissioner or, for the corporation that has not, by a revisor of the corporation.

Paragraph 1<sup>er</sup> applies to the assignment made by a person acting on his or her own behalf but on behalf of a founder, administrator or associate.

§ 2. § 1<sup>er</sup> does not apply to acquisitions made within the limits of the day-to-day transactions entered into under the terms and conditions normally required by the corporation for transactions of the same species, or to acquisitions on the stock exchange, or to acquisitions resulting from an orderly sale by law.

§ 3. The report referred to in § 1<sup>er</sup> mentions the name of the owner of the property that the company proposes to acquire, the description of this property, the actual remuneration awarded in return for the acquisition and the methods of valuation adopted. It indicates whether the estimates to which these valuation modes are conducted correspond to at least the compensation awarded in respect of the acquisition.

This report is attached to a special report in which the management body sets out, on the one hand, the interest of the proposed acquisition for the company and, on the other hand, the reasons why, possibly, it departs from the conclusions of the annexed report. The report of the Commissioner or Business Reviewer and the special report of the Management Authority shall be filed at the Registry of the Commercial Court in accordance with section 75.

This acquisition is subject to prior authorization from the General Assembly. The reports under paragraph 2 are announced in the agenda.

A copy of the reports is transmitted to the partners in accordance with section 381.

The absence of the reports provided for in this article results in the invalidity of the decision of the General Assembly.

Section II. - Release of capital

Art. 397

The fixed share of social capital must be fully released from the constitution up to 250,000 francs.

Art. 398

Each share of a cash contribution and each part or part of a contribution in kind must be released by a quarter.

Art. 399

In the event of cash contributions to be released at the time of the transaction, the funds are, prior to the formation of the company, deposited by payment or transfer to a special account opened on behalf of the company in training at La Poste (Poste) or a credit institution established in Belgium, other than a communal savings fund, governed by the law of 22 March 1993 relating to the status of the institutions. A certificate justifying this deposit is attached to the certificate.

The special account must be at the exclusive disposal of the corporation to be established. It can only be disposed of by the persons authorized to engage the company and after the notary instrumentant had informed the body of the passing of the act. If the corporation is not incorporated within three months of the opening of the special account, the funds are returned to their application to those who have deposited them.

Art. 400

Shares or parts of social shares corresponding to in-kind contributions must be fully released within five years of the date of the constitution of the society.

Section IV. - Constitution forms

Art. 401

Notwithstanding any stipulation to the contrary, the comparants to the constitutive act are considered to be founders.

Art. 402

The constitutive act mentions, in addition to the indications provided for in articles 69 and 355:

1° compliance with the legal conditions relating to the subscription and release of capital;

2° the specification of each in-kind intake, the name of the intaker, the name of the enterprise reviewer and the conclusions of the report, the number and nominal value of the shares issued for each intake, and, where applicable, the other conditions to which the contribution is made.

Power of attorney shall reproduce, in addition to the information provided for in article 355, paragraph 2, the information referred to in paragraph 1<sup>er</sup>Two.

Section V. - Nullity

Art. 403

The invalidity of a limited liability cooperative corporation may only be pronounced in the following cases:

1° if the constitutive act is not established in the required form;

2° if this act contains no indication of the form of the corporation, its social name, its seat, its social object, the contributions, the fixed share of its capital and the identity of the partners;

3° if the social object is unlawful or contrary to public order;

4° if the number of valid partners who have appeared in person or by warrant holders is less than three.

Art. 404

If the clauses of the constitutive act determining the distribution of profits or losses are contrary to section 32, these clauses are deemed to be non-written.

Section VI. - Responsibilities

Art. 405

Notwithstanding any stipulation to the contrary, the founders are jointly and severally bound to the concerned:

1° of the whole share of the capital that would not be validly subscribed and the possible difference between the amount referred to in section 390 and the amount of the subscriptions; they are of full right deemed to be subscribers;

2° the effective release of the quarter of the shares and of the capital in accordance with the provisions of sections 397 and 398, as well as the share of the capital of which they are deemed to be subscribers under 1°;

3° of the compensation of the damage that is the immediate and direct result, either of the nullity of the corporation imposed by application of Article 403, or of the absence, in the constitutive act, of the mentions prescribed by Article 352, paragraph 1<sup>er</sup> the manifest over-evaluation of in-kind contributions;

4° of the release of shares in violation of Article 354;

5° of the company's commitments in a proportion fixed by the judge, in case of bankruptcy pronounced within three years of the constitution, if the fixed share of the social capital was clearly insufficient at the time of the constitution to ensure the normal exercise of the planned activity for at least two years; in this case the financial plan prescribed by Article 391 shall be transmitted to the court by the notary, at the request of the judge-commissary or the Crown Prosecutor.

Art. 406

Notwithstanding any stipulation to the contrary, directors shall be held in solidarity with the persons concerned of compensation for the damage that is an immediate and direct result of the manifest over-evaluation of the property acquired under the conditions set out in section 396.

CHAPTER II. - Organs

Section 1. - Representation powers

Art. 407

The company is bound by the acts carried out by the management body, even if these acts exceed the social object, unless it proves that the third party knew that the act exceeded the social object or could not ignore it, given the circumstances, without the only publication of the statutes sufficient to form that evidence.

Section II. - Responsibilities

Art. 408

Directors are responsible, in accordance with the common law, for the fulfilment of their mandate and for the faults committed in their management.

Directors shall be jointly and severally liable, either to the corporation or to the third parties, for any damages arising from breaches of the provisions of this Code or social statutes.

They will not be discharged from this responsibility, as to the offences to which they have not taken part, only if no fault is attributed to them and if they have denounced these offences to the next general assembly after they have been aware of them.

Art. 409

In the event of a failure of the company and the insufficiency of the assets and if it is established that a serious and characterized fault in their leader has contributed to the bankruptcy, any administrator or former administrator, as well as any other person who has effectively held the power to administer the company, may be declared personally obligated, with or without solidarity, of all or part of the social debts up to the insufficiency of assets.

Paragraph 1<sup>er</sup> However, it is not applicable when the bankruptcy corporation has made, in the three fiscal years preceding the bankruptcy, an average turnover of less than 25 million francs, excluding the value added tax, and when the balance sheet at the end of the last fiscal year has not exceeded 15 million francs.

Section II. - General Assembly of Associates

First sub-section. - Information of partners

Art. 410

Fifteen days before the general assembly, the associates may meet at the headquarters of the following:

1st annual accounts;

2° where applicable, consolidated accounts;

3° the list of public funds, shares, bonds and other corporate securities that make up the portfolio;

4° the management report and the report of the commissioners.

Annual accounts and reports referred to in paragraph 1<sup>er</sup>, 4°, are transmitted to the partners in accordance with section 381.

Sub-Section II. - Holding of the General Assembly

Art. 411

The General Assembly hears the management report and the report of the Commissioners and discusses the annual accounts.

After the end of the annual accounts, the General Assembly shall take a special vote on the discharge of directors and commissioners. This discharge is valid only if the annual accounts contain no omission, no false indication concealing the actual situation of the corporation and, in respect of acts made outside the statutes or in violation of this Code, only if they have been specifically indicated in the summons.

Art. 412

Directors respond to questions posed to them by the associates regarding their report or agenda items, as the disclosure of data or facts is not likely to seriously affect the company, partners or staff of the company.

The commissioners attend the general assemblies when they are called to deliberate on the basis of a report prepared by them. In this case, they answer the questions asked by the partners about their report. They have the right to speak to the assembly in relation to the fulfilment of their functions.

Sub-Section III. - Modification of the social object

Art. 413

If the amendments to the Regulations relate to the social object, a detailed justification for the proposed amendment must be provided by the management body in a report announced in the agenda. to this report is attached a statement summarizing the active and passive situation of the society, which was arrested on a date not more than three months. The Commissioners report separately on this status.

A copy of these reports is transmitted to the partners in accordance with section 381. The absence of reports results in the nullity of the decision of the General Assembly.

The General Assembly can only validly deliberate and decide on the modification to the social object if those attending the meeting represent half of the social capital.

If this condition is not fulfilled, a new convocation will be necessary. For the second assembly to be validly deliberated, it will be



sufficient for any portion of the capital to be represented.

No amendments are allowed unless it brings together at least four fifths of the vote.

Sub-Section IV. - Extension of the General Assembly

Art. 414

The management body has the right to extend the decision on approval of the three-week annual accounts. This extension does not cancel any other decisions taken unless the General Assembly decides otherwise. The second meeting has the right to finalize the annual accounts.

Section IV. - Social action and minority action

First sub-section. - Social action

Art. 415

The General Assembly decides whether social action should be taken against directors or commissioners. It may charge one or more agents for the execution of this decision.

Sub-Section II. - Minority action

Art. 416

§ 1<sup>er</sup>. An action may be brought against directors on behalf of the corporation by minority partners.

This minority action is brought, by one or more associates having, on the day of the general assembly which has pronounced on the discharge of directors, securities to which is attached at least 10% of the votes attached to all the securities existing to date or having on that same day securities representing a fraction of the capital equal to at least 50 million francs.

The action can only be brought by those who did not vote the landfill and by those who voted the landfill in this case, that it is not valid.

§ 2. The fact that in the course of a proceeding, one or more associates cease to represent the group of minority associates, either that they no longer have titles or that they waive participation in the action, is without effect on the prosecution of the proceeding or on the exercise of remedies.

§ 3. If the legal representatives of the society exercise social action and that the minority action is also brought by one or more holders of titles, the proceedings are joined for connexity.

§ 4. Any transaction entered into prior to the action may be cancelled at the request of holders of securities meeting the conditions set out in § 1<sup>er</sup> if it has not been made to the common benefit of the holders of titles.

After the initiation of the action, the company cannot transfer with the defendants without the unanimous consent of those who remain seeking the action.

Art. 417

If the minority claim is rejected, the applicants may be sentenced personally at the expense and, where applicable, to damages to the defendants.

If the application is received, the amounts that the claimants made the advance, and which are not included in the dependant costs of the respondents, are refunded by the corporation.

CHAPTER III. - Capital

Section 1. - Capital increase

Art. 418

When an increase in the capital of a limited liability cooperative corporation, each share representing a cash contribution and each share representing in whole or in part a contribution in kind must be released from a quarter.

Art. 419

Shares or parts of social shares corresponding to in-kind contributions must be released within 5 years of the decision to increase capital.

Art. 420

Where applicable, the authentic act of amending the statutes recognizes compliance with the terms and conditions for the subscription and release of the shares.

This act is the subject of a deposit in the Registry in accordance with section 75.

Art. 421

§ 1<sup>er</sup>. The only decision to increase the fixed share of the capital must be found by an authentic act, which is the subject of a deposit to the registry in accordance with section 75.

If the realisation of the capital increase is observed at the same time, the act also mentions respect for the legal conditions relating to the subscription and release of capital.

§ 2. The realization of the increase, if it is not concomitant to the decision to increase the fixed share of capital, is found by an authentic act, filed at the request of the management body or one or more directors specially delegated for that purpose, upon presentation of the supporting documents of the operation. The act shall be deposited in accordance with section 75.

The Act also mentions compliance with the legal conditions relating to the subscription and release of capital.

Art. 422

In the event of cash contributions to be released at the time of the issuance of the act recognizing the increase in the fixed share of the capital, the funds are deposited by payment or transfer to a special account opened on behalf of the corporation to La Poste (Poscheque) or a credit institution established in Belgium, other than a communal savings fund, governed by the law of 22 March 1993 relating to the status and control of the institutions. A certificate justifying this deposit is attached to the certificate.

If the increase is not made within three months of the opening of the special account, the funds will be returned to their application to those who have deposited them.

When the contribution is not made as part of the increase in the fixed share of the social capital, the funds are deposited in a special account in the manner referred to in paragraph 1<sup>er</sup> at the time of the admission or subscription of the shares. A certificate supporting this deposit is submitted to the following first general meeting.

Art. 423

§ 1<sup>er</sup>. When an increase in capital includes in-kind contributions, a report is prepared beforehand either by the Commissioner or, for the corporation that has not, by a company reviewer designated by the management body.

This report covers the description of each in-kind contribution and the methods of evaluation adopted. It indicates whether the estimates to which these valuation modes are conducted correspond to at least the number and the nominal value and, where applicable, the emission premium of the shares to be issued in consideration. The report indicates the actual compensation awarded in return for contributions.

to this report is attached a special report. in which the management body sets out. on the one hand. the interest of the company in

to the report is annexed a special report, in which the management body sets out, on the one hand, the interest of the company in the inputs and, on the other, the reasons why, possibly, it departs from the conclusions of the annexed report.

The review report and the special report of the management body are filed at the office of the commercial court in accordance with section 75. These reports are announced on the agenda of the General Assembly which must decide on the capital increase. A copy of the reports is transmitted to the partners in accordance with section 381.

§ 2. When the in-kind contribution is not made in the context of the increase in the fixed share of social capital, these reports are submitted to the first general assembly which decides on the value attributed to the contribution and its remuneration, to the majority required for the increase in the fixed share of social capital, without taking into account the votes attached to the shares issued in exchange for that contribution.

§ 3. The absence of the reports provided for in this article results in the invalidity of the decision of the General Assembly.

Art. 424

Notwithstanding any provision to the contrary, those who administer the corporation shall be held in solidarity with the persons concerned in the event of an increase in capital:

1° of the whole fixed share of the capital that would not be validly subscribed and the possible difference between the amount referred to in section 390 and the amount of the subscriptions; they are of full right deemed to be subscribers;

2° of the effective release of one quarter of the shares, of the effective release within five years of the shares corresponding in whole or in part to in-kind contributions, as well as of the share of the capital of which they are deemed subscribers under the 1st;

3° of compensation for the damage that is the immediate and direct result, either of the absence of the statements prescribed by section 69, 1°, or of the manifest over-evaluation of in-kind contributions.

Section II. - Decrease in the fixed share of capital

Art. 425

Any reduction in the fixed share of social capital may only be decided by the general assembly in the conditions required for the amendments to the statutes by equal treatment of associates who are in the same conditions.

The summons to the General Assembly indicates how the proposed reduction will be effected and the purpose of this reduction.

Art. 426

§ 1<sup>er</sup>. If the reduction of the fixed share of the capital is effected by a refund to the partners or by a total or partial exemption from the payment of the balance of the contributions, creditors whose receivable was born prior to the publication, have, within two months of the publication to the Annexes of the Belgian Monitor of the decision to reduce the capital, notwithstanding any provision to the contrary, the right to demand a security right for the receivables not yet expired at the time of that The corporation may deviate this claim by paying the receivable at its value, after deduction of the discount.

in the absence of an agreement or if the creditor is not paid, the contestation is submitted by the most diligent party to the president of the trade tribunal in whose jurisdiction the company has its seat. The procedure is introduced, instructed and carried out according to the forms of the referee.

All rights except on the merits, the President shall determine the security to be provided by the corporation and shall set the time limit within which it shall be constituted, unless the President decides that no security rights shall be provided in respect of either the guarantees and privileges enjoyed by the creditor or the solvency of the corporation.

No refund or payment to the partners may be made and no exemption from the payment of the balance of contributions may be made as long as the creditors, having claimed their rights within the two-month period referred to above, have been satisfied, unless an enforceable judicial decision has rejected their claims to obtain a guarantee.

§ 2. § 1<sup>er</sup> does not apply to capital reductions to clear a loss suffered or to create a reserve to cover a foreseeable loss.

The reserve constituted to cover a foreseeable loss may not exceed 10% of the capital subscribed after reduction. This reserve may not, except in the event of subsequent capital reduction, be distributed to the partners; it can only be used to compensate for losses incurred or to increase capital by incorporation of reserves.

In the cases referred to in this paragraph, the fixed part of the capital may be reduced below the amount set out in section 390.

However, such a reduction only emerges from the time when an increase in the fixed share of the capital comes at a level not less than the amount set out in section 390.

Section III. - Maintenance of capital

First sub-section. - Refund of the share value

Art. 427

The right of partners to repayment on their part exists only to the extent that this repayment does not result in the net assets, as determined by section 429, becoming less than the fixed share of the social capital.

Sub-Section II. - Recipient distribution

Art. 428

The General Assembly shall, on net profits, make an annual debit of at least one twentieth allocated to the formation of a reserve fund; this withdrawal ceases to be mandatory when the reserve fund reaches the tenth of the fixed share of the social capital.

Art. 429

§ 1<sup>er</sup>. No distribution may be made when, at the closing date of the last fiscal year, the net assets as a result of the annual accounts are, or would become, as a result of such distribution, less than the fixed share of the capital or capital released when the capital is less than the fixed share of the capital, increased by all reserves that the law or statutes do not permit distribution.

By net assets, the total of the assets as shown in the balance sheet must be understood, deducting provisions and debts.

For the distribution of dividends and fortieths, the asset cannot include:

1° the amount not yet amortized from the settlement fee;

2° except in exceptional cases to be mentioned and justified in the schedule to the annual accounts, the amount not yet amortized for research and development costs.

§ 2. Any distribution made in contravention of § 1<sup>er</sup> must be returned by the beneficiaries of this distribution if the company proves that they knew the irregularity of the distributions made in their favour or could not ignore it in the circumstances.

Sub-Section III. - Financing the purchase of own shares by third parties

Art. 430

§ 1<sup>er</sup>. A limited liability cooperative corporation cannot advance funds, grant loans, or provide security rights for the acquisition of its shares by a third party.

§ 2. § 1<sup>er</sup> does not apply:

1° to day-to-day transactions concluded under the conditions and under the normally required guarantees for transactions of the same species, by enterprises governed by the Act of 22 March 1993 relating to the status and control of credit institutions;

2° to advances, loans and security rights granted to members of the company's staff for the acquisition of shares of the company or

to advantages, loans and security rights granted to members of the company's staff for the acquisition of shares of the company or related companies of which at least half of the voting rights are held by members of the company's staff, for the acquisition by these related companies of shares of the company, to which at least half of the voting rights are attached.

However, such transactions may only take place as the sums allocated to the operations set out in § 1<sup>er</sup> may be distributed in accordance with section 429.

#### Sub-Section IV.- Social losses

##### Art. 431

Unless more stringent provisions of the statutes, if, as a result of loss, the net assets are reduced to less than half of the fixed share of the social capital, the general assembly must be reunited within a period not exceeding two months from the date of the time when the loss has been found or should have been recognized under the legal or statutory obligations, with a view to deliberating and deciding, if any, in the forms announced

The management body justifies its proposals in a special report made available to partners at the headquarters of the company fifteen days before the general assembly. If the management body proposes the continuation of the activities, it sets out in its report the measures it intends to adopt in order to correct the financial situation of the society. This report is announced on the agenda. A copy of this report is made available to partners in accordance with section 381. A copy is also transmitted without delay to persons who have completed the formalities prescribed by the statutes to be admitted to the assembly.

The same rules are observed if, as a result of loss, the net assets are reduced to less than a quarter of the fixed share of the social capital but, in this case, the dissolution will take place if approved by a quarter of the votes emitted to the assembly.

Where the General Assembly has not been convened in accordance with this article, the damage suffered by third parties is, unless otherwise proved, presumed to result from the absence of summons.

The absence of the report under this article results in the invalidity of the decision of the General Assembly.

##### Art. 432

When the net asset is reduced to less than 250,000 francs, any interested person may apply to the court for the dissolution of the corporation. The court may, where appropriate, grant the company a time limit to regulate its situation.

#### CHAPTER IV. - Criminal provisions

##### Art. 433

Will be punished by a fine of fifty francs to ten thousand francs:

1<sup>st</sup> directors who have not submitted the acquisitions of property to the authorization of the General Assembly in accordance with Article 396;

2<sup>o</sup> directors who have not submitted the special report together with the report of the Commissioner, the business reviewer or, as the case may be, the external auditor, as provided for in sections 395, 396 and 423;

3<sup>o</sup> the directors who have not made the statements required by articles 402 and 420.

##### Art. 434

Will be punished by a fine of 50 francs to ten thousand francs and may be punished by imprisonment from one month to one year for the directors who have distributed dividends or ash in violation of section 429.

#### PART III. - Change in the responsibility of partners in a cooperative society

##### Art. 435

Notwithstanding any stipulation to the contrary, the amendment of the statutes intended to transform a limited liability cooperative corporation into an unlimited liability cooperative corporation requires the unanimous agreement of the partners.

Such an amendment must be recognized by authentic act. By derogation from Article 66, paragraph 3, the authentic form is not mandatory for subsequent statutory amendments of the cooperative corporation with unlimited liability.

##### Art. 436

§ 1<sup>er</sup>. Notwithstanding any stipulation to the contrary, the amendment of the statutes intended to transform a cooperative society with unlimited liability into a cooperative society with limited liability is decided by the General Assembly, under the conditions required for the modification of the statutes.

By derogation from article 66, paragraph 3, such an amendment shall be observed by an authentic act of nullity. The authentic form must also be given to any subsequent modification of the statutes, barely invalid.

§ 2. The amendment is decided after the establishment of a statement summarizing the active and passive situation of the company, which was decided on a date not more than three months and indicating the amount of the net assets. A business reviewer or an external auditor appointed by the partners reports on this condition, including whether it translates in a complete, faithful and correct manner the situation of the company.

§ 3. The Act establishing a limited liability cooperative corporation specifies the amount of the fixed share of the social capital determined in accordance with section 390.

§ 4. Limited liability is only applicable to the subsequent company's commitments at the time that this amendment is enforceable to third parties in accordance with section 76.

§ 5. The directors shall be held in solidarity with the concerned:

1<sup>o</sup> of the possible difference between the net assets as a result of the state and the amount of the fixed capital referred to in § 3;

2<sup>o</sup> of compensation for damage that is an immediate and direct result of the manifest overvaluation of the net assets appearing in the aforementioned state;

3<sup>o</sup> of compensation for damage which is an immediate and direct result of nullity resulting from a violation of § 1<sup>er</sup> Paragraph 2.

#### LIVRE VIII

##### Anonymous society

You're the first. - Nature and qualification

##### Art. 437

The anonymous company is the one in which shareholders only engage in a specified bet.

##### Art. 438

An anonymous company is considered to be making or publicly appealing to savings when it made a public appeal to savings in Belgium or abroad by a public subscription offer, a public offer for sale, a public exchange offer or a registration to a securities exchange, or another regulated market, in the sense of Article 1<sup>er</sup>, § 3, of the law of 6 April 1995 relating to secondary markets, the status of investment enterprises and their control, to intermediaries and investment advisers, recognized by the King as equivalent for the application of this article of bonds or securities representative or not of capital, conferring the right to vote or not, as well as securities giving the right to subscription or acquisition of such securities or to conversion to such securities.

When an anonymous company proposes to make a public appeal for savings for the first time within the meaning of paragraph 1<sup>er</sup>, it must first amend its statutes to indicate its quality as an anonymous corporation making or having made public use of savings and

it must first amend its statutes to indicate its quality as an anonymous corporation making or having made public use of savings and must adapt its statutes accordingly either at the end of the resuming offer referred to in section 513, or when it determines that all obligations or securities that have been the subject of any of the transactions referred to in paragraph 2 are no longer widespread in the public.

The Banking and Financial Commission establishes annually a list of anonymous companies making or publicly using savings. This list and all changes made during the year are published in the Belgian Monitor. The King shall rule, on the advice of the Banking and Financial Commission, the manner in which a company is registered on this list, may request its delisting or is omitted.

The King determines the contribution to the coverage of the operating expenses of the Banking and Financial Commission to be paid to that Commission by the companies that are registered, removed or omitted from the list provided for in paragraph 4.

## PART II. - Constitution

### CHAPTER PREMIER. - Amount of capital

#### Art. 439

Social capital cannot be less than two million five hundred thousand francs.

#### Art. 440

Prior to the formation of the society, the founders hand over to the notary a financial plan in which they justify the amount of the social capital of the society to be constituted. This document is not published at the same time as the act, but is retained by the notary.

### CHAPTER II. - Subscription of capital

#### Section one. - Full subscription

#### Art. 441

The social capital of the society must be fully subscribed.

#### Art. 442

§ 1<sup>er</sup>. The company may not subscribe its own shares or certificates relating to such shares issued on the occasion of the issuance of such shares, either directly or by a subsidiary corporation, or by a person acting on its own behalf but on behalf of the affiliate company or corporation.

The person who has subscribed shares or certificates referred to in paragraph 1<sup>er</sup> in its own name but on behalf of the affiliate company or company is considered to have subscribed for its own account.

All rights relating to shares or certificates referred to in paragraph 1<sup>er</sup> subscribed by the company or its affiliate are suspended, until such shares or certificates have been alienated.

§ 2. § 1<sup>er</sup> does not apply to the subscription of shares or certificates referred to in § 1<sup>er</sup> a corporation by a subsidiary corporation that is, in its capacity as a securities professional operator, a stock exchange corporation or a credit institution.

#### Section II. - In-kind transport

#### Art. 443

Contributions other than cash may only be paid by shares if they consist of assets that are subject to economic valuation, other than assets that are constituted by commitments for the performance of work or services. These contributions are called in-kind contributions.

#### Art. 444

In the event of in-kind intake, a company reviewer is designated before the founding of the company.

The reviewer reports, including the description of each in-kind contribution and the methods of evaluation adopted. The report indicates whether the values to which these valuation modes are conducted correspond at least to the number and nominal value or, if not nominal, to the accounting pairs of the shares to be issued in consideration.

The report indicates the actual compensation for contributions.

The founders prepare a special report in which they set out the interest of in-kind contributions to society and, where appropriate, the reasons why they deviate from the reviewer's conclusions. This report is filed at the same time as that of the Registrar at the Court of Commerce Registry in accordance with section 75.

#### Section III. - Quasi-apport

#### Art. 445

Any property belonging to a person who has signed or on behalf of whom the constitutive act has been signed or, in the event of a public subscription, the draft constitutive act, to a director or shareholder, that the corporation proposes to acquire within two years of its constitution, if applicable under section 60, for a counter-value of at least one tenth of the registered capital, shall be the subject of a report

Paragraph 1<sup>er</sup> is applicable to the assignment made by a person acting on his or her own behalf but on behalf of a person referred to in paragraph 1<sup>er</sup>.

#### Art. 446

Section 445 does not apply to acquisitions made within the limits of current transactions entered into under the conditions and guarantees normally required by the corporation for the transactions of the same species, or to acquisitions on the stock exchange, or to acquisitions resulting from an orderly sale by law.

#### Art. 447

The report referred to in section 445 refers to the name of the owner of the property that the corporation proposes to acquire, the description of that property, the actual remuneration awarded in return for the acquisition and the methods of valuation adopted. It indicates whether the values to which these valuation modes are conducted correspond to at least the compensation awarded in return for the acquisition.

This report is attached to a special report in which the Board of Directors sets out, on the one hand, the interest of the proposed acquisition for the corporation and, on the other hand, the reasons why, possibly, it departs from the conclusions of the annexed report. The reviewer's report and the special report of the board of directors shall be filed at the office of the court of commerce in accordance with section 75.

This acquisition is subject to prior authorization from the General Assembly. The reports under paragraph 2 are announced in the agenda. A copy may be obtained in accordance with Article 535.

The decision of the General Assembly in the absence of the reports provided for in this article is null and void.

### CHAPTER III. - Release of capital

#### Art. 448

Upon the incorporation of the corporation, capital must be released in full to the minimum set out in section 439.

Upon the incorporation of the corporation, capital must be released in full to the minimum set out in section 439.

1° each action corresponding to a cash intake and each action corresponding, in whole or in part, to a contribution in kind shall be released from a quarter;

2° the shares corresponding in whole or in part to in-kind contributions must be fully released within five years of the date of the constitution of the society.

Art. 449

In the event of cash contributions to be released at the time of the transaction, the funds are, prior to the formation of the company, deposited by payment or transfer to a special account opened on behalf of the company in training at La Poste (Poscheque) or a credit institution established in Belgium, other than a communal savings fund, governed by the law of 22 March 1993 relating to the status of the institutions. A certificate justifying this deposit is attached to the certificate.

The special account must be at the exclusive disposal of the corporation to be established. It can only be disposed of by the persons authorized to engage the company and after the notary instrumentant had informed the body of the passing of the act. If the corporation is not incorporated within three months of the opening of the special account, the funds are returned to their application to those who have deposited them.

CHAPTER IV. - Constitution forms

Section 1. - Constitution process

Art. 450

The company may be constituted by one or more authentic acts in which all shareholders appear in person, or by holders of authentic or private mandates.

Comparants to these acts will be considered founders of society. However, if the acts designate as founders one or more shareholders together with at least one third of the social capital, other comparants, who merely subscribe to acts against cash without receiving, directly or indirectly, any particular advantage, will be held for mere subscribers.

Art. 451

The company may also be incorporated by means of subscriptions.

The act of society is preceded in authentic form and published as a project. The comparators to this act will be considered founders of society.

Subscriptions must be made in duplicate and indicate:

1° the date of the corporate act published as a project and the date of its publication;

2° the names, names, professions and domiciles of the founders;

3° the social capital and the number of shares;

4° the payment on each share of at least one quarter of the amount of the subscription or the commitment to make that payment at the latest at the time of the final constitution of the corporation.

The subscriptions contain the convocation of subscribers to an assembly that will be held within three months for the final constitution of the society.

Art. 452

On the appointed day, the founders will present to the assembly, which will be held before notary, the justification for the existence of the conditions required by articles 439, 443 and 448, paragraphs 1<sup>er</sup> and 2, 1°, with the supporting parts.

If the majority of the subscribers present, other than the founders, do not oppose the constitution of the society, the founders will declare that it is definitively constituted.

The authentic record of this assembly, which will contain the list of subscribers and the status of payments made, will definitively constitute the society.

Section II. - Disclaimer of the act of society

Art. 453

In addition to the information contained in the excerpt intended for publication under section 69, the corporation's act states:

1° compliance with the legal conditions relating to the subscription and release of capital;

2° the rules, to the extent that they are not the result of the law, which determine the number and mode of designation of the members of the bodies responsible for the administration or, where appropriate, the day-to-day management, representation in respect of third parties and the control of society, and the division of competence between those bodies;

3° the number and the nominal value or the number if issued without a nominal value, shares and, where applicable, the particular conditions that limit their assignment, and if there are several categories of shares, the same indications for each class as well as the rights attached to these shares;

4° the number of beneficiary shares, the rights attached to these shares and, where applicable, the particular conditions limiting their assignment and, if there are several categories of beneficiaries, the same indications for each category;

5° the nominal, bearer or dematerialized form of the shares and the provisions relating to their conversion to the extent that they differ from those established by the law;

6° the specification of each in-kind contribution, the name of the contributor, the name of the company reviewer and the conclusions of the report, the number and the nominal value or, if not of a nominal value, the number of shares issued in consideration of each contribution and, where applicable, the other conditions to which the contribution is made;

7° the cause and consistency of the particular benefits attributed to each of the founders or to anyone who participated directly or indirectly in the constitution of the society;

8° the amount, at least approximate, of costs, expenses and remuneration or expenses, in any form, that is the responsibility of the corporation or that is borne by the corporation on the basis of its constitution;

9° the depositary body of the contributions to be released in cash in accordance with Article 449;

10° the expensive changes in which the buildings brought to society were the subject during the previous five years and the conditions under which they were made;

11° the mortgage charges or collateral encumbering the property brought;

12° the conditions to which the realization of the optional rights is subordinated.

The powers of attorney must reproduce the statements provided by article 69, 1°, 2°, 3°, 5°, 11°, and by the 2° of this article.

CHAPTER V. - Nullity

Art. 454

The invalidity of an anonymous company may only be pronounced in the following cases:

1° if the constitution did not take place in the required form;



2° if this act contains no indication of the name, the social object, the contributions or the amount of the capital subscribed;  
 3° if the act contains no indication of the name, the social object, the contributions or the amount of the capital subscribed;  
 4° if the number of valid shareholders who have appeared in person or by warrant holders is less than two.

Art. 455

If the clauses of the constitutive act determining the distribution of profits or losses are contrary to section 32, these clauses are deemed to be non-written.

#### CHAPTER VI. - Responsibilities

Art. 456

The founders are held in solidarity with the people concerned, despite any stipulation to the contrary:

1° of the whole part of the capital that would not be validly subscribed under section 441 and the possible difference between the minimum capital required by section 439 and the amount of the subscriptions; they are of full right deemed to be subscribers;  
 2° the effective release of the minimum capital referred to in Article 439, the effective release up to a quarter of the shares, and the full release within five years of the shares corresponding in whole or in part to in-kind contributions under Article 448;  
 3° of compensation for damage, which is an immediate and direct result either of the nullity of the corporation imposed by application of section 454, or of the absence or misleading of the statements prescribed by sections 451 and 453 in the act or the draft act of society and in the subscriptions, or of the manifest over-evaluation of in-kind contributions;  
 4° of the company's commitments in a proportion fixed by the judge, in the event of bankruptcy, pronounced within three years of the constitution, if the social capital was, at the time of the constitution, manifestly insufficient to ensure the normal exercise of the planned activity for at least two years. The financial plan prescribed by section 440 is in this case transmitted to the court by the notary, at the request of the deputy judge or the Crown prosecutor.

Art. 457

Persons who have signed or on behalf of whom the constitutive act has been signed or, in the event of a public subscription constitution, the draft constitutive act shall be held in solidarity with the release of the shares subscribed in violation of Article 442.

Art. 458

The directors shall be held in solidarity with the persons concerned, despite any stipulation to the contrary, of the compensation of the damage which is an immediate and direct result of the manifest over-evaluation of the property acquired under the conditions set out in section 445.

Art. 459

Those who have made a commitment for third parties, either as a proxy or as a strong advocate, are deemed to be personally obliged, if there is no valid mandate or if the commitment is not ratified within two months of the stipulation; This period is reduced to fifteen days if the names of the persons for whom the stipulation was made are not indicated. The founders are in solidarity with these commitments.

#### PART III. - Titles and their transfer

##### CHAPTER PREMIER. - General provisions

Art. 460

There may be shares, beneficiary shares, obligations and subscription rights in anonymous companies.

These titles are nominal, bearer or dematerialized. They're wearing an order number.

Art. 461

If there are several owners of a title, the corporation has the right to suspend the exercise of the related rights, until a single person is designated as the owner of the title.

#### CHAPTER II. - The form of titles

##### Section 1. - Named titles

Art. 462

Owners of bearer titles may, at any time, request the conversion, at their own expense, into nominative titles.

Art. 463

A register is maintained at the head office for each category of title referred to in section 460. The holders of securities will be able to read the register on their securities.

The Register of Named Shares contains:

1 the precise designation of each shareholder and the indication of the number of its shares;  
 2° the indication of payments made;  
 3° transfers or transmissions with their date or the conversion of nominal shares to bearer or dematerialized shares, if the statutes allow it;  
 4° the express mention of the invalidity of the titles provided for in Article 625.

The Register of Named Shares and all titles directly or indirectly conferring on it contains:

1° mention of the nature of these titles;  
 2° the date of their creation;  
 3° the conditions prescribed for their assignment;  
 4° transfers or transmissions with their date and the conversion of the nominal beneficiary shares to the holder or dematerialized share, if the statutes allow it.

The Register of Named Obligations contains:

1° the precise designation of each bond and the indication of the number of bonds owned by it;  
 2° transfers or transfers of bonds with their date and the conversion of nominal bonds to bearer or dematerialized obligations, if the statutes allow it.

Art. 464

The board of directors may decide to split a register of titles in two parts, one of which will be retained at the company's headquarters and the other, outside the company's headquarters, in Belgium or abroad.

A copy of each volume will be retained at the place where the other part is deposited; for this purpose, copies will be used.

This copy will be regularly kept up to date and, if it proved impossible, it will be completed as soon as the circumstances permit.

The holders of the relevant titles have the right to enrol them in one of the two volumes of the register at their choice.

The holders of titles may be aware of both parts of the register relating to their titles and their copy.

The Board of Directors makes known where the second volume of the register is deposited, by a publication in the Annexes of the Belgian Monitor. This place can be changed by a simple decision of the board of directors.

The decision of the Board of Directors to split the registry into two parts may only be amended by a decision of the General

Assembly in the forms prescribed for the amendment of the statutes.

The conditions and conditions of registration in both volumes.

Art. 465

The ownership of the titles is determined by an inscription on the records prescribed by section 463.

Certificates of registration will be issued to the holders of the securities.

Certificates relating to the nominative beneficiary shares contain the references prescribed in section 463, paragraph 3.

Certificates relating to nominal mortgage obligations shall include the indication of the constitutive act of mortgage and shall mention the date of registration, the rank of the mortgage and the provision of the last paragraph of section 493 relating to the renewal of registration.

Section II. - Carrier titles

Art. 466

The holders shall bear the signature of at least two directors; these signatures can be replaced by claws.

The bearer action indicates:

1 the date of the constitutive act of the society and its publication;

2° the number and nature of each class of shares, as well as the nominal value of the titles or the social share they represent and the number of votes attached to the titles of each class;

3° the summary consistency of the contributions and the conditions to which they are made;

4° the special benefits attributed to the founders;

5° the duration of the society;

6° on the day and time of the Annual General Meeting.

The bearer's obligation indicates:

1 the date of the constitutive act of the society and its publication;

2° the number and nature of each class of shares, as well as the nominal value of the securities or the social share they represent;

3° the duration of the society;

4° the order number, the nominal value of the obligation, the interest, the time and place of payment of the obligation and the terms of the refund;

5° the amount of the emission of which it is a part and the special guarantees attached to it;

6° the amount remaining due on each of the previous bond issue with the enumeration of the guarantees attached to these obligations.

The shareholders shall bear the words prescribed by section 463, paragraph 3.

The bearer's mortgage obligations are the indication of the mortgage constituting act and mention the date of registration, the rank of the mortgage and the provision of the last paragraph of section 493 relating to the renewal of the registration.

Art. 467

The King makes the provisions concerning the form of titles.

Section III. - Dematerialized titles

Art. 468

The dematerialized title is represented by an inscription on behalf of the owner or the holder of the dematerialized title to a registered establishment responsible for holding the accounts, below referred to as the approved account content.

The registered title is transmitted by bank transfer to account.

The King shall designate by class of securities the body responsible for the liquidation of transactions on dematerialized securities, as described below as the liquidation agency. It aggregates the account content individually or generally by category of establishments, depending on their activity.

The number of dematerialized securities in circulation at any time is listed in the Register of Named Titles on behalf of the liquidation organization by class of securities.

Art. 469

The contents of the approved accounts must maintain the dematerialized values they hold on behalf of third parties and on their own behalf on separate accounts open to the liquidation organization or to a single institution that acts for them as an intermediary in respect of that organization.

However, the dematerialized securities referred to in this section that a content of an approved account gives to another content of an approved account may be maintained on a special pledge account with the latter.

The King may, by derogation from the provisions of paragraph 1<sup>er</sup>, establish specific rules relating to the maintenance by an institution that manages a system for the liquidation of securities, of dematerialized securities referred to in this article, to another similar institution, in order to facilitate the transfer of such securities between these securities liquidation systems.

Art. 470

For the creation of a civil or commercial pledge on the dematerialized securities referred to in section 469, the possession of such securities shall be effected by the registration of such values to an open special account in an account content on behalf of a person to be agreed upon. The pledge values are identified by nature without number specification. The pledge thus constituted is valid and opposable to third parties without any other formality.

Without prejudice to other modes of realization provided by law, the creditor shall, in the event of default of payment, be entitled to fulfil the pledge made on securities referred to in section 469 that are either admitted to the official rating of a securities exchange or negotiated on a regulated market, in regular operation, recognized and open to the public, or constituted by securities transferable, liquidated and of a value. The proceeds of the realization of these securities are charged to the principal, interest and costs receivable of the creditor. The potential balance is for the secured debtor.

Art. 471

The owners of dematerialized securities referred to in section 469 shall be entitled to assert their real, intangible rights only in respect of the content of registered accounts to which these securities are registered or, if they directly maintain these securities with the liquidation agency, in respect of the liquidation agency. By exception, they are:

- to exercise a right of claim in accordance with the provisions of this Article and Article 9bis, paragraphs 2 to 4, of Royal Decree No. 62 of 10 November 1967 promoting the movement of securities;

- directly exercising their associative rights with the issuer;

- in the event of bankruptcy or any other competitive situation in the head of the issuer, directly exercise their rights to appeal against the issuer.

In the event of a bankruptcy of the content of a registered account or of any other competitive situation, the claim for the number of

dematerialized securities referred to in section 469, the content of which is indebted, is collectively exercised on the universality of the same class, registered in the name of the contents of accounts with other content of registered accounts or with the liquidation body.

If, in the case referred to in paragraph 2, this universality is insufficient to ensure the full return of the securities due in the account, it will be distributed among the owners in proportion to their rights.

If the content of a registered account is itself the owner of a number of dematerialized securities in the same class, it is not assigned to it, in the application of paragraph 3, that the number of securities that remains after the total number of securities in the same class held by it for third parties could have been returned.

When an intermediary has registered the dematerialized securities referred to in section 469 on behalf of another person in his or her name or on behalf of a third person, the owner on whose behalf that registration has been taken may make an action in claim to the content of an approved account or the liquidation organization on the basis of that intermediary or third party. This claim shall be made in accordance with the rules defined in paragraphs 1<sup>er</sup> 4.

The restitution of the dematerialized securities referred to in section 469 shall be effected by transfer to another registered account, designated by the person exercising his right to claim.

Art. 472

Seizure is not allowed on the dematerialized securities accounts opened on behalf of a content of registered accounts with the liquidation agency.

Without prejudice to the application of section 471, in the event of the bankruptcy of the owner of the securities or in any other competitive situation, the creditors of the owner of the securities may assert their rights on the available balance of the securities registered in the name and on account of their debtor, after deduction or addition of the securities that, under conditional undertakings, of undertakings whose amount is uncertain or of term obligations, have entered,

Art. 473

The payment of dividends, interest and capital emitted from dematerialized securities to the winding-up organization is free of charge to the issuer.

The winding-up agency shall transfer these dividends, interest and capital to the content of the accounts approved on the basis of the amounts of securities dematerialized on their behalf on maturity. These payments are free of charge to the liquidation agency.

Art. 474

All corporate rights of the owner of dematerialized securities and, in the event of bankruptcy of their issuer or any other competitive situation of the owner of the dematerialized securities and, in the event of bankruptcy of the issuer or of any other competitive situation of the owner, all appeal rights against the owner shall be exercised through the production of an attestation established by the contents of the approved accounts or the liquidation agency, certifying the number of dematerialized securities registered in the owner's registered on behalf of the owner or intermediary on behalf of the owner's.

Art. 475

In order to provide for the performance of sections 469 to 474, the King may set the conditions for the maintenance of the accounts by the contents of the accounts approved, the method of operation of the accounts, the nature of the certificates to be issued to the holders of the accounts and the terms of payment by the contents of the accounts approved and the organization of liquidation of the dividends, interest and accrued capital.

CHAPTER III. - Different categories of titles

Section 1. - Shares

First sub-section. - Shares in general

Art. 476

The capital of anonymous companies is divided into shares that are freely closed, whether or not the right to vote, with or without a mention of value.

Art. 477

The actions are nominal until their entire liberation.

Art. 478

§ 1<sup>er</sup>. The company may create, either on its own initiative at the time of the issuance, or at a later date, through the conversion of shares to the existing carrier at the request and at the cost of the carrier, one or more collective shares to the bearer representative carrier shares whose numbers follow.

All other exchanges or groupings of shares shall take place under the terms and conditions established by the statutes, without prejudice to section 462.

The bearer shares and the representative collective shares of bearer shares, bear a number of orders.

§ 2. The bearer shares may be divided into cuts which, combined in sufficient numbers, confer the same rights as the unitary action, subject to what is said in section 560.

Art. 479

The social capital situation will be deposited, at least once a year, together with the annual accounts, in accordance with sections 98 and 100.

It will include:

1° the number of shares subscribed;

2° the indication of payments made;

3° the list of shareholders who have not yet fully released their shares, with the indication of the amounts they owe.

The publication by mention of the filing of this list has the same value as a publication made in accordance with section 75.

Sub-Section II. - Actions without the right to vote

Art. 480

In the event of the issuance of shares without the right to vote, they shall:

1° may not represent more than one third of social capital;

2° shall confer, in the event of a distributable profit within the meaning of Article 617, the right to a privileged dividend and, unless otherwise provided by the statutes, recoverable, the amount of which is fixed at the time of the issuance, as well as a right in the distribution of the surplus of profits that cannot be less than that attributed to the shares with the right to vote;

3° shall confer a privileged right to the refund of the increased capital intake, if any, of the emission premium and a right in the distribution of the liquidation bonus that cannot be less than that attributed to the holders of voting shares.

Art. 481

Notwithstanding any provision to the contrary of the statutes, the holders of non-voting shares nevertheless have a right to vote in

the following cases:

1° where the conditions laid down in Article 480 is not fulfilled or ceases to be. However, where article 480, 1°, is not respected, the recovery of the exercise of the right to vote excludes the application of the 2° and 3° of the same article;

2° that provided for in Article 558;

3° where the general assembly must deliberate on a deletion or limitation of the right of preference, on the authorization to give the board of directors to increase capital by deleting or limiting the right of preference, on the reduction of social capital, on the modification of the social object, on the transformation of the society or on the dissolution, fusion or splitting of the society;

4° those where, for any reason, the privileged and recoverable dividends were not fully paid for three successive years and that until the time that these dividends were fully recovered.

Art. 482

In the event of the creation of shares without the right to vote, by means of the conversion of shares with the right to vote already issued, the General Assembly, deciding on the conditions required for the amendments of the statutes, determines the maximum number of shares to be converted and sets the conditions for conversion.

The statutes may, however, authorize the board of directors to determine the maximum number of shares to be converted and to set the conversion conditions.

The offer of conversion must be made at the same time to all shareholders, in proportion to their share in social capital. It indicates the period in which the conversion may be exercised. This deadline is determined by the Board of Directors and must be at least one month. The offer of conversion must be issued to the Belgian Monitor, as well as to a national broadcast press body and a regional press body at the headquarters of the company.

When all shares are nominal, shareholders may be notified by registered letter to the position.

Section II. - Recipient shares

Art. 483

The beneficiary shares do not represent social capital. The statutes determine the rights attached to it.

Art. 484

For companies that have made or publicly rely on savings, the beneficiary shares, if they are subscribed in cash, must be fully released during the subscription. Section 449 is applicable to this subscription.

Section III. - Obligations

Art. 485

Anonymous companies can borrow by issuing bonds, possibly convertible into shares.

Art. 486

The company may create, either on its own initiative at the time of the issuance, or at a later date, through the conversion of obligations to the existing carrier at the request and at the cost of the carrier, one or more collective obligations to the bearer representative of obligations to the carrier whose numbers follow.

All other exchanges or groupings of obligations shall take place under the terms and conditions established by the statutes, without prejudice to section 462.

The bearer bonds and the representative collective obligations of bearer bonds bear a number of orders.

First sub-section. - Resolute condition

Art. 487

The resolute condition is always implied, in the loan contract in the form of bond issuance, in the event that one of the two parties will not meet its commitment.

In this case, the contract is not resolved in full right. The party to which the undertaking has not been carried out has the choice or to force the other party to the performance of the agreement where it is possible, or to request the resolution with damages.

The resolution must be sought in court, and the defendant may be granted a time limit under the circumstances.

Sub-Section II. - Premium bonds

Art. 488

Anonymous companies may issue repayable bonds by way of a random draw at a rate higher than the issuance price only if the bonds relate at least 3% interest; that all are repayable by the same amount, and that the amount of annuity including the refund and interest is the same for the duration of the loan.

The amount of these obligations cannot, in any case, exceed the freed social capital.

These obligations cannot take the form of dematerialization.

Sub-Section III. - Convertible bonds

Art. 489

Convertible bonds must be fully released. The period during which they may be converted shall not exceed ten years from the date of their issuance.

The conditions of issuance determine the dates on which the bonds will be converted to shares in the event that the option is lifted and the deadlines in which the bonds will be required to make their decision known.

Art. 490

from the issuance of convertible bonds and to the end of the conversion period, the corporation shall not, except in the case provided for in section 491 and in those specifically provided for under the conditions of the issuance, perform any operation whose effect would be to reduce the benefits attributed to bonds by the conditions of issue or by law.

Art. 491

In the event of an increase in social capital by cash inflows, convertible bond holders may, notwithstanding any provision contrary to the regulations or conditions of issuance, obtain the conversion of their securities and possibly participate in the new issue as shareholders to the extent that this right belongs to the former shareholders.

Art. 492

In the event of an advance refund, even part of the loan, decided by the corporation, convertible bond holders may exercise their conversion rights for at least one month before the date of the refund.

Sub-Section IV. - Mortgage bonds

Art. 493

The corporation may establish a mortgage for the security of a loan made or to be made in the form of bonds.

Registration is made in the ordinary form for the benefit of the mass of bonds or future bonds, under the following two restrictions:

1° the designation of the creditor is replaced by that of the representative securities of the secured receivable;

2° the provisions relating to the election of domicile are not applicable.

The inscription is published in the Annexes of the Belgian Monitor.  
The mortgage rights of the date of registration, regardless of the time of bond issuance.

Registration must be renewed, at the diligence and responsibility of directors, before the expiry of the twenty-ninth year. in the absence of renewal by the company, any bond has the right to renew the registration.

Art. 494

The registration shall be terminated or reduced by the consent of the bonds, gathered in the General Assembly in accordance with Article 568.

The demand for delisting or reduction by main action is continued against the mass of bonds represented by a designated agent in accordance with section 568, paragraph 2, 3°. Failed by the general assembly of bondholders, duly summoned, to designate this agent, the president of the civil court of the district where the head office is located, at the request of the company, a representative of bondholders.

The bond-debitor company called a total or partial refund and whose bearer did not show up in the year following the date set for the payment, is authorized to record the amounts due. The consignment will take place at the agency of the Caisse des dépôts et consignations de l'arrondissement where the head office is located.

Art. 495

at the request of the most diligent of the persons concerned, he is appointed an agent to represent the mass of the bonds in the proceedings for the purge or expropriation of the encumbered buildings. The appointment is made by the president of the civil court of the district where the head office is located, the company heard.

The agent is required to record, within eight days of the receipt, the amounts paid to the agency referred to in section 494 as a result of the procedures set out in paragraph 1<sup>er</sup> of this article.

Payments to the Fund of Consignations on behalf of bondholders may be withdrawn on a nominal payment order or on a carrier issued by the agent and subject to the President of the Tribunal. The execution of the nominative payment orders will take place on the grant of the beneficiaries; the bearer's payment orders will be executed after they have been paid by the agent.

No order of payment shall be issued by the agent only on representation of the obligation. The agent will mention on the obligation the amount for which he gave the order of payment.

Section IV. - Subscription rights

Art. 496

Anonymous companies may issue share subscription rights, isolated or attached to another title.

Art. 497

The company may create, either on its own initiative at the time of the issuance, or at a later date, through the conversion of the existing carrier's subscription rights to the applicant's request and to the carrier's fees, one or more of the representative holder's collective subscription rights to the carrier whose numbers follow.

All other exchanges or groupings of subscription rights shall take place under the terms and conditions established by the statutes, without prejudice to Article 462.

The bearer's subscription rights and the representative collective subscription rights of the bearer's subscription rights, bear a number of orders.

Art. 498

A subsidiary corporation may issue bonds with a subscription right relating to shares to be issued by the parent company. In this case, the issuance of bonds must be authorized by the affiliate and the issuance of subscription fees must be authorized by the parent company.

Art. 499

The period during which subscription fees may be exercised, may not exceed ten years from the date of their issuance.

The terms and conditions of issuance determine the dates on which the shares will be subscribed in the event of the cancellation of the option and the deadlines in which the subscribers will be required to make their decision known.

Art. 500

Subscription rights issued as part of a principally reserved program to one or more specified persons other than members of the company's staff or one or more of its affiliates may not be longer than five years from the date of their creation. In addition, the clauses contained in the emission conditions that aim to compel the holder of the subscription rights to exercise them are void.

The shares that, following such a program, have been subscribed during the course of a public procurement offer must take the nominal form and cannot be sold for twelve months.

Art. 501

from the issuance of the subscription rights and until the end of the period of the exercise of the right of subscription, the corporation shall not, except in the case provided for in paragraph 2 and in those specifically provided for under the conditions of the issuance, carry out any operation that would reduce the benefits attributed to subscribers by the conditions of issue or by the law.

In the event of an increase in social capital by cash inflows, the holders of subscription rights may, notwithstanding any provision contrary to the statutes or conditions of issuance, exercise their right to subscription and possibly participate in the new issue as shareholders to the extent that this right belongs to the former shareholders.

Art. 502

In the event of an advance refund, even part of the borrowing, decided by the company, the holders of bonds with non-detachable subscription right may exercise their subscription right for at least one month before the date of the refund.

Section V. - Certificates

Art. 503

§ 1<sup>er</sup>. Certificates relating to shares, beneficiary shares, convertible bonds or subscription rights may be issued, in collaboration or not with the corporation, by a corporation that retains or acquires the ownership of the securities to which the certificates relate and undertakes to reserve any product or income of such securities to the holder of the certificates. These certificates may take the form to the bearer, the nominal form or the dematerialized form. However, the certificate relating to nominal titles cannot take the form to the bearer.

The issuer of certificates shall exercise all rights attached to the titles to which they relate, including the right to vote.

The issuer of certificates relating to titles is required to be known in this capacity to the company that issued the certified securities. This will be referred to the relevant registry. The issuer of certificates relating to bearer securities is required to disclose its status of issuer to the corporation that issued certified securities prior to any exercise of the right to vote.

The issuer of certificates relating to beneficiary shares or shares shall, unless otherwise provided, make payment to the holder of the



certificates immediately to the holder of the certificates the dividends, the eventual product of the right of subscription and the proceeds of liquidation, if any, distributed by the corporation and any amount arising from the reduction or amortization of the capital.

Unless otherwise provided, the issuer of certificates may not assign the titles to which the certificates relate. However, no transfer of securities to which certificates relate is allowed if the issuer has made public use of savings.

Certificates are, unless otherwise provided, exchangeable in shares, shareholders, obligations or subscription rights to which they relate. Clauses prohibiting trade must be limited in time. Notwithstanding any provision to the contrary, the exchange may be obtained at any time by each holder of certificates in the event of failure to comply with the obligations of the issuer in respect of the issuer or where the interests of the issuer are seriously unknown.

§ 2. In the event of bankruptcy of the issuer of certificates or any other competitive situation, the certificates shall be exchanged in full right notwithstanding any provision to the contrary and the certificate holders shall collectively exercise their claim on the universality of the certified securities of the same class and issued by the same company, owned by the issuer of certificates.

If, in the case referred to in the preceding paragraph, this universality is insufficient to ensure full restitution of titles, it will be distributed among certificate holders in proportion to their rights.

#### CHAPTER IV. - Transfers of securities

##### Section 1. - Transfer in general

###### Art. 504

The assignment of titles shall be effected by a transfer declaration registered in the register relating to these titles, dated and signed by the assignor and the assignee or by their credentials, as well as in accordance with the rules relating to the assignment of receivables established by Article 1690 of the Civil Code. It is permissible for the company to accept and register on the registry a transfer that would be recognized by the correspondence or other documents establishing the agreement of the assignor and the assignee.

The cession of the titles to the bearer is carried out by the only tradition of the title.

###### Art. 505

Acts relating to the assignment of beneficiary shares or any titles directly or indirectly conferring on them mention their nature, the date of their creation and the conditions prescribed for their assignment.

##### Section II. - Legal restrictions on trade in securities

###### Art. 506

Transfers of shares not fully released shall be subject to third parties in accordance with section 76 only after the publication by mention of the deposit of the list of shareholders who have not fully released their shares referred to in section 479, paragraph 2, 3°.

###### Art. 507

The assignment of unpaid shares cannot free their subscribers from contributing, up to the unpaid amount, to debts prior to publication.

The former owner has a stand-alone appeal against the one to whom he has assigned his title and against the subsequent assignees.

###### Art. 508

The beneficiary shares, as well as any titles directly or indirectly conferring on them, are negotiable only ten days after the filing of the second annual accounts following their creation. Until the expiry of this period their assignment can be made only by public act or in writing under private seal, served to the company in the month of the assignment, all barely nullity. If they are the bearer, they will remain deposited in the company's body until the expiry of the aforementioned period. Certificates of deposit will be issued, which will bear the mentions provided for in Article 463, § 3.

The nullity can only be requested by the buyer.

###### Art. 509

For companies that have made or publicly relied on savings, the beneficiary shares subscribed in cash are immediately negotiable.

##### Section III. - Conventional restrictions to the negotiability of securities

###### Art. 510

The statutes, authentic acts of issuance of convertible bonds or subscription rights and any other conventions may limit the convertibility between live or transmissibility due to the death of the nominative or bearer shares or dematerialized shares, subscription rights or any other securities entitled to the acquisition of shares, including convertible bonds, bonds with the right to subscription or repayable bonds.

Inalienability clauses must be limited in time and justified by the social interest at any time.

However, where the limitation is the result of a licence clause or a pre-emption clause, the application of these clauses may not result in the extension of the inconvertibility to more than six months from the date of the licence application or the invitation to exercise the right of pre-emption.

Where the clauses referred to in paragraph 3 provide for a period of more than six months, the period shall be of full right reduced to six months.

###### Art. 511

Upon receipt by the company of the communication made by the Banking and Financial Commission that it has been seized of a notice of public offer of acquisition concerning it and, in the case of refusal of approval or application of the pre-emption clauses, the holders of securities shall be offered, within five days after the close of the offer, the acquisition of their securities at a minimum price equal to the price of the offer or counter-offering,

###### Art. 512

By derogation from sections 510 and 511, the terms of approval contained either in the statutes or in an authentic act of issuing convertible bonds or subscription fees may be opposed to the author of the public offer by the board of directors of the corporation concerned provided that the refusal of approval is justified by the constant and non-discriminatory application of the rules of approval adopted by the said board of directors and communicated to the

##### Section IV. - Forced transfer of securities

###### Art. 513

§ 1<sup>er</sup>. Any natural or legal person, who, acting alone or in concert, holds 95% of the titles conferring the right to vote of an anonymous corporation having made or publicly appealing to savings, may acquire all the titles conferring the right to vote of that corporation after an offer of resumption.

at the end of the proceedings the unsubmitted titles whether or not the owner has manifested himself shall be deemed to be

at the end of the proceedings, the unsubstantiated titles, whether or not the owner has manifested himself, shall be deemed to be transferred to that person in full right with the award. Unsubstantiated titles are converted to titles and are subject to the intervention of the board of directors registered in the register of titles.

At the end of the offer of recovery, the company will no longer be considered to have made or publicly relying on savings, unless obligations issued by this company are still widespread in the public.

§ 2. Any natural or legal person, who, acting alone or in concert, holds five per cent of the titles conferring the right to vote of an anonymous corporation that has not made or publicly appealing to savings, may make an offer of resumption covering all the securities conferring the right to vote of that corporation.

At the end of the proceedings, with the exception of the titles which the owner has expressly and in writing that he refuses to undo, the unsubstantiated titles are deemed to have been transferred in full right to that person with the award. Unsubstantiated holder titles as well as holder titles and dematerialized titles that the owner has indicated that he refuses to undo are converted to titles in full right and are at the intervention of the board of directors registered in the register of titles.

Where applicable, the costs associated with the reversion of titles to the holder of the securities which, pursuant to this paragraph, have been converted in full right to title, are borne by the corporation.

The offer referred to in paragraph 1<sup>er</sup> of this paragraph is not subject to title II of Royal Decree No. 185 of 9 July 1935 on the Control of Banks and the Regime of the Emissions of Securities and Values, nor to Chapter II of the Act of 2 March 1989 on the Advertising of Important Interests in publicly traded companies and regulating public tenders, nor to section 4 of the Act of 4 December 1990 on financial transactions and financial markets.

§ 3. The King may regulate the offer of recovery, including determining the procedure to be followed and the pricing of the offer of recovery. To this end, He ensures the information and equal treatment of holders of securities.

§ 4. The extract of the judicial decision taken in force of a matter deemed or enforceable by provision on the conditions of a forced assignment, is filed and published in accordance with section 75.

#### Section V

##### Art. 514

Persons who acquire or cede representative or non-representative securities of capital, conferring the right to vote, in anonymous companies whose voting rights are in whole or in part listed within the meaning of Article 4, must declare that acquisition or assignment in the cases and in the manner prescribed by the Act of March 2, 1989 relating to the advertising of important stakes in publicly listed companies and regulating public tenders.

##### Art. 515

Articles 1<sup>er</sup> to 4 of the Act of 2 March 1989 on the advertisement of important participations in publicly traded companies and regulating public tenders may be made applicable, in whole or in part, by their statutes, to anonymous companies whose titles conferring the right to vote are not listed within the meaning of section 4; in this case, the statutes may set other quotities and times other than those provided for in the said articles; However, these quotities cannot be less than 3%.

Sections 516, 534 and 545 apply.

##### Art. 516

§ 1<sup>er</sup>. If declarations required under articles 514 and 515, paragraph 1<sup>er</sup>, have not been carried out in accordance with the prescribed terms and time limits, the President of the Commercial Court in whose jurisdiction the company has its seat, as referred, may:

1° to issue for a period of not more than one year the suspension of the exercise of all or part of the rights relating to the securities concerned;

2° suspend for the duration it sets, the holding of a general assembly already convened.

§ 2. The procedure is initiated by a quotation from the company or from one or more shareholders who have the right to vote. Where the application is for the suspension of a meeting already convened, the procedure may also be initiated by the person whose titles are the subject of an application or a decision to suspend the exercise of all or part of the rights relating thereto.

Where the application is suspended, referred to in paragraph 1<sup>er</sup>, 1°, of all or part of the rights relating to the titles concerned, it shall, if a declaration has been notified, be filed, barely irreceivable, not more than fifteen days after the notification.

§ 3. The President shall rule on the application notwithstanding any prosecution arising from the same facts before any other court. The President may, at the request of one of the persons concerned and after hearing those who have seized him and the corporation referred to in Articles 514 and 515 grant the lifting of the measures ordered by him.

§ 4. When voting rights suspended by the President of the Commercial Court have been exercised and, without these illegally exercised voting rights, the quorums of presence or majority required for decisions of the General Assembly would not have been brought together, these decisions are null and void.

#### PART IV. - Organs

##### CHAPTER PREMIER. Administration and Daily Management

##### Section 1. - Board of Directors

##### First sub-section. - Professional status

##### Art. 517

Anonymous companies are administered by natural or legal persons, paid or unpaid.

##### Art. 518

§ 1<sup>er</sup>. Professional staff must be at least three.

However, where the corporation is constituted by two founders or, at a general meeting of the shareholders of the corporation, it is found that the corporation has no more than two shareholders, the composition of the board of directors may be limited to two members until the ordinary general assembly following the finding by any means of law of the existence of more than two shareholders.

The statutory provision granting a predominant voice to the Chair of the Board of Directors ceases to have effect until the Board of Directors is again composed of at least three members.

§ 2. Directors are appointed by the General Meeting of Shareholders; However, for the first time, they may be appointed by the constitutive act of the society.

§ 3. The term of their mandate cannot exceed six years, they are always revocable by the General Assembly.

##### Art. 519

In the event of a vacancy of an administrator and unless otherwise provided in the statutes, the remaining administrators have the right to temporarily fill the vacancy. In this case, the General Assembly, at the first meeting, proceeds to final election.

In the event of a vacancy before the expiry of the term of a term of office, the appointed administrator shall complete the term of the term that he or she replaces.

Unless otherwise provided in the corporation, directors shall be re-elected.

Sub-Section II. - Skills and operation

Art. 521

The administrators form a college.

In exceptional cases duly justified by urgency and social interest, the decisions of the board of directors may be taken, if the statutes permit, by unanimous consent of the directors, expressed in writing.

However, it will not be able to use this procedure for the cessation of annual accounts, the use of authorized capital or any other case that the statutes would mean except.

Art. 522

§ 1<sup>er</sup>. The board of directors has the power to carry out all the acts necessary or useful to the realization of the social object of the society, except those that the law reserves to the general assembly.

The statutes may restrict the powers of the board of directors. These restrictions, as well as the possible distribution of work agreed upon by directors, are not applicable to third parties, even if published.

§ 2. The board of directors represents the corporation in respect of third parties and in court, either by asking or defending.

However, the statutes may give quality to one or more directors to represent the corporation, either alone or jointly. This clause is enforceable to third parties. The statutes may impose restrictions on this power, but these restrictions, as well as the possible distribution of tasks agreed upon by the directors, are not applicable to third parties, even if published.

Art. 523

§ 1<sup>er</sup>. If a director has, directly or indirectly, an opposing interest of a heritage nature to a decision or operation under the Board of Directors, the director must communicate it to the other directors prior to deliberation to the Board of Directors. Its statement, as well as the reasons for the opposing interest that exists in the head of the administrator concerned, must be included in the minutes of the board of directors that must make the decision. In addition, when the company has appointed one or more commissioners, it must inform them.

For publication in the management report referred to in section 95, or in the absence of a report, in a document to be filed together with the annual accounts, the board of directors shall, in the minutes, describe the nature of the decision or operation referred to in paragraph 1<sup>er</sup> and a rationale for the decision that was taken as well as the heritage consequences for society. The management report contains the entire record referred to above.

The report of the Commissioners, referred to in section 143, must contain a separate description of the heritage consequences resulting from the decisions of the Board of Directors for the corporation, which had an interest opposing the meaning of paragraph 1<sup>er</sup>.

For companies that have made or publicly relied on savings, the administrator referred to in paragraph 1<sup>er</sup> may not attend the deliberations of the Board of Directors relating to these transactions or decisions or take part in the vote.

§ 2. The company may act in nullity of the decisions taken or of the transactions carried out in violation of the rules laid down in this article, if the other party to these decisions or transactions had or had to have known that violation.

§ 3. § 1<sup>er</sup> is not applicable where decisions or transactions under the Board of Directors relate to decisions or transactions between companies with a direct or indirect holding of 95% or more of the votes attached to all securities issued by the other or between companies of which 95% or more of the votes attached to all securities issued by each of them are held by another corporation. Similarly, § 1<sup>er</sup> is not an application where decisions of the Board of Directors relate to normal operations under conditions and under normal market guarantees for similar transactions.

Art. 524

§ 1<sup>er</sup>. For listed companies, any decision of the Board of Directors that may give rise to a direct or indirect heritage benefit to a shareholder with a decisive or significant influence on the designation of directors of that corporation is subject to the following procedure.

The board of directors of the corporation concerned shall be responsible for three directors chosen for their independence in relation to the proposed decision or operation, assisted by an expert chosen for the same reasons, to carry out a description and a reasoned assessment of the financial consequences for the company concerned of the decision or transaction envisaged. This description and assessment will have to establish the interest of the corporation and all its shareholders in the decision or transaction, as well as the absence of an advantage of a privileged remuneration character that would be made directly or indirectly to a shareholder.

In the light of the above-mentioned reports and with the usage abstentions as defined in Article 523, § 1<sup>er</sup>, paragraph 4, the board of directors shall deliberate and vote.

The use of this procedure is referred to in the minutes of the meeting. The commissioners are informed. The conclusions of the above-mentioned reports and the description of decisions taken are included in the annual management report.

The Commissioners' annual report contains the same description and appropriate comments.

§ 2. The company may act in nullity of the decisions taken or of the transactions carried out in violation of the rules laid down in this article, if the other party to these decisions or transactions had or had to have known that violation.

§ 3. § 1<sup>er</sup> is not applicable where decisions or transactions under the Board of Directors relate to decisions or transactions between companies with a direct or indirect holding of 95% or more of the votes attached to all securities issued by the other or between companies of which 95% or more of the votes attached to all securities issued by each of them are held by another corporation. Similarly, § 1<sup>er</sup> is not an application where decisions of the Board of Directors relate to normal operations under conditions and under normal market guarantees for similar transactions.

Section II. - Daily management

Art. 525

The day-to-day management of the business of the company, as well as the representation of the company in respect of this management, may be delegated to one or more persons, shareholders or not, acting alone or jointly.

Their appointment, revocation and responsibilities are regulated by the statutes. However, restrictions on their representational powers for the needs of day-to-day management are not possible for third parties, even if published.

The clause under which day-to-day management is delegated to one or more persons acting either alone or jointly shall be subject to third parties under the conditions provided for in article 76.

Section III. - Overcoming the social object

Art. 526

The company is bound by the acts performed by the board of directors, by the directors who are qualified to represent it in

The company is bound by the acts performed by the board of directors, by the directors who are qualified to represent it in accordance with section 522, § 2, or by the delegate of day management, even if these acts exceed the social object, unless it proves that the third party knew that the act exceeded that object or could not ignore it, given the circumstances, without the only publication of the statutes sufficient.

#### Section IV. - Responsibilities

##### Art. 527

Directors and day-to-day management delegates are responsible, in accordance with the common law, for the fulfilment of their mandate and for the errors committed in their management.

##### Art. 528

Directors shall be jointly and severally liable, either to the corporation or to the third parties, for any damages arising from breaches of the provisions of this Code or social statutes.

They will not be discharged from this responsibility, as to the offences to which they have not taken part, only if no fault is attributed to them and if they have denounced these offences to the next general assembly after they have been aware of them.

##### Art. 529

Without prejudice to section 528, directors are personally and in solidarity with the prejudice suffered by the corporation or third parties as a result of decisions made or transactions carried out in accordance with section 523, if the decision or operation has given them or has given to one of them an abusive financial advantage to the detriment of the corporation.

##### Art. 530

In the event of failure of the company and insufficiency of the assets and if it is established that a serious and characterized fault in their leader has contributed to the bankruptcy, any administrator or former administrator, as well as any other person who has effectively held the power to manage the company, may be personally required, with or without solidarity, of all or part of the social debts up to the insufficiency of assets.

#### CHAPTER II. - General Meeting of Shareholders

##### Section 1. - Common provisions

###### First sub-section. - Skills

##### Art. 531

The general meeting of shareholders has the widest powers to do or ratify the acts that interest the company.

###### Sub-Section II. - Convening of the General Assembly

##### Art. 532

The board of directors and commissioners, if any, may convene the general assembly. They must call it on the request of shareholders representing the fifth of social capital.

##### Art. 533

The convocations for any general assembly contain the agenda and are made by inserted ads:

- (a) at least eight days before the assembly in the Belgian Monitor;
- (b) two times, at least eight days apart and the second, at least eight days before the assembly, in a national broadcast press body and in a regional press body at the headquarters of the society.

Missive letters will be sent, fifteen days before the meeting, to shareholders, holders of obligations or holders of a right of subscription in name, to holders of nominative certificates issued with the collaboration of the company, to directors and commissioners, but without the need to be justified from the completion of this formality.

When all actions, obligations, subscription fees or certificates issued with the collaboration of the company are nominal, summonses may be made only by registered letters.

The agenda must contain the indication of the issues to be addressed and, for companies that have made or publicly relying on savings, the proposals for decisions.

##### Art. 534

When, within twenty days before the date on which a general assembly was convened, a corporation receives a declaration or is aware that a declaration should or should be made under sections 514 or 515, paragraph 1<sup>er</sup>, the board of directors may postpone the meeting to three weeks. The deferred general assembly is convened in the usual forms. Its agenda may be supplemented or amended.

##### Art. 535

A copy of the documents to be made available to the nominative shareholders, directors and commissioners under this Code shall be sent to them at the same time as the convocation.

A copy of these documents is also transmitted without delay to persons who, no later than seven days before the General Assembly, have completed the formalities required by the statutes to be admitted to the Assembly. Persons who completed these formalities after this period receive a copy of these documents to the General Assembly.

Any shareholder, bondholder, holder of a subscription right or holder of a certificate issued with the company's collaboration has the right to obtain a copy of these documents at the company's headquarters free of charge, fifteen days before the general assembly.

###### Sub-Section III. - Participation in the General Assembly

##### Art. 536

The statutes determine the formalities to be performed to be admitted to the General Assembly.

The right to participate in the general assembly of a corporation that has made or publicly appealed is subject to the registration of the shareholder on the register of the corporation's shares, or to the deposit of the shares to the bearer, or to the filing of a certificate, established by the contents of the approved accounts or the liquidation organization recognizing the unavailability, up to the date of the general meeting, of the shares. In the event of silence of the statutes, this period will expire on the third day before the date fixed for the meeting of the General Assembly.

##### Art. 537

Holders of bonds, holders of a subscription right or certificates issued with the company's collaboration may attend general meetings, but with advisory voice only.

##### Art. 538

The commissioners attend the general assemblies when they are called to deliberate on the basis of a report prepared by them.

###### Sub-Section IV. - Holding of the General Assembly

##### Art. 539

A list of presences is maintained at each General Assembly.

##### Art. 540

Directors respond to questions raised by shareholders regarding their report or agenda items, to the extent that the disclosure or disclosure of such information seriously prejudice the corporation, shareholders or employees of the corporation.

Commissioners responded to questions raised by shareholders regarding their report. They have the right to speak to the General Assembly in relation to the fulfilment of their functions.

Art. 541

When the shares are of equal value, each gives a voice.

When they are of unequal value or their value is not mentioned, each of them confers a number of votes in full proportion to the part of the capital it represents, counting for one vote the action representing the lowest quantity; it is not taken into account the fractions of votes, except in the cases provided for in section 560.

The exercise of the right to vote in respect of shares on which payments have not been made is suspended as long as such payments, regularly called and payable, have not been made.

Art. 542

The statutes determine whether, and to what extent, a right to vote is granted to the holders of beneficiary shares.

In no case shall they be entitled to more than one vote per title, to be allotted a number of votes greater than half that attributed to all the shares, or to be counted in the vote for a number greater than two-thirds of the number of votes cast by the shares.

If the votes, subject to limitation, are issued in different directions, the reductions are proportionally applied; it is not taken into account the fractions of votes.

Art. 543

For the determination of the conditions of presence and majority to be observed in the general assemblies, it is not taken into account:

1° of privileged actions without the right to vote, except in cases where a right of vote is recognized to them;

2° of the actions that are suspended.

Art. 544

The statutes may limit the number of votes each shareholder has in the assemblies, provided that this limitation is imposed on any shareholder regardless of the titles for which he or she participates in the vote.

Art. 545

No one may take part in the general assembly of a corporation for a number of votes greater than that relating to the titles of which he or she has declared possession, in accordance with Articles 514 or 515, paragraph 1<sup>er</sup> at least twenty days before the date of the General Assembly. Section 2 of the Act of 2 March 1989 on the advertisement of significant interest in publicly traded companies and regulating public procurement offers is applicable to this paragraph.

Paragraph 1<sup>er</sup> does not apply:

1° to the titles to which a voting power is attached less than 5% of the total voting rights existing at the date of the general assembly;

2° to the titles to which a voting power is attached between two of the successive thresholds of five points referred to in Article 1<sup>er</sup> §

1<sup>er</sup>, the Act of March 2, 1989 on the advertisement of significant stakes in publicly traded companies and regulating public tenders;

3° to the securities subscribed by exercise of a right of preference, to the effects acquired by succession or as a result of merger, splitting or liquidation, or to the effects acquired pursuant to a public tender made in accordance with the provisions provided for by or under CHAPTER II of the Act of 2 March 1989 relating to the advertising of significant stakes in publicly listed companies and regulating public tenders.

When voting rights suspended under paragraph 1<sup>er</sup> have been exercised and, without these illegally exercised voting rights, the quorums of presence or majority required for the decisions of a general assembly would not have been gathered, these decisions are null.

Art. 546

Minutes of General Meetings are signed by members of the office and by shareholders who request it; shipments to be issued to third parties are signed by one or more directors, in accordance with the statutes.

Sub-Section V. - Methods of exercising the right to vote

Art. 547

All shareholders entitled to vote may vote themselves or by proxy.

Art. 548

For companies that have made or appealed public to savings, a request for a proxy must contain at least, in the event of a nullity, the following:

1° the agenda with an indication of the topics to be dealt with and the proposals for decisions;

2° the request for instruction in the exercise of the right to vote on each item on the agenda;

3° the indication of the meaning in which the agent will exercise his right to vote in the absence of instructions from the shareholder.

Art. 549

Public solicitation of power of attorney is subject to the following conditions:

1° the power of attorney is sought only for one assembly, but it is valid for successive assemblies with the same agenda;

2° the power of attorney is revocable;

3° the application for power of attorney shall contain, at least, the following:

(a) the agenda with an indication of the topics to be addressed and the proposals for decisions;

(b) the indication that social documents are available to the shareholder who requests them;

(c) the indication of the meaning in which the representative shall exercise his right to vote;

(d) a detailed description and justification of the purpose of the person seeking the power of attorney.

The agent may deviate from the instructions given by his or her principal, either because of unknown circumstances at the time the instructions were given, or when their execution would jeopardize the interests of the principal. The agent must inform his or her principal.

When the application for a proxy is related to a corporation that has made or publicly appealed, a copy of the above-mentioned application is communicated to the Banking and Financial Commission three days before making the solicitation public.

When the Banking and Financial Commission considers that the application insufficiently illuminates the shareholders or is likely to mislead them, it informs the applicant of the power of attorney.

If it is not taken into account the comments made, the Banking and Financial Board may make its opinion public.

No mention of the intervention of the Banking and Financial Commission may be made in the public solicitation of power of attorney pursuant to article 30 of Royal Decree No. 185 of 9 July 1935 on the control of banks and the regime of securities and values emissions.



The King determines the public nature of a solicitation of power.

The statutes may authorize any shareholder to vote by correspondence, by means of a form whose references are fixed in the statutes.

The forms, in which the meaning of a vote or forbearance would not be mentioned, are null.

For the calculation of the quorum, it is only taken into account forms that were received by the company prior to the meeting of the General Assembly, within the time limits set by the statutes.

Section 536, paragraph 2, is applicable where a corporation allows the vote by mail.

Art. 551

§ 1<sup>er</sup>. The exercise of the right to vote may be subject to agreements between shareholders.

These conventions must be limited in time and justified by the social interest at any time.

However, they are zero:

(1) Conventions that are contrary to the provisions of this Code or to the social interest;

2° the conventions by which a shareholder undertakes to vote in accordance with the directives given by the company, by a subsidiary or by one of the bodies of these companies;

3° the conventions by which a shareholder undertakes to the same companies or bodies to approve proposals from the bodies of the society.

§ 2. The agreements between shareholders that are contrary to Articles 510 and 511 are void.

§ 3. The votes cast in general assembly under the conventions referred to in § 1<sup>er</sup> Paragraph 3, and § 2 are null. These votes result in the invalidity of the decisions taken unless they had no impact on the validity of the vote. The invalidity action is prescribed six months after the vote.

Section II. - Regular General Assembly

Art. 552

It shall be held, each year, at least one general assembly in the commune, on the day and hour indicated by the statutes.

Art. 553

Fifteen days before the general meeting, shareholders, holders of bonds and holders of a right of subscription and certificates issued with the collaboration of the company may take note of the following documents at the head office:

1st annual accounts;

2° where applicable, consolidated accounts;

3° the list of shareholders who have not released their shares, with the indication of the number of their shares and that of their domicile;

4° the list of public funds, shares, bonds and other corporate securities that make up the portfolio;

5° the management report and the report of the commissioners.

The annual accounts, the management report and the Commissioner's report are made available to shareholders in accordance with section 535.

Art. 554

The General Assembly hears the management report and the report of the Commissioners and discusses the annual accounts.

After the approval of the annual accounts, the General Assembly shall take a special vote on the discharge of directors and commissioners. This discharge is valid only if the annual accounts contain no omission or misleading statement concealing the actual situation of the corporation and, in respect of acts made outside the statutes or in contravention of this Code, only if they have been specifically indicated in the summons.

Art. 555

The Board of Directors has the right to extend the decision on approval of the three-week annual accounts. This extension does not cancel any other decisions taken unless the General Assembly decides otherwise. The second meeting has the right to finalize the annual accounts.

Section III. - Special General Assembly

Art. 556

Only the General Assembly may confer on third parties the rights affecting the company's heritage or giving rise to a debt or commitment to its responsibility, where the exercise of these rights depends on the launch of a public procurement offer on the shares of the corporation or a change of control exercised on it.

the decision shall be filed before the office of the Registrar before the company receives the communication referred to in section 557 in accordance with section 75.

Art. 557

Upon receipt by a company of the communication made by the Banking and Financial Commission that it has been seized of a notice of public tender for the purpose and until the close of the offer, only the General Assembly may make decisions or carry out transactions that would significantly alter the composition of the assets or liabilities of the corporation, or assume commitments without effective counterparty. These decisions or transactions may not be made or executed provided the success or failure of the public procurement offer.

However, the Board of Directors has the power to complete the transactions sufficiently engaged prior to the receipt of the communication from the Banking and Financial Commission, as well as to acquire shares or shares in accordance with Article 620 § 1<sup>er</sup> Paragraph 3.

The decisions referred to in this section are immediately brought to the attention of the Offeror and the Banking and Financial Commission by the Board of Directors. They are also made public.

Section IV. - Special General Assembly

First sub-section. - Amendment of the statutes in general

Art. 558

The General Assembly, unless otherwise provided, has the right to make amendments to the statutes.

The General Assembly may not validly deliberate and decide on amendments to the statutes unless the purpose of the proposed amendments has been specifically indicated in the convocation, and if those attending the meeting represent at least half of the social capital.

If the latter condition is not met, a new convocation will be necessary and the second meeting will deliberately, regardless of the portion of the capital represented by the shareholders present.

No change is allowed unless it brings together three quarters of the vote.

## Global Regulation

### Sub-Section II. - Modification of the social object

If the amendment to the Regulations relates to the social object, a detailed justification for the proposed amendment must be provided by the board of directors in a report announced in the agenda. This report is attached to a statement summarizing the active and passive situation of the society, which was arrested on a date not more than three months. The Commissioners report separately on this status.

A copy of these reports may be obtained in accordance with Article 535.

The absence of reports results in the nullity of the decision of the General Assembly.

The General Assembly can only validly deliberate and decide on the modification to the social object if those who attend the meeting represent, on the one hand, half of the social capital and, on the other hand, half of the total number of the beneficiaries. If this condition is not fulfilled, a new convocation will be necessary. For the second assembly to be validly deliberated, it will be sufficient for any portion of the capital to be represented.

No amendment is allowed unless it brings together at least four fifths of the vote.

Notwithstanding any provision to the contrary of the statutes, the beneficiary shares shall be entitled to one vote by title. They will not be able to be allotted a number of votes greater than half that attributed to all the shares, nor be counted in the vote for a number of votes greater than two-thirds of the number of votes cast by the shares. If the votes subject to limitation are issued in different directions, the reduction will operate proportionally; it is not taken into account the fractions of votes.

### Sub-Section III. - Change of title rights

Art. 560

If there are several categories of shares, or if several categories of beneficiary shares have been issued, the General Assembly may, notwithstanding any provisions that are contrary to the statutes, modify their respective rights or decide to replace the shares or shares of a class with those of another.

The detailed purpose and justification of the proposed amendments are set out by the Board of Directors in a report on the agenda.

A copy of this report may be obtained in accordance with Article 535.

The absence of the report results in the invalidity of the decision of the General Assembly.

In the hypothesis referred to in this article, notwithstanding any provisions contrary to the statutes, each of the beneficiary shares shall grant the vote in its class. The limitations resulting from section 543 are not applicable and the General Assembly shall:

1° to gather in each category the conditions of presence and majority required for a modification of the statutes;

2° admit any holder of cuts to take part in deliberation in his category, the voices being counted on the basis of a voice to the weakest cut.

### CHAPTER III. - Social action and minority action

#### Section 1. - Social action

Art. 561

The General Assembly decides whether social action should be taken against directors or commissioners. It may charge one or more agents for the execution of this decision.

#### Section II. - Minority Action

Art. 562

An action may be brought against directors on behalf of the corporation by minority shareholders.

This minority action is brought by one or more shareholders who, on the day of the general assembly that has pronounced themselves on the discharge of directors, have the securities to which at least 1% of the vote is attached to all the securities that exist to date, or on that same day having titles representing a fraction of the capital equal to at least 50 million francs.

For shareholders entitled to vote, the action can only be brought by those who have not voted the landfill and by those who have voted the landfill in this case, if it is not valid.

In addition, for holders of non-voting shares, the action may be brought only in cases where they exercised their right to vote in accordance with section 481 and in cases where the decisions taken pursuant to the same article are handled.

Art. 563

The fact that in the course of a proceeding, one or more shareholders cease to represent the group of minority shareholders, either that they do not have any titles or that they do not participate in the action, is without effect on the prosecution of the proceeding or on the exercise of the remedies.

Art. 564

If the legal representatives of the society exercise social action and that the minority action is also brought by one or more holders of titles, the proceedings are joined for connexity.

Art. 565

Any transaction entered into prior to the action may be cancelled at the request of holders of securities meeting the conditions set out in section 582 if it has not been made to the common benefit of all holders of securities.

After the initiation of the action, the company cannot transfer with the defendants without the unanimous consent of those who remain seeking the action.

Art. 566

Applicants must unanimously appoint a special agent, shareholder or not, to conduct the trial, the name of which must be indicated in the introductive operation of the proceeding and the place of election of domicile.

Applicants may unanimously revoke the special agent. Revocation may also be prosecuted on a legitimate basis by any holder of titles, before the president of the trade tribunal as in the matter of references.

In the event of death, resignation, incapacity, distrust, bankruptcy or revocation of the special agent, and in the absence of agreement between all applicants on the person of his substitute, the latter shall be designated by the President of the Commercial Court, upon request of the most diligent applicant.

Art. 567

If the minority claim is rejected, the applicants may be sentenced personally at the expense and, where applicable, to damages to the defendants.

If the application is received, the amounts that the claimants made the advance, and which are not included in the dependant costs of the respondents, are refunded by the corporation.

### CHAPTER IV. - General Meeting of Bonds

#### Section 1. - Skills

Art. 568

When social capital is fully called, the general assembly of bonds has the right:

1° to extend the maturity of interest, to consent to the reduction of the interest rate or to amend the terms of payment;  
 2° to extend the duration of the refund, suspend it and make amendments to the conditions under which it is to be made;  
 3° to accept the substitution of shares to the claims of bonds. Unless the shareholders have previously given their consent to the substitution of shares to the obligations, the decisions of the bond assembly will only have effect in this regard if they are accepted, within the three-month period, by the shareholders deliberating in the forms prescribed for the amendments to the statutes.

In addition, the General Assembly of Bonds has the right to:

1° to accept provisions intended to either grant special security rights to the holders of obligations or to modify or delete the security rights already assigned;  
 2° to decide on the precautionary acts to be done in the common interest;  
 3° to designate one or more agents to execute decisions made under this section and to represent the mass of bonds in all procedures relating to the reduction or cancellation of mortgage registrations.

#### Section II. - Convening of the assembly

Art. 569

The board of directors and commissioners may summon the holders of bonds in the general assembly.

They must convene this meeting on the request of bonds representing the fifth of the amount of securities in circulation.

Art. 570

The convocations to the General Assembly contain the agenda and are made by advertisement inserted twice, at least eight days apart, and eight days before the assembly, in the Belgian Monitor, in a national broadcast press body and in a regional press body of the headquarters of the society.

Missive letters, recommended to the post, will be sent fifteen days before the assembly to the bondholders in name.

When all obligations are nominal, summonses can be made only by registered letter.

The agenda contains the indication of the topics to be dealt with and the proposals for decisions to be submitted to the Assembly.

#### Section III. - Participation in the assembly

Art. 571

The statutes determine the formalities to be performed to be admitted to the General Assembly.

The right to participate in the general assembly of a corporation that has made or publicly appealed is subject to the registration of the bond on the register of the corporation's nominal obligations, or to the deposit of the bonds to the bearer, or to the filing of a certificate, established by the contents of the approved accounts or the liquidation organization recognizing the unavailability, until the date of the general meeting. In the event of silence of the statutes, this period will expire on the third day before the date fixed for the meeting of the General Assembly.

#### Section IV. - Tenue of the assembly

Art. 572

It is held at each assembly a list of the presences.

Art. 573

The company must make a list of outstanding obligations available at the beginning of the meeting.

Art. 574

The assembly can only validly deliberate and decide if its members represent at least half the amount of the securities in circulation. If this condition is not fulfilled, a new convocation is necessary and the second assembly shall deliberate and rule validly, regardless of the amount represented in circulation.

No proposal shall be accepted only if it is voted by members representing together, by themselves or by their constituents, at least three-quarters of the amount of obligations for which it is taken part in the vote.

In cases where a decision has not brought together a majority representing at least one third of the amount of obligations in circulation, it may only be enforced after being approved by the Court of Appeal in the jurisdiction of which the company's headquarters is located.

The registration is requested by request, by the diligence of the directors or by any interested bond.

Bonds that have voted against resolutions or have not attended the meeting may intervene in the proceeding.

The court rules all business, the public prosecutor hears.

If the application for approval is not filed within eight days after the vote of the decision, the decision will be considered non-agreement.

However, the conditions of presence and majority specified above are not required in the cases provided for in section 568, paragraph 2, 2° and 3°.

The decisions, in the above cases, may be taken by a simple majority of the titles represented.

The decisions taken are published in the fifteenth year in the Annexes of the Belgian Monitor.

Art. 575

Where there are several categories of obligations and the deliberation of the General Assembly is likely to change their respective rights, deliberation must, in order to be valid, bring together in each category the conditions of presence and majority required by Article 574.

Holders of bonds of each class may be summoned to a special assembly.

Art. 576

Minutes of the General Meetings are signed by the members of the office and by the bonds requested; shipments to be issued to third parties are signed by one or more directors, in accordance with the statutes.

#### Section V. - Methods of exercising the right to vote

Art. 577

All bondholders may vote themselves or by proxy.

Art. 578

For companies that have made or appealed public to savings, a request for a proxy must contain at least, in the event of a nullity, the following:

1° the agenda with an indication of the topics to be dealt with and the proposals for decisions;  
 2° the request for instruction in the exercise of the right to vote on each item on the agenda;  
 3° the indication of the meaning in which the agent shall exercise his right to vote in the absence of instructions from the bondman.

Art. 579

Public solicitation of power of attorney is subject to the following conditions:



1° the power of attorney is sought only for one assembly, but it is valid for successive assemblies with the same agenda;

2° the power of attorney is revocable;

3° the application for power of attorney shall contain, at least, the following:

(a) the agenda with an indication of the topics to be addressed and the proposals for decisions;

(b) the indication that social documents are available to the obligator requesting them;

(c) the indication of the meaning in which the representative shall exercise his right to vote;

(d) a detailed description and justification of the purpose of the person seeking the power of attorney.

The agent may deviate from the instructions given by his or her principal, either because of unknown circumstances at the time the instructions were given, or when their execution would jeopardize the interests of the principal. The agent must inform his or her principal.

When the application for a proxy is related to a corporation that has made or publicly appealed, a copy of the above-mentioned application is communicated to the Banking and Financial Commission three days before making the solicitation public.

When the Banking and Financial Commission considers that the application insufficiently illuminates bondholders or is likely to induce them in error, it informs the applicant of the power of attorney.

If it is not taken into account the comments made, the Banking and Financial Board may make its opinion public.

No mention of the intervention of the Banking and Financial Commission may be made in the public solicitation of power of attorney pursuant to article 30 of Royal Decree No. 185 of 9 July 1935 on the control of banks and the regime of securities and values emissions.

The King determines the public nature of a solicitation of power.

Art. 580

§ 1<sup>er</sup>. The exercise of the right to vote may be subject to agreements between bonds.

These conventions must be limited in time and justified by the social interest at any time.

However, they are zero:

(1) Conventions that are contrary to the provisions of this Code or to the social interest;

2° the conventions by which a bondman agrees to vote in accordance with the directives given by the company, by a subsidiary or by one of the bodies of these companies;

3° the conventions by which a bondor undertakes to the same companies or bodies to approve proposals from the bodies of the society.

§ 2. The bond agreements that are contrary to Articles 510 and 511 are void.

§ 3. The votes cast in general assembly under the conventions referred to in § 1<sup>er</sup>2 and § 2 are null. These votes result in the invalidity of the decisions taken unless they had no impact on the validity of the vote. The invalidity action is prescribed six months after the vote.

PART V. - Capital

CHAPTER PREMIER. - Capital increase

Section 1. - Common provisions

Art. 581

The increase in capital is decided by the General Assembly on the terms and conditions required to amend the statutes, if any, by applying Article 560. A capital increase may also be decided by the board of directors within the limits of the authorized capital. The same applies to the issuance of convertible bonds or subscription fees.

Art. 582

When the issuance of shares without a nominal value under the accounting pair of the old shares of the same class is on the agenda of a general assembly, the summons must expressly mention it.

The transaction must be the subject of a detailed report by the Board of Directors, including the issuance price and the financial implications of the transaction for shareholders. A report shall be prepared by a Commissioner or by default, by a company reviewer designated by the Board of Directors, or by an external auditor designated in the same manner, by which he declares that the financial and accounting information contained in the report of the Board of Directors is faithful and sufficient to inform the general assembly called to vote this proposal.

These reports are filed at the Registry of the Commercial Court in accordance with section 75. They are announced on the agenda.

A copy may be obtained in accordance with section 535.

The absence of the report under paragraph 2 results in the invalidity of the decision of the General Assembly.

Art. 583

In the event of issuance of convertible bonds or subscription fees, the purpose and detailed justification of the transaction are set out by the board of directors in a special report. When the General Assembly is called to deliberate, this report is announced in the agenda. A copy may be obtained in accordance with section 535.

The absence of the report results in the invalidity of the decision of the General Assembly.

For companies that have made or publicly relied on savings, a copy of this report is communicated to the Banking and Financial Commission fifteen days before the convocation of the General Assembly or, as the case may be, of the Board of Directors, called to deliberate on the issue of convertible bonds or with the right to subscription. This report is attached a file prepared in accordance with the requirements of the Banking and Financial Commission.

The King shall determine the remuneration to be paid by the Banking and Financial Board for the review of the records referred to in paragraph 3.

When the Banking and Financial Commission considers that this report unsatisfactorily informs shareholders or is likely to mislead them, it shall immediately inform the corporation and each director. If it is not taken into account the comments made, the Banking and Financial Commission may, by a reasoned decision and notified to the company by registered letter, suspend the summons, deliberation or projected issuance for a maximum of three months. This period runs from the date of notification by registered letter of the decision of the Banking and Financial Commission. The Commission may make its decision public.

No mention of the intervention of the Banking and Financial Commission may be made in any form in the advertisement or documents relating to the transactions referred to above.

Art. 584

If the advertised capital increase is not fully subscribed, the capital is only increased to the subscriptions collected if the conditions of the program expressly provided for this possibility.

Art. 585

§ 1<sup>er</sup>. The company may not subscribe to its own shares, either directly or indirectly, or by a subsidiary corporation, or by a person

acting on his own behalf, but on behalf of the affiliate corporation or corporation.

The person who has subscribed on his or her own behalf but on behalf of the affiliate corporation or corporation is considered to have subscribed on his or her own behalf.

All rights relating to shares subscribed by the corporation or its subsidiary are suspended until such shares have been disposed of.

§ 2. § 1<sup>er</sup> does not apply to the subscription of shares of a corporation by a subsidiary corporation that is, in its capacity as a securities professional operator, a stock exchange corporation or a credit institution.

Art. 586

Each action corresponding to a cash intake and each action corresponding in whole or in part to an in-kind intake must be released by a quarter.

Without prejudice to paragraph 1<sup>er</sup> shares corresponding in whole or in part to in-kind contributions must be fully released within five years of the decision to increase capital.

Art. 587

When a new share issuance premium is provided, the amount of this program premium must be fully paid upon subscription.

Art. 588

The only decision to increase capital made by the General Assembly or the Board of Directors must be found by an authentic act, which is the subject of a deposit at the Registry in accordance with section 75.

If the realisation of the capital increase is observed at the same time, the act also mentions respect for the legal conditions relating to the subscription and release of capital.

Art. 589

The realization of the increase, if it is not consistent with the decision to increase capital, is found by an authentic act, filed at the request of the board of directors or one or more directors specially delegated for this purpose, upon presentation of the supporting documents of the transaction. The Act also mentions respect for the legal conditions relating to the subscription and release of capital. It is the subject of a deposit under section 75.

Art. 590

When capital is increased through public subscriptions, the act recognizing the realization of the increase in capital indicates the number of new shares created to represent the increase in capital and contains the statement of subscriptions, certified by the Commissioner.

Subscriptions must be made in duplicate and indicate:

1° the social capital and the number of shares;

2° the payment on each share of at least one quarter of the amount of the subscription or the commitment to make this payment at the latest at the time of the final increase of the capital.

Art. 591

When capital is increased following the conversion of convertible bonds into shares or the subscription of shares in the event of the exercise of the right of subscription, the conversion or subscription, the correlative increase of social capital and the number of new shares created in the representation of the latter are recognized by public act. This act is filed at the request of the Board of Directors upon presentation of a statement of the requested conversions or of the subscription rights exercised, certified by the Commissioner(s) or, if not, by a business reviewer. This finding entails amending the provisions of the statutes relating to the amount of social capital and the number of shares that represent it; it confers the shareholder's quality to the bondholder who has regularly applied for the conversion of the title or to the holder of the subscription right who exercised his right.

Section II. - Increase in capital by cash flows

First sub-section. - Right of preference

Art. 592

Shares to be subscribed in cash, convertible bonds and subscription rights must be offered by preference to shareholders proportionally to the share capital of their shares.

Holders of shares without the right to vote have a right of preference in the event of issuance of new shares with or without the right to vote unless the capital increase is realized by the issuance of two proportional shares, one with the right to vote and the other without the right to vote, the first of which is offered by preference to holders of voting shares and the second to holders of shares without the right to vote. The same rule applies in the event of issuance of convertible bonds or subscription fees.

Art. 593

The right of preference may be exercised for a period not less than fifteen days from the date of the opening of the subscription. This period is set by the General Assembly or, where the increase is decided in the context of the authorized capital, by the Board of Directors.

The opening of the subscription and its period of exercise are announced by a notice published at least eight days before this opening, in the Annexes of the Belgian Monitor, in a national broadcast press body and in a regional press body of the company's headquarters. The publication of this notice may, however, be omitted when all shares of the corporation are nominal. In this case, the content of the notice must be notified to shareholders by registered letter.

The publication of the notice or the communication of its content to the shareholders in name does not, by themselves, constitute a public appeal for savings.

The right of preference is negotiable throughout the term of the subscription, without being able to be made to this negotiability of other restrictions than those applicable to the title to which the right is attached.

Art. 594

For companies that have not made or do not publicly rely on savings, in the absence of statutory provisions, third parties may, at the end of the preferential subscription period, participate in the increase of capital, except the board of directors to decide that preferential rights will be exercised, proportionally to the portion of the capital of their shares, by former shareholders who have already exercised their right. The terms and conditions of the subscription referred to in this section are defined by the Board of Directors.

Sub-Section II. - Derogations to the right of preference

Art. 595

The statutes cannot delete or limit the right of preference.

Art. 596

The general assembly called upon to deliberate and decide on the increase of capital, on the issuance of convertible bonds or on the issuance of subscription rights may, in the social interest, the terms of quorum and majority for the modification of the statutes, limit or delete the right of preference. This proposal must be specifically announced in the convocation



limit or delete the right of preference. This proposal must be specifically announced in the convocation.

The Board of Directors justifies its proposal in a detailed report, including the issue price and the financial implications of the transaction for shareholders. A report is prepared by the Commissioner and, if not, by a business reviewer designated by the Board of Directors, or by an external auditor designated in the same manner, by which he declares that the financial and accounting information contained in the report of the Board of Directors is faithful and sufficient to inform the meeting called to vote on this proposal. These reports are filed at the Registry of the Commercial Court in accordance with section 75. They are announced on the agenda. A copy may be obtained in accordance with section 535.

The absence of the reports provided for in this article results in the invalidity of the decision of the General Assembly.

The General Assembly's decision to limit or delete the preferential right is the subject of a deposit at the Registry of the Commercial Court in accordance with Article 75.

Art. 597

There is no exclusion from the right of preference where, according to the decision on the increase of capital, securities are subscribed by banks or other financial institutions to be offered to shareholders in accordance with sections 592 and 593.

Art. 598

When the right of preference is limited or deleted in favour of one or more specified persons who are not members of the company's or any of its affiliates, the identity of the recipient(s) of the limitation or deletion of the right of preference must be mentioned in the report prepared by the board of directors and in the convocation.

In addition, the issuance price, for companies whose securities are admitted to the official rating or treated on a securities exchange of the kingdom or another regulated market, within the meaning of section 1<sup>er</sup>, § 3, of the Law of 6 April 1995 on secondary markets, the status of investment enterprises and their control, the status of intermediaries and investment advisers, recognized by the King as equivalent for the application of this Article, cannot be less than the average of the courses of the thirty days preceding the day of the issuance.

For companies other than those referred to in paragraph 2, the issuance price must be at least equal to the intrinsic value of the fixed title, except unanimous agreement of the shareholders, on the basis of a report prepared either by the Commissioner or, for companies that do not have a Commissioner, by a company reviewer designated by the board of directors or by an external auditor designated in the same manner.

Reports prepared by the Board of Directors indicate the impact on the situation of the former shareholder of the proposed program, in particular with respect to its share of profit and equity. A Commissioner or, if not, a business reviewer designated by the Board of Directors, or an external auditor designated in the same manner, shall give detailed notice of the emission price calculation elements and its justification.

Art. 599

In the event of limitation or deletion of the right of preference, the General Assembly may provide that a priority will be given to the former shareholders when assigning new securities. In this case, the subscription period must be ten days.

Sub-section II. - Release of cash contributions

Art. 600

In the event of cash contributions to be released at the time of the issuance of the act recognizing the increase in capital, the funds are pre-paid or transferred to a special account opened on behalf of the company at La Poste (Postchèque) or a credit institution established in Belgium, other than a communal savings fund, governed by the Act of 22 March 1993 on the Status and Control of Institutions. A certificate justifying this deposit is attached to the certificate.

The special account must be at the exclusive disposal of the corporation. It can only be disposed of by the persons authorized to engage the company and after the notary instrumentant had informed the body of the passing of the act.

If the increase is not made within three months of the opening of the special account, the funds will be returned to their application to those who have deposited them.

Section III. - Capital increase by in-kind contributions

Art. 601

In-kind contributions can only be paid by shares if they consist of assets that are subject to economic valuation, other than assets that are constituted by commitments for the performance of work or services.

Art. 602

In the event that the capital increase includes in-kind contributions, a report is previously prepared either by the Commissioner or, for companies that do not have it, by a company reviewer designated by the Board of Directors.

This report includes the description of each in-kind contribution and the methods of evaluation adopted. It indicates whether the estimates to which these valuation modes are conducted correspond at least to the number and nominal value or, if not nominal, to the accounting pair and, where applicable, to the emission premium of the shares to be issued in consideration. The report indicates the actual remuneration for contributions.

This report is attached to a special report in which the Board of Directors provides, on the one hand, the interest of the company both intakes and the proposed capital increase and on the other, the reasons why, if any, it departs from the conclusions of the annexed report.

The reviewer's report and the special report of the board of directors shall be filed at the office of the court of commerce in accordance with section 75.

When the capital increase is decided by the General Assembly in accordance with Article 581, the reports under paragraph 3 are announced in the agenda. A copy may be obtained in accordance with section 535.

The absence of the reports provided for in this article results in the invalidity of the decision of the General Assembly.

Section IV. - Authorized capital

First sub-section. - Principles

Art. 603

The statutes may authorize the board of directors to increase in one or more times the social capital subscribes to a specified amount that, for companies making or publicly appealing for savings, cannot exceed the amount of that social capital.


Under the same conditions, the statutes may authorize the board of directors to issue convertible bonds or subscription fees.

Articles 592 to 602 apply to this article.

Art. 604

The authorization referred to in section 603 is valid only for five years from the date of the publication of the constitutive act or the amendment of the statutes. However, it may be renewed once or more for a period not exceeding five years by the General Assembly deliberating on the conditions required for the amendment of the statutes, if any, by applying Article 560.

When the founders or the general assembly decide to grant the authorization provided for in paragraph 1<sup>er</sup> or renew, the specific

Global Regulation  when the founders of the general assembly decide to grant the authorization provided for in paragraph 1<sup>er</sup> or renew, the specific circumstances under which the authorized capital may be used and the objectives pursued are indicated in a special report. If so, this report is announced in the agenda. A copy may be obtained in accordance with section 535.

The absence of the report under paragraph 2 results in the invalidity of the decision of the General Assembly.

#### Sub-section II. - Limitations

##### Art. 605

The authorization referred to in section 603 shall not be used for the following operations unless expressly provided for:

- 1° capital increases or emissions of convertible bonds or subscription fees where the preferential right of shareholders is limited or deleted;
- 2° capital increases or convertible bond issuances for which shareholders' preferential rights are limited or deleted in favour of one or more specified persons, other than employees of the company or its subsidiaries;
- 3° the capital increases made by incorporation of reserves.

##### Art. 606

The authorization referred to in section 603 may never be used for the following operations:

- 1° the capital increases to be realized mainly by in-kind contributions reserved exclusively for a shareholder of the corporation holding securities of that corporation to which more than 10% of the voting rights are attached.

The titles held by the shareholder are added:

- (a) by a third party acting on its own behalf, but on behalf of the shareholder concerned;
- (b) by a natural or legal person related to the intended shareholder;
- (c) by a third party acting on its own behalf, but on behalf of a natural or legal person related to the intended shareholder;
- (d) by persons acting in concert.

By persons acting in concert, one must hear the persons in which an agreement exists that has the object or effect of the adoption by the parties of a parallel behaviour with respect to the possession, acquisition or disposal of the securities.

It is presumed, unless otherwise proven, to act together:

- (a) that have entered into agreements involving a blocking of securities, a similar approval or mechanism for the possession, acquisition or disposal of securities;
- (b) that have entered into agreements with pre-emption rights or purchase or sale options or commitments;
- (c) that jointly control a corporation holding a quosity of securities resulting in the obligation of a declaration;
- 2° the issuance of shares without mention of nominal value below the accounting pairs of the old shares of the same class;
- 3° the issuance of subscription rights reserved principally to one or more specified persons other than members of the company's staff or one or more of its subsidiaries.

##### Art. 607

Upon receipt by a company of the communication made by the bank and financial commission that it has been seized of a notice of public offer of acquisition the aim and until the close of the offer, its board of directors may no longer:

- 1° to increase capital by in-kind contributions or cash inflows by limiting or removing the preferential right of shareholders;
- 2° to create representative or non-representative securities of capital, conferring the right to vote, as well as securities giving the right to the subscription of such securities or to the acquisition of such securities, if such securities or rights are not offered by preference to shareholders proportionally to the portion of the capital represented by their shares.

However, this prohibition does not apply to:

- 1st valid commitments made prior to receipt of the communication referred to in this article;
- 2° the capital increases for which the board of directors has been expressly and previously authorized by a general assembly, deciding as with respect to the amendment of the statutes, held not more than three years before the receipt of the aforementioned communication, provided that:
  - (a) the shares created under the capital increase shall be released from their entire issuance;
  - (b) the issuance price of shares created under the capital increase is not less than the price of the offer;
  - (c) the number of shares created under the capital increase does not exceed one tenth of the shares representative of the capital issued prior to the capital increase.

The decisions referred to in this section are immediately and in a circumstantial manner brought to the attention of the Offeror and the Banking and Financial Commission. They are also made public.

#### Sub-section III. - Information in the management report

##### Art. 608

When an increase in capital, a convertible bond issue or a subscription fee issue is decided by the board of directors during the social year, the management report includes a presentation on them. It also includes, where appropriate, an appropriate comment on the conditions and actual consequences of capital increases or emissions of convertible bonds or subscription fees for which the board of directors has limited or abolished the preferential right of shareholders.

This section is not applicable to small corporations.

#### Section V. - Staff capital increase

##### Art. 609

§ 1<sup>er</sup>. Companies may, when distributing at least two dividends over the last three fiscal years, make capital increases through the issuance of voting shares, intended in whole or in part, to all staff members or to all staff of their subsidiaries.

The principle of recourse to the operation referred to in paragraph 1<sup>er</sup> is the subject of a consultation within the company's central corporate board. Social terms and conditions are the subject of a notice from the same business council.

The maximum amount of this type of capital increase made during a current fiscal year and the four prior years may not exceed 20% of the social capital, including the proposed increase.

The actions taken in the course of this operation by staff members under the conditions referred to in § 2 are necessarily nominal. They are required for a period of five years from the subscription.

§ 2. In accordance with the conditions required for capital increases, the General Assembly or the Board of Directors, as appropriate, shall set out the conditions of the transaction:

- 1° the seniority that will be required on the date of the opening of the subscription of staff members to benefit from the program, which may not be less than six months or more than three years;
- 2° the period granted to staff members for the exercise of their rights, which may not be less than thirty days, nor more than three months from the opening of the subscription;
- 3° the period that may be granted to subscribers for the release of their titles, which may not exceed three years from the expiry of the period granted to staff members for the exercise of their rights;

the period granted to staff members for the exercise of their rights;

4° the minimum number of these shares that cannot be less than 80% of the price justified by the report of the Board of Directors and by the report of the Commissioner, the Reviewer or the External Accountant, provided for in section 596.

§ 3. A staff member referred to in § 1<sup>er</sup> and 2 may obtain the transfer of its shares in the event of termination, retirement of the person concerned, death or disability of the beneficiary or spouse.

At least 10 days prior to the opening of the subscription, all staff members likely to subscribe must be informed of the proposed terms and conditions. They may obtain social documents referred to in articles 106 and 108.

#### Section VI. - Responsibilities

##### Art 610

The directors shall be held in solidarity with the concerned, despite any stipulation to the contrary:

1° of the whole part of the capital that would not be validly subscribed, as well as the possible difference between the amount referred to in section 439 and the amount of the subscriptions; they are of full right deemed to be subscribers;

2° of the effective release up to a quarter of the shares, of the effective release within five years of the shares corresponding in whole or in part to inflows in kind, as well as the effective release of the share of the capital of which they are deemed subscribers under the 1st;

3° of the release of shares in violation of Article 585;

4° of compensation for injury, which is an immediate and direct result either of the absence or misleading of the statements prescribed by section 590 in the act and in the subscriptions, or of the manifest over-evaluation of in-kind contributions.

##### Art. 611

Those who have made a commitment for third parties, either as a proxy or as a strong advocate, are deemed to be personally obliged, if there is no valid mandate or if the commitment is not ratified within two months of the stipulation; this period is reduced to fifteen days if the names of the persons, for whom the stipulation has been made are not indicated.

#### CHAPTER II. - Reduction of capital

##### Art. 612

Any reduction of social capital can only be decided by the general assembly in the conditions required for amendments to the statutes by equal treatment of shareholders who are in identical conditions. If applicable, the application of section 560 is made. The summons to the General Assembly indicates how the proposed reduction will be effected and the purpose of this reduction.

##### Art. 613

If the reduction of capital is effected by a refund to shareholders or by a total or partial exemption from the payment of the balance of contributions, creditors whose debt was born prior to the publication, within two months of the publication to the Annexes of the Belgian Monitor of the decision to reduce capital, notwithstanding any provision to the contrary, the right to require a security right for receivables not yet expired at the time of publication. The corporation may deviate this claim by paying the receivable at its value, after deduction of the discount.

If there is no agreement or if the creditor is not paid, the contestation is submitted by the most diligent party to the president of the trade tribunal in whose jurisdiction the company has its seat. The procedure is introduced and instructed and the decision is carried out according to the forms of the referee.

All rights except on the merits, the President shall determine the security to be provided by the corporation and shall set the time limit within which it shall be constituted, unless the President decides that no security rights shall be provided in respect of either the guarantees and privileges enjoyed by the creditor or the solvency of the corporation.

No refund or payment to shareholders may be made and no exemption from the payment of the balance of contributions may be made as long as the creditors, having claimed their rights within the two-month period referred to in paragraph 1<sup>er</sup>, will not be satisfied unless an enforceable judicial decision has rejected their claims to obtain a guarantee.

##### Art. 614

Section 613 does not apply to capital reductions in order to clear a loss suffered or to establish a reserve to cover a foreseeable loss or to constitute an unavailable reserve, in accordance with section 623, § 2, 5°.

The reserve constituted to cover a foreseeable loss may not exceed 10% of the capital subscribed after reduction. This reserve may not, except in the event of a subsequent capital reduction, be distributed to shareholders; it can only be used to compensate for losses incurred or to increase capital by incorporation of reserves.

In the cases referred to in this section, capital may be reduced below the amount set out in section 439. However, the reduction below this amount only emerges from the time when an increase in the amount of capital occurs at a level not less than the amount set out in section 439.

#### CHAPTER III. - Capital amortization

##### Art. 615

The statutes may provide that a portion of the profits they determine will be allocated to the amortization of capital by means of a repayment of shares designated by drawing of lots, without the capital expressed being reduced.

Amortization can only be achieved by means of distributable sums in accordance with section 617.

The shares are replaced by shares of enjoyment. Shareholders whose shares are amortized retain their rights in the corporation, excluding the right to refund the contribution as well as to the exclusion of the right to participate in a first dividend collected on unamortized shares whose amount is determined by the statutes.

#### CHAPTER IV. - Maintenance of capital

##### Section 1. - Beneficiary distribution

###### First sub-section. - Establishment of a reserve fund

##### Art. 616

The General Assembly shall, on net profits, make an annual debit of at least one twentieth allocated to the formation of a reserve fund; This withdrawal ceases to be mandatory when the reserve fund reaches the tenth of the social capital.

###### Sub-section II. - Distributable benefits

##### Art. 617

No distribution may be made when, at the closing date of the last fiscal year, the net assets as a result of the annual accounts are, or would become, as a result of such distribution, less than the amount of the released capital or, if that amount is higher, of the capital called, increased from all reserves that the law or statutes do not permit to distribute.

By net assets, the total of the assets as shown in the balance sheet must be understood, deducting provisions and debts.

For the distribution of dividends and fortieths, the asset cannot include:

1° the amount not yet amortized from the settlement fee;

except in exceptional cases to be mentioned and justified in the schedule to the annual accounts, the amount not yet amortized for the current year's costs.

Sub-section III. - Dividend deposit

Art. 618

The Regulations may give the Board of Directors the power to distribute a deposit to be charged on the dividend that will be distributed on the results of the fiscal year.

This distribution may take place only by debit on the benefit of the current fiscal year, if any reduced of the deferred or increased loss of the deferred profit, excluding any levy on constituted reserves and taking into account the reservations to be constituted under a legal or statutory provision.

It may also be carried out only if, on the basis of a statement, verified by the Commissioner and summarizing the active and passive situation, the board of directors finds that the profit calculated in accordance with paragraph 2 is sufficient to allow the distribution of a deposit.

The Commissioner's audit report is annexed to its annual report.

The decision of the Board of Directors to distribute a deposit may not be taken more than two months after the date on which the active and passive situation was decided.

The distribution may not be decided less than six months after the end of the previous fiscal year or before the approval of the annual accounts for that fiscal year.

When a first deposit has been distributed, the decision to distribute a new deposit may only be taken at least three months after the decision to distribute the first deposit.

When the deposits exceed the amount of the dividend subsequently decided by the General Assembly, they are, to this extent, considered a deposit to be claimed on the following dividend.

Sub-section IV. - Sanction

Art. 619

Any distribution made in contravention of sections 617 and 618 must be returned by the beneficiaries of this distribution if the company proves that they knew the irregularity of the distributions made in their favour or could not ignore it in the circumstances.

Section II. - Acquisition of clean securities

First sub-section. - Acquisition of clean securities

by the anonymous society itself

Art. 620

§ 1<sup>er</sup>. The acquisition by an anonymous company of its own shares, shareholders or certificates relating to it, by way of purchase or exchange, directly or by person acting on its own behalf but on behalf of the corporation, as well as the subscription of such certificates after the issuance of the shares or share beneficiaries, is subject to the following conditions:

1° the acquisition shall be subject to a preliminary decision of the General Assembly ruling on the conditions of quorum and majority provided for in Article 559;

2° the nominal value or, if not, the accountant pairs of the acquired shares or shares or shares or shares to which the certificates relate, including those that the corporation had previously acquired and that it would have in portfolio, those acquired by a subsidiary corporation controlled directly within the meaning of Article 5, § 2, 1°, 2° and 4°, as well as those acquired by a person acting in its own name but on behalf of the affiliate for the determination of the direct control power, it is not applied to section 7;

3° the amounts assigned to this acquisition shall be liable to be distributed in accordance with Article 617;

4° the operation may be limited to actions that are fully released or to certificates related to it;

5° the offer of acquisition must be made on the same terms to all shareholders, and, where applicable, to all holders of shareholders or holders of certificates, except for acquisitions that were unanimously decided by a general assembly to which all shareholders were present or represented; in the same way, companies whose shares are registered in the first market of a securities exchange or are admitted to the official rating of a securities exchange located in a Member State of the European Union or another regulated market, within the meaning of Article 1<sup>er</sup>, § 3, of the law of 6 April 1995, relating to secondary markets, the status of investment companies and their control, to intermediaries and investment advisors, recognized by the King as equivalent for the application of this section may purchase their own shares or certificates on stock exchange, without an offer of acquisition to be made to shareholders or holders of certificates.

The decision of the general assembly referred to in paragraph 1<sup>er</sup>, 1°, is not required when the company acquires its own shares, beneficiary shares or certificates in order to distribute them to its staff.

The statutes may provide that the decision of the General Assembly is not required when the acquisition is necessary to avoid serious and imminent damage to the corporation.

This faculty is only valid for a period of three years from the date of publication of the constitutive act or the amendment of the statutes; it is prorogable for identical terms by the General Assembly ruling on the terms of quorum and majority provided for in Article 559. The general meeting that follows the acquisition must be informed by the board of directors of the reasons and purposes of the acquisitions, the number and the nominal value, or, in the absence of a nominal value, of the accounting pairs of the acquired securities, of the fraction of the shares they represent, and of their counter-value.

The general assembly or statutes shall include the maximum number of shares, beneficiary shares or certificates to be acquired, the period for which the authorization is granted and which may not exceed eighteen months, as well as the minimum and maximum countervalue.

Decisions of the General Assembly taken on the basis of paragraph 1<sup>er</sup>, 1°, and 3, are published in accordance with section 74.

§ 2. Companies whose securities are in whole or in part registered in the first market of a securities exchange or admitted to the official rating of a securities exchange located in a Member State of the European Union or another regulated market referred to in § 1<sup>er</sup>Paragraph 1<sup>er</sup>, 5°, shall declare to the market authority or, with respect to the regulated markets, to the market authorities designated by the King, the transactions they intend to carry out under § 1<sup>er</sup>.

The market authorities referred to in paragraph 1<sup>er</sup> verify the conformity of redemption transactions with the decision of the General Assembly, or if any of the Board of Directors; market authorities make their notices public if they consider that these transactions are not in compliance with them.

The King shall determine the procedure prescribed in this paragraph.

Art. 621

Section 620 is not applicable:

1° to the shares acquired for their immediate destruction, in execution of a decision of the General Assembly to reduce capital in accordance with Article 612;



2° to shares, beneficiary shares or certificates acquired as a result of a universal heritage transmission;

3° to shares, beneficiary shares or certificates relating to wholly released shares and beneficial shares acquired during a sale in accordance with Articles 1494 and following of the Judicial Code with a view to recovering a debt of the company on the owner of these beneficial shares or shares;

4° to shares, shareholders or certificates acquired from the companies referred to in articles 631, except the subsidiary companies controlled directly within the meaning of Article 5, § 2, 1°, 2° and 4°, and 632 with a view to reducing the number of titles of the anonymous company they own.

Art. 622

§ 1<sup>er</sup>. The voting rights relating to the shares or shares held by the corporation, or of which the corporation holds the certificates issued with its collaboration, are suspended.

If the board of directors decides to suspend the right to the dividends of the shares or shares held by the corporation, the dividend coupons shall remain attached to it. In this case, the distributable benefit is reduced according to the number of titles held and the amounts that should have been attributed are retained until the sale of the shares or shareholders, coupons attached. The corporation may also maintain the distributable benefit to the same amount and distribute it among the beneficiary shares or shares whose exercise of rights is not suspended. In the latter case, the coupons are destroyed.

§ 2. The shares, beneficiary shares or certificates acquired under Article 620, § 1<sup>er</sup>, may be alienated by the corporation only by virtue of a decision of the General Assembly ruling on the terms of quorum and majorities provided for in section 559; the General Assembly sets out the conditions to which these alienations may be made.

However, prior authorization from the General Assembly is not required with respect to:

1° the shares or certificates registered in the first market chapter of a securities exchange or admitted to the official rating of a securities exchange located in a Member State of the European Union or another regulated market referred to in Article 620, § 1<sup>er</sup>Paragraph 1<sup>er</sup>5°, which may be alienated by the board of directors under an express statutory provision;

2° the alienation on a securities exchange or as a result of an offer on sale made under the same conditions to all shareholders, holders of shares or holders of certificates, shares, shareholders or certificates as the board of directors duly authorized by a statutory clause adopted under the conditions laid down in Article 620, § 1<sup>er</sup>, paragraph 4, decided to alienate to avoid serious and imminent damage to society; in this case, the board of directors shall provide to the general assembly following the alienation, the information provided for in Article 620, § 1<sup>er</sup>Paragraph 4;

3° the shares, beneficiary shares or certificates acquired for distribution to the personnel, which must be disposed of within twelve months of their acquisition;

4° shares, shareholders or certificates acquired under section 621, 2° and 3°, which must be disposed of within twelve months of their acquisition, to the number of shares or certificates required for the nominal value, or in the absence of a nominal value, the accountant pairs of the shares so acquired or the shares to which the certificates directly relate, including the shares or certificates acquired by a direction the board of directors shall report on these alienations to the following general assembly;

5° to shares, beneficiary shares or certificates acquired under section 621, 4°, which must be disposed of within three years of their acquisition; they may also be cancelled within the same period of time, if they have been acquired as a result of a decision of the General Assembly to reduce capital, if any, in order to establish an unavailable reservation in accordance with Article 623; in the event of a cancellation, the board of directors shall destroy the titles and file the list with the court of commerce; the board of directors shall report these alienations or cancellations to the following general assembly.

Art. 623

As long as the beneficiary shares or shares are accounted for in the assets of the balance sheet, an unavailable reservation must be made, the amount of which is equal to the value to which the acquired shares or shares are included in the inventory.

In the event of nullity of the beneficial shares or shares the unavailable reservation referred to in paragraph 1<sup>er</sup> is deleted. If this reserve has not been established, the available reserves must be reduced to competition and, if not such reserves, the capital will be reduced by the General Assembly convened no later than before the end of the current fiscal year.

Art. 624

The management report of the corporation that has acquired its own shares, shareholders or certificates, by itself or by a person acting in its own name, but on behalf of the corporation or by a subsidiary corporation controlled directly within the meaning of Article 5, § 2, 1°, 2° and 4°, either by itself or by a person acting in its own name but on behalf of the subsidiary, is completed at least by the following indications:

1° the reason for acquisitions;

2° the number and the nominal value or, in the absence of a nominal value, the accounting pair of the shares acquired or disposed of during the fiscal year and the shares to which the certificates acquired or disposed of, as well as the fraction of the capital that they represent;

3° the counter-value of shares, shareholders or certificates acquired or disposed of;

4° the number and the nominal value, or in the absence of a nominal value, the accounting pair of all shares acquired and held in portfolios and the shares to which the certificates acquired or disposed of, as well as the fraction of the capital that they represent.

Where the corporation is not required to prepare a management report, the information referred to in paragraph 1<sup>er</sup> must be listed in the schedule to the annual accounts.

Art. 625

§ 1<sup>er</sup>. The shares, beneficiary shares or certificates acquired in violation of Article 620, § 1<sup>er</sup>, as well as those who have not been alienated within the time limits prescribed by Article 622, § 2, paragraph 2, 3° to 5°, are free of charge.

When a certificate becomes null and void of full right, the share or the share that becomes ownership of the corporation simultaneously becomes null and void of full right.

The board of directors destroys the null titles and deposits the list at the office of the commercial court.

Paragraph 1<sup>er</sup> is applicable proportionally to the number of shares or share recipients and certificates of the same class as the corporation holds.

§ 2. § 1<sup>er</sup> is also applicable where the company becomes a free owner of its own shares, shareholders or certificates.

Art. 626

The statutes may give the corporation the power to demand the redemption, either of its own shares without the right to vote or of certain categories of them, each class being determined by the date of issue. The redemption of a class of shares without the right to vote must cover all the shares of that class.

The redemption of shares without the right to vote may only be required by the corporation if a particular stipulation has been inserted in the statutes before the issuance of such shares. In addition, the redemption can only take place if the preferred dividend



due to the securities of prior years and current year has been fully paid.

When a corporation made or publicly appealed to savings, reference is made in the wording of the program that it is an issue of shares without the right to vote with the right to repurchase.

The redemption is decided by the general assembly ruling in the conditions required for the amendments of the statutes, with the equal treatment of shareholders in identical conditions. If applicable, the application of section 560 is made. The provisions of section 613 are applicable. Shares without voting rights are cancelled and capital is reduced by right.

The price of the shares without the right to vote is determined on the day of the redemption, by mutual agreement between the corporation and a special meeting of the shareholders of the sellers gathered in accordance with Articles 569 and 570, and by a decision on the terms of quorum and majority provided for in Article 560. In the event of a disagreement on the price and notwithstanding any contrary provision of the statutes, the price shall be fixed by a designated expert agreed by the parties in accordance with Article 31 or, in the absence of agreement on the expert, by an expert designated by the President of the trade tribunal deciding as a reference.

Sub-section II. - Purchase of securities of an anonymous company  
by a subsidiary company controlled directly

Art. 627

The subsidiary companies of an anonymous company controlled directly within the meaning of Article 5, § 2, 1°, 2° and 4°, as well as a person acting on its own behalf, but on behalf of the subsidiary, may not, together with the parent company, possess shares, shareholders of the parent, or certificates relating to these shares or shareholders, in the conditions prescribed in Articles 620 to 623, except Article 620<sup>5</sup>, Article 621, 1°, Article 622, § 1<sup>er</sup>2 and 623, paragraph 1<sup>er</sup>.

Paragraph 1<sup>er</sup> is not applicable where the shares or shares of the parent corporation are owned by a subsidiary corporation that is, in its capacity as a securities professional operator, a stock exchange corporation or credit institution.

Art. 628

The shares, beneficiary shares or certificates possessed in ignorance of Article 627 shall be disposed of within one year of their acquisition or within the time and conditions prescribed by Article 622, § 2, 3° and 4°. In the absence of agreement, alienations are proportionate to the fraction of the capital represented by the securities held by each of the companies concerned. If they are not disposed of in a timely manner, they are free of charge in accordance with Article 625. The null titles are handed over to the parent company for their destruction; This one restores the countervalue.

Sub-section III. - Financing by an anonymous company  
the acquisition of its securities by a third party

Art. 629

§ 1<sup>er</sup>. An anonymous corporation may not advance funds, grant loans, or grant security rights for the acquisition of its shares or share of beneficiaries by a third party, or for the acquisition or subscription by a third party of certificates relating to the shares or share of beneficiaries.

§ 2. § 1<sup>er</sup> does not apply:

1° to day-to-day transactions concluded under the conditions and under the normally required guarantees for transactions of the same species, by enterprises governed by the Act of 22 March 1993 relating to the status and control of credit institutions;

2° to advances, loans and security rights granted to members of the company's personnel for the acquisition of shares of the company, or certificates relating to the shares of the company;

3° to advances, loans and security rights granted to related companies, of which at least half of the voting rights held by members of the company's staff, for the acquisition by these related companies of shares or certificates relating to the shares of that company, to which at least half of the voting rights are attached.

However, such transactions may only take place as the sums allocated to the operations set out in § 1<sup>er</sup>, may be distributed in accordance with section 617.

Sub-section IV. - Clean title pledge

Art. 630

§ 1<sup>er</sup>. The acquisition by a company of its own shares or shareholders or certificates relating to such shares or shareholders, either by itself or by a subsidiary company controlled directly within the meaning of Article 5, § 2, 1°, 2° and 4°, or by a person acting in its own name but for account of that subsidiary or company, is assimilated to an acquisition for the application of Articles 620, 1 §<sup>er</sup>, and 621, 2°, and 624.

Notwithstanding any provision to the contrary, the corporation or person acting on its own behalf, but on behalf of the corporation, may not exercise the right to vote in respect of the titles that have been pledged to them.

§ 2. § 1<sup>er</sup> Paragraph 1<sup>er</sup> does not apply to routine transactions concluded under the conditions and under the normally required guarantees, for transactions of the same species, enterprises governed by the Act of 22 March 1993 relating to the status and control of credit institutions.

Section III. - Cross participations

Art. 631

§ 1<sup>er</sup>. Subsidiary companies may not own together shares or shareholders, their parent company having taken the form of anonymous corporation, or certificates relating to these beneficial shares or shares representing more than 10% of the votes attached to all securities issued by the parent company. The voting rights attached to all the beneficial shares and shares held by subsidiary companies in the parent company are suspended. The same principle applies to the voting rights attached to the beneficial shares or shares to which the certificates issued with the collaboration of the corporation and held by the affiliates. Where the parent corporation referred to in paragraph 1<sup>er</sup>, owns shares or shares or certificates relating to these beneficial shares or shares, which represent more than 10% of the votes attached to all securities issued by the latter, shall be taken into account, for the calculation of the 10% threshold referred to in paragraph 1<sup>er</sup>, voting rights attached to the securities issued by the parent company and in the possession of the parent company or its affiliates, or whose certificates are in the possession of the parent company or its affiliates. It is also taken into account the titles held by the parent company under articles 620 to 623.

§ 2. The corporation that is a subsidiary corporation of another corporation shall notify the corporation of the number and nature of the titles with the right to vote issued by the latter corporation and of the certificates relating to those securities with the right to vote, which are in its possession and any changes in its securities portfolio.

These notifications are made within two days of the day on which the acquisition of control was known to the newly controlled company for the securities it held before that date, or on the day of the transaction for subsequent acquisitions or disposals.

Any corporation must mention, in the schedule to its annual accounts relating to the state of capital, the structure of its shareholding on the closing date of its accounts as a result of the declarations it has received.

§ 3. The beneficial shares or shares and certificates therein possessed in ignorance of § 1<sup>er</sup> must be alienated within one year from the date on which the parties agreed between the parties, this alienation shall take place in proportion to the number of securities owned by each of the companies referred to in § 1<sup>er</sup>.

§ 4. §§ 1<sup>er</sup> to 3 are applicable to the acquisition by a person acting on his or her own behalf, but on behalf of the subsidiary.

Art. 632

§ 1<sup>er</sup>. Two independent companies, at least one of which is an anonymous company whose head office is in Belgium, cannot be in a situation such that each is the owner of shares, shareholders or certificates related to them, representing more than 10% of the votes attached to all the securities issued by the other.

§ 2. When an anonymous corporation becomes the owner of shares, shareholders of a corporation or certificates relating to such shares or shareholders, which represent more than 10% of the votes attached to all the securities issued by the corporation, or when a corporation becomes the owner of shares, shareholders of an anonymous corporation having its seat in Belgium or certificates relating to such shares or shares,

Where the quosity of voting rights attached to shares, beneficiary shares or certificates that have been notified under paragraph 1<sup>er</sup> ceases to exceed 10 per cent, a new notification must be made.

Notifications referred to in subparagraphs 1<sup>er</sup> and 2 are not required when they have already been made pursuant to the Act of 2 March 1989 on the advertising of significant participations in publicly traded companies and regulating public procurement offers.

For the purposes of this section, the shares, shareholders or certificates that are the property of a subsidiary of the said corporation or of a third party acting on its own behalf but on behalf of the said corporation or a subsidiary of the corporation are considered to be titles owned directly by a corporation.

For the purposes of this article, it is not taken into account the limitations made to the right to vote by articles 542, paragraph 2, 622, § 1<sup>er</sup>, and 631, § 1<sup>er</sup> Paragraph 1<sup>er</sup> and under the statutes in accordance with section 544.

Any corporation must mention in the schedule to its annual accounts relating to the state of its capital, the structure of its shareholding on the closing date of its accounts, as it results from the statements it has received.

§ 3. The corporation that has received the notification referred to in paragraph 1<sup>er</sup> of § 2, shall not acquire shares, beneficial shares or certificates relating to such shares, of the corporation that made that notification, provided that, as a result of the intended acquisition, the voting rights attached to all the shares and shares of which it is the owner of, or to the certificates that relate to, these shares or beneficial shares, do not exceed 10% of the votes attached to, all the securities issued by, the corporation.

Paragraph 1<sup>er</sup> ceases to be applied as of the time when the company received the notification referred to in § 2, paragraph 2.

§ 4. The shares, beneficiary shares or certificates acquired in ignorance of § 3 must be disposed of within one year, from this lack of knowledge, unless the parties agree otherwise to § 1<sup>er</sup>, before the expiry of the one-year period.

The voting rights relating to the shares or shares of the corporation that must be alienated are suspended upon the acquisition of the shares or shares. The same principle applies to voting rights attached to the beneficial shares or shares to which the certificates issued with the collaboration of the corporation relate.

§ 5. The voting rights in respect of the beneficial shares and shares or the shares and shares in which the certificates issued by a company with its headquarters in Belgium, which have not been declared in accordance with § 2, are suspended to the extent that they exceed 10% of the votes attached to all the securities issued by that company.

Section IV. - Losses of social capital

Art. 633

If, as a result of loss, the net assets are reduced to less than half of the social capital, the general assembly shall, unless more stringent provisions in the statutes, be reunited within a period not exceeding two months from the time when the loss has been found or should have been recognized under the legal or statutory obligations, with a view to deliberating, if any, in the forms prescribed for the modification of the statutes

The Board of Directors justifies its proposals in a special report made available to shareholders at the company's headquarters fifteen days before the general meeting. If the Board of Directors proposes the continuation of the activities, it sets out in its report the measures it intends to adopt in order to correct the financial situation of the corporation. This report is announced on the agenda. A copy may be obtained in accordance with section 535. A copy is also transmitted without delay to persons who have completed the formalities required by the statutes to be admitted to the assembly.

The absence of the report under paragraph 2 results in the invalidity of the decision of the General Assembly.

The same rules are observed if, as a result of loss, the net assets are reduced to less than a quarter of the social capital but, in this case, the dissolution will take place if approved by a quarter of the votes cast at the assembly.

Where the General Assembly has not been convened in accordance with this article, the damage suffered by third parties is, unless otherwise proved, presumed to result from the absence of summons.

Art. 634

When the net asset is reduced to less than 2,500 000 francs, any interested person may apply to the court for the dissolution of the corporation. The court may, where appropriate, grant the company a time limit to regulate its situation.

PART VI. - The internal conflict resolution procedure

CHAPTER PREMIER. - Scope of application

Art. 635

This title applies to anonymous companies that have not made or do not publicly rely on savings.

CHAPTER II. - Exclusion

Art. 636

A shareholder or shareholder with each other, representing 30% of the voices attached to all existing securities or 20% if the corporation has issued non-representative securities of the capital, or shares with a nominal or an accountant value of 30% of the corporation's capital, may apply to justice, for fair reasons, that a shareholder assigns to the applicant their shares and all the securities held and which may be converted or entitled to the corporation.

The legal action cannot be brought by the company or by a subsidiary of the company.

Art. 637

The action is brought before the president of the court of commerce of the judicial district in which the company has its seat, sitting as referred.

The company must be summoned to appear. If the judge fails, the case will be returned to a close date. The company in turn informs the bearers of nominal shares.

Art. 638

The defendant may not, after the summons has been served, dispose of its shares or encumber them of real rights except with the



agreement of the judge or the parties to the case. The judge's decision is not subject to appeal.

The judge may order the suspension of shares rights to be transferred with the exception of the right to the dividend. This decision is not subject to appeal.

Art. 639

When filing its first findings, the respondent encloses a copy of the coordinated statutes and a copy or excerpt of any conventions restricting the validity of its shares. The judge shall ensure that the rights resulting from these rights are respected when ordering the forced assignment. The judge may, however, substitute for any party designated by these statutes or conventions to determine the cost of exercising a right of pre-emption, to reduce the time limits for exercising pre-emption rights with a discount, and to exclude the application of the terms of licence applicable to shareholders.

As long as the beneficiaries have been called to the case, the judge may decide on the legality of any agreement restricting the validity of the shares in the defendant's head or, where appropriate, order the transfer of these agreements to the acquirers of the shares.

Art. 640

The judge condemns the defendant to transfer, within the time limit set by the respondent on the date of the meaning of the judgment, his actions to the claimants, and the applicants to accept the shares against payment of the price he fixes.

For the surplus, the decision is a title for the completion of the disposal procedures when the titles are nominal.

The recovery shall be made, if any, after the exercise of any pre-emption rights referred to in the judgment, prorated to the number of shares held by each, unless otherwise agreed.

Applicants are jointly held to pay the price. The judge's decision is enforceable by provision, notwithstanding opposition or appeal. If the decision is executed and an appeal is filed, section 638 applies to shareholders.

Art. 641

A shareholder or shareholder with a set of shares representing 30% of the votes attached to all existing securities or 20% if the corporation has issued non-representative securities of the capital, or shares with a nominal value or an accountant equal of 30% of the corporation's capital, may apply to the courts that, for fair reasons, the person exercising the right to vote in any other title than that of the owner transfers the voting right to the licensee or other holders.

barely acceptability of the application, the action holder(s) must be quoted to appear, unless they are also applicants.

Section 636, paragraph 2, and sections 637, 638 and 639 are applicable.

The judge's decision takes place as a title for the completion of all formalities related to the transfer of the right to vote.

CHAPTER III. - We're out.

Art. 642

Any shareholder may, for fair reasons, seek to justice that the shareholders at the origin of these fair grounds, return all its shares and convertible bonds to shares or the subscription rights it holds.

Sections 637, 638, paragraph 2, and 639, paragraph 2, shall apply. Article 639, paragraph 1<sup>er</sup>, is applicable by analogy to the applicant.

Art. 643

The judge condemns the defendant to accept, within the time limit set by the respondent on the date of the meaning of the judgment, the shares against payment of the fixed price and the plaintiff to hand over his securities to the defendants.

The decision takes for the surplus place of title for the completion of the disposal procedures when the titles are nominative.

The recovery is made, if any, after the exercise of any pre-emption rights referred to in the judgment. The defendants are jointly held to pay the price.

The judge's decision is enforceable by provision, notwithstanding opposition or appeal. If the decision is executed and an appeal is filed, section 639 applies to the purchasers of the shares.

CHAPTER IV. - From the publication

Art. 644

The extract of the judicial decision that is deemed or enforceable by provision for exclusion or withdrawal under sections 636 and 642, is filed and published in accordance with section 74.

PART VII. - Duration and dissolution

Art. 645

Unless otherwise provided by the statutes, anonymous companies shall be established for an unlimited period of time. If a period is fixed, the General Assembly may decide, in the forms prescribed for the modification of the statutes, the extension for a limited or unlimited duration.

Dissolution of the limited or unlimited-term corporation may be sought in court for fair reasons. Apart from this, the dissolution of the society can only result from a decision made by the General Assembly in the forms prescribed for the modification of the statutes.

Sections 39, 5°, and 43 are not applicable to the dissolution of the anonymous company.

Art. 646

§ 1<sup>er</sup>. The meeting of all actions in the hands of a single person does not result in the dissolution of full law or the judicial dissolution of society.

If, within one year, a new shareholder has not entered the corporation, if it is not regularly transformed into a private corporation with limited or dissolved liability, the sole shareholder shall be deemed to be in solidarity with all the obligations of the corporation born after the meeting of all the shares in its hands until the entry of a new shareholder in the corporation or the publication of its transformation into a private corporation with limited liability.

§ 2. The indication of the meeting of all actions in the hands of a person and the identity of that person must be paid in the file referred to in Article 67, § 2.

The sole shareholder exercises the powers vested in the general assembly. He can't delegate them.

The decisions of the sole shareholder acting in place of the general assembly are recorded in a register held at the headquarters.

The contracts between the sole shareholder and the corporation are, except for the day-to-day transactions entered into under normal conditions, in a document to be filed together with the annual accounts.

PART VIII. - Criminal provisions

Art. 647

Will be punished with a fine of fifty to ten thousand francs:

1° the directors and commissioners who have neglected to convene the general assembly within three weeks of the requisition made to them, in accordance with Article 532;

2° the directors who have not submitted to the General Assembly the acquisitions of goods as provided for in Article 447:

3° those who have not made the statements required by sections 451, 453 and 590 in the act or draft act of society, in the power of attorney or in the subscriptions;

4th directors who have not submitted the special report together with the report of the Commissioner or the Registrar of Businesses or, as the case may be, the external accounting expert, in the cases where these are provided for in this book.

Art. 648

Will be punished by a fine of fifty francs to ten thousand francs and may be punished by imprisonment from one month to one year:

1st directors who, in the absence of annual inventories or accounts, despite annual inventories or accounts or through fraudulent annual accounts, have contravened section 617;

2° the directors who contravened section 618;

3° directors or commissioners who contravened articles 620 to 623, 625 and 630;

4° all those who, as directors or commissioners, have made, by any use, at the expense of the company, payments on shares or admitted as facts of payments that are not actually made in the manner and times prescribed;

5° those who contravened Article 442;

6° those who contravened Article 629.

Art. 649

They shall be considered to be guilty of fraud and punished by the penalties imposed by the Criminal Code, those who have caused either subscriptions or payments, or purchases of shares, bonds or other corporate securities:

1° by simulation of subscriptions or payments to a company;

2° by the publication of subscriptions or payments that they know do not exist;

3° by the publication of names of persons designated as being or to be attached to society in any way, while they know these designations contrary to the truth;

4° by the publication of all other facts that they know to be false.

Art. 650

Directors who have fraudulently given inaccurate indications in the state of the outstanding obligations referred to in section 573 will be punished by imprisonment from one month to one year and a fine of 50 to ten thousand francs, or only one of these penalties.

Art. 651

Will be punished by a fine of fifty francs to ten thousand francs:

1° those who knowingly present themselves as owners of shares or bonds that do not belong to them shall participate in a general assembly of shareholders or bondholders;

2° those who have handed over the shares or obligations to make the use of the shares referred to above;

3° those who knowingly have taken part in a general assembly of shareholders, while the voting rights they claim to exercise are suspended under this code.

Art. 652

Will be punished by imprisonment from one month to one year and a fine of fifty francs to ten thousand francs, or only one of these penalties:

1° directors of companies that have made or publicly appealed on savings that create convertible bonds or subscription rights without transmitting to the bank and financial commission the report referred to in article 583, paragraph 3, or that pass over to the suspension provided for in article 583, paragraph 5;

(2) those who knowingly transmit to the Banking and Financial Commission inaccurate or incomplete information in the record referred to in section 583, paragraph 3;

3° those who contravene article 583, paragraph 6.

Art. 653

shall be punished by imprisonment from one month to one year and by a fine of 50 francs to 10,000 francs, or by one of these penalties only, those who receive, make a commission or attempt to obtain any remuneration or benefit on the occasion of the admission of a corporation in the first market of a securities stock exchange, on the official rank of a securities stock exchange located in a regulated Member State or<sup>er</sup>, § 3, of the Law of 6 April 1995 on secondary markets, the status of investment enterprises and their control, to intermediaries and investment advisers, recognized by the King as equivalent for the application of this Article.

LIVRE IX

The company sponsored by shares

Art. 654

The share-sponsored company is the one that one or more of the responsible and solidarity partners contract, which is named commandities, with one or more partners who engage only a specified bet, which is named sponsors.

Art. 655

No judgment on the basis of the company's commitments, bearing personal condemnation of the partners commissioned by shares, can be rendered before there is a conviction against society.

Art. 656

The sponsoring partner who takes the social signature other than by proxy or whose name appears in the social name becomes, vis-à-vis third parties, in solidarity with the commitments of the society.

Art. 657

The provisions relating to anonymized companies are applicable to share-sponsored companies, except as amended in this book or those resulting from Book XII.

Art. 658

The managing partner is necessarily indicated in the constitutive act. He is responsible as founder of society.

The stewardship of the company belongs to associates designated by the statutes.

Art. 659

Unless otherwise provided by the statutes, the General Assembly does and does not ratify the acts that are of interest to society in respect of third parties or that alter the statutes, only in agreement with the managers.

It represents the sponsorship partners vis-à-vis the managers.

Art. 660

Unless otherwise stipulated, the company ends with the death of the manager.

Commissioners may, if otherwise provided by the statutes, designate, in the case of death, legal incapacity or incapacity of the manager, a director, associate or not, who shall do the urgent and simple administration acts, until the meeting of the General Assembly



The administrator, in the fifteenth of his appointment, will convene the general assembly following the mode determined by the statutes.

He is solely responsible for the execution of his mandate.

LIVRE X

Societies for social purposes

CHAPTER PREMIER. - Nature and qualification

Art. 661

Companies with the legal personality listed in Article 2, § 2, are called social purpose societies when they are not committed to the enrichment of their associates and when their statutes:

1° stipulate that the partners seek only a limited heritage benefit or no heritage benefit;

2° specifically define the social purpose for which the activities referred to in their social object are devoted and do not provide the principal purpose of the society to provide indirect heritage benefit to the partners;

3° define the policy of assigning profits in accordance with the internal and external purposes of the society, in accordance with the hierarchy established in the statutes of that corporation, and the policy of establishing reserves;

4° stipulate that no one may take part in the vote at the general assembly for a number of votes exceeding one tenth of the votes attached to the shares represented; This percentage is increased to the twentieth when one or more associates have the status of a member of the company's staff;

5° stipulate, when the company provides the partners with a limited direct heritage benefit, that the profit distributed to them cannot exceed the interest rate established by the King in accordance with the law of 20 July 1955 establishing a National Council of Cooperation, applied to the amount actually released from the shares or shares;

6° provides that, each year, directors or managers will make special reports on how the company has ensured to achieve the purpose it has set itself in accordance with 2°; This report will, inter alia, establish that expenditure on investment, operating costs and remuneration is designed to focus on the social purpose of society;

7° provide the terms and conditions for each staff member to acquire, no later than one year after his or her appointment by the company, the quality of associate; this provision does not apply to staff members who do not enjoy full civil capacity;

8° provide the terms and conditions for the staff member who ceases to be in the bonds of a contract of work with the company to perde, no later than one year after the end of this contractual relationship, the quality of partner;

9° stipulate that after all the liabilities and the refund of their deposit to the partners, the liquidation surplus will receive an assignment that is as close as possible to the social purpose of the company.

The special report referred to in 6° will be included in the management report to be prepared in accordance with sections 95 and 96.

Art. 662

Companies referred to in Article 661 that adopt such statutory provisions must add to any mention of their legal form the words "social purpose". Thus, the form of society must be mentioned in the extracts published in accordance with articles 68 and 69.

Art. 663

If a corporation no longer complies with the provisions referred to in section 661, the existing reserves may not, in any form, be distributed. The status modification act must determine their assignment by as close as possible to the social purpose of the company; such assignment shall be carried out without delay.

If the court fails to do so, it shall jointly condemn, at the request of a partner, interested third party or the Public Prosecutor's Office, the directors or managers to pay the amounts distributed or to repair all the consequences arising from non-compliance with the above requirements regarding the assignment of the said reserves.

The persons referred to in paragraph 2 may also act against the beneficiaries if they prove that they knew the irregularity of the distributions made in their favour or could not ignore it in the circumstances.

Art. 664

Without prejudice to the provisions of this book, social purpose societies are governed by the provisions applicable to the form of a corporation chosen.

CHAPTER II. - Rules specific to the capital of a corporation

Social finality

Art. 665

§ 1<sup>er</sup>. When a society with a social purpose takes the form of a cooperative society with limited liability the amount of the fixed share of the social capital is at least equal to 250,000 francs.

This amount must be fully subscribed.

He must be freed up to 100,000 francs in the constitution of the society and fully released after two years.

§ 2. The founders are jointly and severally held to the interested in the whole fixed share of the capital that would not be validly subscribed and the possible difference between, on the one hand, the amounts referred to in paragraph 1<sup>er</sup> and 3 and, on the other hand, the amount of subscriptions; They are of full right deemed subscribers.

Art. 666

Where the net assets of the corporation referred to in section 665 are reduced to less than 100,000 francs, any interested person may apply to the court for the dissolution of the corporation. The court may, where appropriate, grant the company a time limit to regulate its situation.

Art. 667

At the request of either a partner, or a third party concerned, or the Public Prosecutor's Office, the court may declare the dissolution:

1° of a corporation that is a social purpose corporation, whereas its statutes do not provide or provide for any or all of the provisions referred to in Article 661;

2° of a society with a social purpose which, in its effective practice, contravenes the statutory provisions it has adopted in accordance with Article 661.

CHAPTER III. - Transformation of a non-profit association

society for social purposes

Art. 668

§ 1<sup>er</sup>. When a non-profit association became a social purpose corporation in accordance with sections 26bis to 26septies of the Act of 27 June 1921, the amount of net assets referred to in section 26sexies, § 1<sup>er</sup>, of this law must be identified in the corporation's annual accounts.

§ 2. This amount may not be subject to any form of reimbursement to partners or distribution.



§ 2. This amount may not be subject to any form of reimbursement to partners or distribution.

At the settlement of all social creditors in the event of a termination, the liquidator or, if any, the curator shall give this amount an assignment that is as close as possible to the purpose assigned to the corporation in accordance with Article 661, 2°.

This amount is subject to the plan set out in section 663, if, as a result of a statutory amendment, the corporation is no longer a social purpose corporation.

Art. 669

At the request of either an associate, or a third party concerned, or the Public Prosecutor's Office, the court shall jointly condemn either the directors or managers, or the liquidators or the curators to the payment of the sums that would have been refunded or distributed in breach of Article 668, § 2, paragraph 1<sup>er</sup>. These amounts are either paid to an unavailable reserve account or assigned by the court in accordance with Article 668, § 2, paragraph 2.

Persons referred to in paragraph 1<sup>er</sup> may also act against beneficiaries if they prove that they knew the irregularity of the refunds or distributions made in their favour or could not ignore it in the circumstances.

LIVRE XI

Restructuring of companies

Your FIRST. - Introductory provisions and definitions

CHAPTER PREMIER. - Introductory provision

Art. 670

This book applies to all companies with legal personality, governed by this Code, with the exception of agricultural companies and economic interest groups.

CHAPTER II. - Definitions

Section 1. - Mergers

Art. 671

The absorption merger is the operation by which one or more companies transfer to another corporation, as a result of a dissolution without liquidation, all of their assets, actively and passively, with the allocation to their associates of shares or shares of the absorbing corporation and, if applicable, of a cash relief not exceeding the tenth of the nominal value of the shares or shares attributed, or in the absence of a nominal value,

Art. 672

The merger by constitution of a new corporation is the operation by which several companies transfer to a new corporation that they constitute, as a result of their dissolution without liquidation, all their assets, actively and passively, through the allocation to their associates of shares or shares of the new corporation and, where applicable, a cash relief not exceeding the tenth of the nominal value of the shares or shares attributed or, if not,

Section II. - Scissions

Art. 673

The absorptive split is the operation by which a company transfers to several companies, as a result of its dissolution without liquidation, the whole of its assets, actively and passively, with the allocation to the partners of the company dissolved shares or shares of the beneficiary companies of the contributions resulting from the split and, if applicable, of a cash relief not exceeding the tenth of the nominal share value of the shares

Art. 674

The scission by constitution of new companies is the operation by which a company transfers to several companies that it constitutes, as a result of its dissolution without liquidation, all its assets, actively and passively, through the allocation to the partners of the company dissolved shares or shares of the new companies and, where applicable, a relief in cash not exceeding the tenth of the nominal value of the shares or assigned shares

Art. 675

The mixed split is the operation by which, as a result of its dissolution without liquidation, a company transfers to one or more existing companies and to one or more companies it constitutes, the entire heritage, actively and passively, by assigning to the partners of the company dissolved shares or shares of the beneficiary companies.

Section III. - Similar operations

Art. 676

Except as otherwise provided by law, are assimilated to absorption:

1° the operation by which one or more companies transfer, as a result of a dissolution without liquidation, the entirety of their heritage, actively and passively, to another company that is already holder of all their shares and other titles conferring a right to vote in the General Assembly;

2° the operation by which one or more companies transfer, as a result of a dissolution without liquidation, the entirety of their heritage, actively and passively, to another society, when all their shares and other titles conferring a right to vote in the general assembly belong either to that other society or to intermediaries of that society, or to those intermediaries and to that society.

Art. 677

The transactions defined in sections 671 to 675 are similar to merging or splitting, without any transferring companies cease to exist.

Section IV. - Universality or business branch contributions

Art. 678

The contribution of universality is the operation by which a company transfers, without dissolution, all its assets, actively and passively, to one or more existing or new companies, with remuneration consisting exclusively of shares or shares of the company(s) receiving the contributions.

Art. 679

The contribution of a branch of activity is the operation by which a corporation transfers, without dissolution, to another corporation a branch of its activities and the liabilities and assets associated with it, with a remuneration consisting exclusively of shares or shares of the corporation beneficiary of the contribution.

Art. 680

Constitutes a branch of activity a set that from a technical point of view and from the angle of the organization, carries on an autonomous activity, and is likely to operate by its own means.

PART II. - The regulation of mergers,

Seizures and similar operations

CHAPTER PREMIER. - Common provisions

Section one. - Merger or scission of liquidation companies

as bankruptcy

Merger or splitting may also take place when one or more of the companies whose assets will be transferred are in liquidation or bankruptcy provided that they have not yet begun the distribution of their assets among their partners.

In this case, all missions which, under this heading, are the responsibility of the winding-up or bankrupt management body are completed by liquidators or curators.

#### Section II. - Effects of fusion or splitting

##### Art. 682

Merger or splitting simultaneously produce the following effects:

1° by derogation from Article 183, § 1<sup>er</sup> absorbed companies cease to exist; However, for the purposes of Article 689, dissolved companies are deemed to exist within the six-month period provided for in Article 198, § 2, paragraphs 1<sup>er</sup> and 2, and if a nullity action is brought, for the duration of the proceedings until the time that it is decided on this nullity action by a decision cast in force of judgment;

2° partners of disbanded companies become partners of beneficiary companies, if applicable in accordance with the distribution provided for in the draft split;

3° the total assets and liabilities of each dissolved corporation shall be transferred to the beneficiary companies, if applicable in accordance with the distribution provided for in the split project and in accordance with sections 729 and 744.

2° of paragraph 1<sup>er</sup> is not applicable to transactions assimilated to absorption mergers.

#### Section III. - Opposability of merger or split

##### Art. 683

Merger or splitting is only applicable to third parties under the conditions set out in section 76.

The acts referred to in Article 1<sup>er</sup> of the Act of 16 December 1851 on the revision of the mortgage regime and those referred to in chapters II and III of Title 1<sup>er</sup> Book II of the Commercial Code, and Book II, section 272, of the same Code, are only applicable to third parties under the conditions provided for in the special laws governing these transactions. For this purpose, the minutes of the General Meetings of all the companies that have decided to merge or split must be submitted to the transcription or registration formalities.

The transfer of intellectual and industrial property rights is only applicable to third parties under the conditions prescribed by the special laws governing such transactions.

#### Section IV. - Setting security rights

##### Art. 684

§ 1<sup>er</sup>. At the latest within two months of the publication in the Annexes of the Belgian Monitor of acts that recognize the merger or split, creditors of each of the companies participating in the merger or split whose debt is prior to the publication and is not yet exhausted, may require a security right, notwithstanding any agreement to the contrary.

The beneficiary corporation to which this debt has been transferred and, where applicable, the dissolved corporation may each deviate this claim by paying the debt at its value, after deduction of the discount.

In the absence of an agreement or if the creditor is not paid, the contestation is submitted by the most diligent party to the president of the trade tribunal in whose jurisdiction the debiting company has its seat. The procedure is introduced and instructed as referred; the same is true of the execution of the decision rendered.

All rights except on the merits, the President shall determine the security to be provided by the corporation and shall set the time limit within which it shall be constituted, unless the President decides that no security rights shall be provided, taking into account either the guarantees and privileges enjoyed by the creditor or the solvency of the beneficiary corporation.

If the security right is not provided within the specified time limits, the debt becomes immediately payable and, in the case of a split, the beneficiary companies are held in solidarity for this obligation.

§ 2. § 1<sup>er</sup> is not applicable to mergers of financial institutions under the control of the Banking and Financial Commission.

#### Section V. - Accountability

##### Art. 685

§ 1<sup>er</sup>. If the dissolved company is a collective partnership, a single limited partnership, a share-sponsored corporation, or an unlimited liability cooperative corporation, partners in collective name, partners or co-operators remain held in solidarity and indefinitely with respect to third parties, commitments of the dissolved company prior to third parties' opposability of the act of fusion or split.

§ 2. If the beneficiary company is a partnership in collective name, a single limited partnership, a share-sponsored corporation or an unlimited liability cooperative corporation, the partners in collective name, the partners or the co-operators respond in solidarity and indefinitely with respect to the third parties, the commitments of the dissolved society prior to the merger or split and which, in the latter case, have been forwarded to the beneficiary company § 29

They may, however, be exempted from this liability by an express clause inserted in the project and the act of fusion or split, which is binding on third parties in accordance with section 76.

##### Art. 686

In the event of splitting, the beneficiary companies remain in solidarity with certain debts and due on the day of publication in the Annexes of the Belgian Monitor of the actions that recognize the decision to participate in a split operation, which are transferred to another company from the split. This liability is limited to the net assets attributed to each of these companies.

##### Art. 687

The partners of the dissolved company may take action against the directors or managers of that corporation to obtain compensation for the damage they have suffered as a result of a fault committed in the preparation and realization of the merger or split.

Each partner of the dissolved company may, as well, take action in liability against the Commissioner, the business reviewer or the external auditor who has prepared the report referred to in sections 695, 708, 731 and 746 for damages incurred as a result of a fault committed by the latter in carrying out its mission.

This section is not applicable to transactions similar to absorption mergers.

#### Section VI. - Nullity of fusion or scission

##### Art. 688

The Commercial Court shall, at the request of any interested party, declare the invalidity of the merger or split when the cash relief exceeds the tenth of the nominal value of the shares or shares or, if not of nominal value, of their accounting pairs.

Where nullity is likely to affect the rights acquired in good faith by a third party in respect of the beneficiary corporation, the court

may declare invalidity in respect of such rights without effect, subject to the right of the applicant to damages if applicable.

The Commercial Court may, at the request of any interested person, declare the invalidity of the merger or split if the decisions of the General Meetings that have approved the merger or split have not been found by authentic act or if these decisions have been taken in the absence of the reports of the management body, commissioners, corporate reviewers or external accountants provided for in this book.

When it is possible to remedy the irregularity that may result in the nullity of the merger or split, the competent court shall grant the companies concerned a time limit to regulate the situation.

Art. 690

The judicial decision pronouncing the invalidity of a merger or split by constitution also declares the invalidity of the new companies.

The extract of the judicial decision taken in force of a matter judged or enforceable by provision stating the invalidity of a merger or split as well as the extract of the judicial decision reforming the enforceable judgment by provision referred to above, shall be filed and published in accordance with section 74.

This extract will contain:

- 1° the name of each company participating in the merger or split;
- 2° the date of the decision and the court that pronounced it;
- 3° where applicable, the names, names and addresses of liquidators; in the event that the liquidator is a legal entity, the extract shall contain the designation or modification to the designation of the natural person who represents it for the exercise of the liquidation powers.

Art. 692

The invalidity does not affect by itself the validity of obligations arising from the charge or profit of the beneficiary companies between the time when the merger or split is carried out in accordance with Article 701, paragraph 2, or Article 738, paragraph 2, and the advertisement of the decision pronouncing the cancellation of the merger or split.

The companies involved in the merger or split are in solidarity with these obligations arising from the responsibility of the beneficiary companies.

## CHAPTER II. - Procedure to be followed in the merger of companies

### Section 1. - Procedure for absorption fusion

Art. 693

The management bodies of the companies to be merged establish by authentic act or by private act a fusion project.

At least the merger project mentions:

- 1° the form, name, object and head office of the companies called to be merged;
- 2° the exchange report of shares or shares and, if applicable, the amount of the relief;
- 3° the method of disposing shares or shares of the absorbing society;
- 4° the date from which these shares or shares give the right to participate in the profits and any modality relating to that right;
- 5° the date on which the company's operations to be absorbed are considered from the accounting point of view to be performed on behalf of the absorbent company;
- 6° the rights guaranteed by the absorbing society to the associates of the companies to absorb, who have special rights, as well as to the holders of securities other than the shares, or the measures proposed for them;
- 7° the emoluments attributed to the commissioners, business reviewers or external auditors responsible for the drafting of the report under Article 695;
- 8° any particular benefits attributed to members of the corporate management bodies called to be merged.

At least six weeks before the general assembly to decide on the merger, the proposed merger must be deposited in the Registry of the Commercial Court by each of the companies to be merged.

Art. 694

In each company, the management body prepares a written and detailed report that outlines the heritage situation of the companies called to be merged and which explains and justifies, from the legal and economic point of view, the opportunity, the conditions, the modalities and consequences of the merger, the methods followed for the determination of the share exchange report or the shares, the relative importance given to these methods, the values to which each method is possible, the difficulties encountered,

Art. 695

In each company, a written report on the proposed merger is prepared either by the Commissioner or, where there is no Commissioner, by a business reviewer or by an external auditor designated by the directors or managers.

The Commissioner, the business reviewer or the designated accountant must, in particular, declare whether or not the exchange report is relevant and reasonable.

The declaration must at least:

- 1° indicate the methods used to determine the proposed exchange report;
- 2° indicate whether these methods are appropriate in this case and indicate the values to which each of these methods conduct, with a view of the relative importance given to these methods in determining the value retained.

The report also indicates the specific evaluation difficulties if there are any.

The Commissioner, the Business Reviewer or the Designated Accountant may be undisplaced by any document that is useful for the performance of his or her mission. They may obtain from companies that combine all the explanations or information and carry out all the necessary audits.

Where the report concerns an absorbent corporation that has the form of a limited liability private corporation, a limited liability cooperative corporation or an anonymous corporation, sections 313, 423 or 602 do not apply.

Art. 696

The management bodies of each of the companies involved in the merger are required to inform the general assembly of their company as well as the management bodies of all the other companies involved in the merger of any significant changes in the active and passive heritage that occurred between the date of the establishment of the merger project and the date of the last general assembly that decides on the merger.

The management bodies that have received this information are required to communicate it to the general assembly of their society.

Art. 697

§ 1<sup>er</sup>. In each company, the proposed merger and the reports provided for in sections 694 and 695, as well as the possibility reserved for associates to obtain such documents without charge, are announced in the agenda of the General Assembly to decide

on the proposed merger.

A partner has the right to know the documents at the head office in accordance with § 2 and to obtain a copy thereof, in accordance with § 3, at least one month before the meeting of the general assembly.

It is also transmitted without delay to persons who have completed the necessary formalities to be admitted to the assembly.

However, where companies are limited liability cooperative companies, the project and reports referred to in paragraph 1<sup>er</sup> shall not be transmitted to partners in accordance with paragraphs 2 and 3.

In this case, any partner has the right to know the documents at the head office in accordance with § 2 and to obtain a copy thereof, in accordance with § 3, at least one month before the meeting of the general assembly.

§ 2. A partner also has the right, at least one month before the date of the meeting of the General Assembly to decide on the proposed merger, to read at the head office the following documents:

1° the fusion project;

2° the reports referred to in articles 694 and 695;

3° the annual accounts of the last three years, of each of the merging companies;

4° for anonymous companies, share-sponsored companies, limited liability private companies and limited liability cooperative companies, reports of directors or managers and reports of commissioners of the last three years;

5° where the proposed merger is not less than six months after the end of the fiscal year to which the last annual accounts relate, a statement of account that was determined within three months prior to the date of the proposed merger and written in accordance with paragraphs 2 to 4.

This accounting statement is based on the same methodology and the same presentation as the last annual accounts.

However, a new inventory is not required.

The changes in the evaluations in the last balance sheet may be limited to those resulting from writing movements. However, it must be taken into account interim depreciations and provisions as well as significant changes in values that do not appear in the scriptures.

§ 3. Any partner may obtain, at no cost and on a simple request, a full copy or, if he wishes, a partial copy of the documents referred to in § 2, except those transmitted to him under § 1<sup>er</sup>.

Art. 698

§ 1<sup>er</sup>. A limited liability private corporation or cooperative corporation may only absorb another corporation if the partners of that other corporation meet the requirements to acquire the quality of the absorbent company's partner.

§ 2. In cooperative societies, each partner has the ability, notwithstanding any provision to the contrary of the statutes, to resign at any time during the social exercise and without having to satisfy any other condition, upon the convocation of the general assembly called to decide the fusion of the society with an absorbing society of another form.

The resignation must be notified to the corporation by registered letter to the position filed at least five days before the date of the meeting. It will only have effect if the merger is decided.

The convocations to the assembly reproduce the text of paragraphs 1<sup>er</sup> and 2 of this paragraph.

Art. 699

§ 1<sup>er</sup>. Without prejudice to the specific provisions set out in this article and subject to more stringent statutory provisions, the General Assembly may decide on the merger of the company only in accordance with the following rules of presence and majority:

1° those attending the meeting must represent at least half of the social capital. If this condition is not fulfilled, a new convocation will be necessary and the new assembly will deliberate and rule validly, regardless of the portion of the capital represented;

2(a) a merger proposal is accepted only if it brings together three quarters of the vote;

(b) in single-managed societies and cooperative societies, the right to vote of the partners is proportional to their share in social ownership and the quorum of presence is calculated in relation to social ownership.

§ 2. Section 582 is not applicable.

§ 3. If there are several categories of shares, securities or shares, whether representative or not of the expressed capital, and if the merger results in a change of their respective rights, section 560, paragraph 4, applies.

§ 4. The agreement of all partners is required:

1° in absorbent or absorbent societies that are collectively named societies;

2° in societies to be absorbed when the absorbing society is:

(a) a collective partnership;

(b) a single limited partnership;

(c) an unlimited liability cooperative corporation.

In cases referred to in paragraph 1<sup>er</sup>, the unanimous agreement of non-representative shareholders of social capital is, if necessary, required.

§ 5. In simple sponsorship companies and in share-sponsored companies, the agreement of all sponsorship partners is also required.

Art. 700

In each company participating in the merger, the minutes of the general assembly that decides the merger shall be, barely null and void, established by authentic act.

The act reproduces the conclusions of the report referred to in section 695.

The notary must verify and certify the existence and legality, both internal and external, of the acts and formalities of the society to which it acts.

Art. 701

Immediately after the merger decision, any changes in the statutes of the absorbing society, including clauses that would alter its social object, shall be determined under the conditions of presence and majority required by this Code. If not, the merger decision remains without effect.

The merger is carried out when the consistent decisions taken within all interested companies have taken place.

Art. 702

Subject to the terms and conditions set out in paragraphs 2 and 3, acts recognizing the merging decisions taken in the absorbing society and the absorbed society shall be deposited and published by extract in accordance with section 74 and, where appropriate, acts amending the statutes of the absorbing society shall be deposited and published in accordance with section 74. They are published simultaneously within fifteen days of the deposit of the act recognizing the decision of fusion made by the General Assembly which last met.

The absorbent company can itself carry out the advertising formalities concerning the absorbed companies.

Art. 703

**Global Regulation** § 1<sup>er</sup>. Unless otherwise decided by interested companies, the shares or shares issued by the absorbent corporation in return for the shares of the absorbed companies are attributed among the partners of the absorbed companies, to the diligence and responsibility of the bodies that were responsible for the management of these companies at the time of the merger.

Where applicable, these bodies ensure the updating of the registers of name shares or social shares.

The costs of these operations are borne by the absorbing company.

§ 2. No share or share of the absorbing company may be attributed in exchange for shares or shares of the absorbed corporation held:

1° either by the absorbing company itself or by a person acting in its own name but on behalf of the company;

2° either by the company absorbed itself or by a person acting in its own name but on behalf of the company.

Art. 704

The annual accounts of the company absorbed for the period between the closing date of the last social fiscal year whose accounts have been approved and the date referred to in article 693, § 2, 5°, shall be established by the management bodies of that society, in accordance with the provisions of this code applicable to it.

They are subject to the approval of the General Assembly of the absorbent corporation in accordance with the rules applicable to the corporation for its annual accounts.

Subject to Article 687, the General Assembly of the absorbing society shall decide on the discharge of the management and control bodies of the absorbed society.

Section II. - Merger procedure by constitution of a new society

Art. 705

§ 1<sup>er</sup>. Subject to §§ 2 and 3, the constitution of the new society shall be subject to all the conditions laid down in this Code for the form of a corporation that has been chosen.

§ 2. Regardless of the form of the new society, the constitution of the new society must, hardly nullity, be recognized by authentic act. This act reproduces the findings of the Commissioner's report, the business reviewer, or the external auditor referred to in section 695.

§ 3. Sections 444 and 449, section 450, paragraph 2, second sentence, and sections 451, 452 and 453, 6° and 9°, do not apply to an anonymous company or, by derogation from section 657, to a share-sponsored company. Sections 395, 399 and 402, 2°, do not apply to the limited liability cooperative corporation that originated from the merger.

Sections 219 and 224 do not apply to the limited liability private corporation that originated from the merger. Section 226, 3° and 6°, also does not apply to this company.

Art. 706

The management bodies of the companies to be merged establish by authentic act or by private act a fusion project.

At least the merger project mentions:

1 the form, the name, the object and the head office of the companies called to be dissolved as well as the new company;

2° the exchange report of shares or shares and, if applicable, the amount of the relief;

3° the modalities for the remission of shares or shares of the new company;

4° the date from which these shares or shares give the right to participate in the profits and any modality relating to that right;

5° the date on which the transactions of companies called to be dissolved are considered to be carried out on behalf of the new corporation;

6° the rights guaranteed by the new company to the partners of the companies called to be dissolved, who have special rights, as well as to the holders of securities other than the shares, or the measures proposed for them;

7° the emoluments attributed to the commissioners, business reviewers or external auditors responsible for the drafting of the report under Article 708;

8° any particular benefits attributed to members of the corporate management bodies called to be dissolved.

At least six weeks before the general assembly to decide on the merger, the proposed merger must be deposited in the Registry of the Commercial Court by each of the companies to be merged.

Art. 707

In each company, the management body prepares a written and detailed report that outlines the heritage situation of companies called to be dissolved and which explains and justifies, from the legal and economic point of view, the opportunity, the conditions, the modalities and consequences of the merger, the methods followed for the determination of the share exchange report or the shares, the relative importance given to these methods, the values to which each method by

Art. 708

Without prejudice to section 705, § 3, a written report on the proposed merger shall be prepared in each company, either by the Commissioner or, where there is no Commissioner, by a business reviewer or by an external auditor designated by the directors or managers.

The Commissioner, the business reviewer or the designated accountant must, in particular, declare whether or not the exchange report is relevant and reasonable.

The declaration must at least:

1° indicate the methods used to determine the proposed exchange report;

2° indicate whether these methods are appropriate in this case and indicate the values to which each of these methods conduct, with a view of the relative importance given to these methods in determining the value retained.

The report also indicates the specific evaluation difficulties if there are any.

The Commissioner, the Business Reviewer, or the Designated Accountant may be undisplaced by any document that is relevant to the performance of his or her mission. They may obtain from companies that combine all the explanations or information and carry out all the necessary audits.

Art. 709

The management bodies of each of the companies involved in the merger are required to inform the general assembly of their company as well as the management bodies of all the other companies involved in the merger of any significant changes in the active and passive heritage that occurred between the date of the establishment of the merger project and the date of the last general assembly that decides on the merger.

The management bodies that have received this information are required to communicate it to the general assembly of their society.

Art. 710

§ 1<sup>er</sup>. In each company, the proposed merger and the reports provided for in sections 707 and 708, as well as the possibility



reserved for associates to obtain such documents without charge, are announced in the agenda of the General Assembly to decide on the proposed merger.

A copy is sent to holders of shares or nominative shares at least one month before the General Assembly meeting.

It is also transmitted without delay to persons who have completed the formalities required by the statutes to be admitted to the assembly.

However, where companies are limited liability cooperative companies, the project and reports referred to in paragraph 1<sup>er</sup> shall not be transmitted to partners in accordance with paragraphs 2 and 3.

In this case, any partner has the right to know the documents at the head office in accordance with § 2 and to obtain a copy thereof, in accordance with § 3, at least one month before the meeting of the general assembly.

§ 2. A partner also has the right, at least one month before the date of the meeting of the General Assembly to decide on the proposed merger, to read at the head office the following documents:

1° the fusion project;

2° the reports referred to in articles 707 and 708;

3° the annual accounts of the last three years, of each of the merging companies;

4° for anonymous companies, share-sponsored companies, limited liability private companies and limited liability cooperative companies, reports of directors or managers and reports of commissioners of the last three years;

5° where the proposed merger is not less than six months after the end of the fiscal year to which the last annual accounts relate, a statement of account that was determined within three months prior to the date of the proposed merger and written in accordance with paragraphs 2 to 4.

This accounting statement is based on the same methodology and the same presentation as the last annual accounts.

However, a new inventory is not required.

The changes in the evaluations in the last balance sheet may be limited to those resulting from writing movements. However, it must be taken into account interim depreciations and provisions as well as significant changes in values that do not appear in the scriptures.

§ 3. Any partner may obtain, at no cost and on a simple request, a full copy or, if he wishes, a partial copy of the documents referred to in § 2, except those transmitted to him under § 1<sup>er</sup>.

Art. 711

§ 1<sup>er</sup>. A limited liability private corporation or cooperative corporation may only absorb another corporation if the partners of that other corporation meet the requirements to acquire the partnership quality of the new corporation.

§ 2. In cooperative societies, each partner has the power, notwithstanding any provision to the contrary of the statutes, to resign at any time during the social exercise and without having to satisfy any other condition, upon the convocation of the general assembly called to decide the fusion of the society in a new society of another form.

The resignation must be notified to the corporation by registered letter to the position filed at least five days before the date of the meeting. It will only have effect if the merger is decided.

The convocations to the assembly reproduce the text of paragraphs 1<sup>er</sup> and 2 of this paragraph.

Art. 712

§ 1<sup>er</sup>. Without prejudice to the specific provisions set out in this article and subject to more stringent statutory provisions, the General Assembly may decide on the merger of the company only in accordance with the following rules of presence and majority:

1° those attending the meeting must represent at least half of the social capital. If this condition is not fulfilled, a new convocation will be necessary and the new assembly will deliberate and rule validly, regardless of the portion of the capital represented;

2(a) a merger proposal is accepted only if it brings together three quarters of the vote;

(b) in single-managed societies and cooperative societies, the right to vote of the partners is proportional to their share in social ownership and the quorum of presence is calculated in relation to social ownership.

§ 2. Section 582 is not applicable.

§ 3. If there are several categories of shares, securities or shares, whether representative or not of the expressed capital, and if the merger results in a change of their respective rights, section 560, paragraph 4, applies.

§ 4. The agreement of all partners is required:

1° in new societies or in companies to be absorbed that are collectively named societies;

2° in companies to be absorbed when the new company is:

(a) a collective partnership;

(b) a single limited partnership;

(c) an unlimited liability cooperative corporation.

In cases referred to in paragraph 1<sup>er</sup>, the unanimous agreement of non-representative shareholders of social capital is, if necessary, required.

§ 5. In simple sponsorship companies and in share-sponsored companies, the agreement of all sponsorship partners is also required.

Art. 713

In each company participating in the merger, the minutes of the general assembly that decides the merger shall be, barely null and void, established by authentic act.

The act reproduces the conclusions of the report referred to in section 708.

The notary must verify and certify the existence and legality, both internal and external, of the acts and formalities of the society to which it acts.

Art. 714

Immediately after the merger decision, the draft constitutive act and the statutes of the new corporation must be approved by the general assembly of each company that merges, under the same conditions of presence and majority as those required for the merger decision. If not, the merger decision remains without effect.

Art. 715

The merger is effected when the new corporation is incorporated.

Art. 716

§ 1<sup>er</sup>. Subject to the terms and conditions set out in § 2, the acts establishing the decision of fusion made by the General Assembly shall be deposited and published by extract in accordance with Article 74 and Articles 67 to 69 and 71 to 73 shall apply to the constitutive act of the new society.

§ 2. The acts referred to in § 1<sup>er</sup> are published simultaneously within fifteen days of the deposit of the act recognizing the decision of

Fusion made by the General Assembly which last met.

The new company can itself carry out the advertising formalities concerning the merging companies.

Art. 717

§ 1<sup>er</sup>. Unless otherwise decided by the companies concerned, the shares or shares issued by the new company in return for the absorbed assets are divided between the partners of the companies absorbed, the diligence and responsibility of the bodies that were responsible for the management of these companies at the time of the merger.

Where applicable, these bodies ensure the updating of the registers of name shares or social shares.

The costs of these operations are borne by the absorbing company.

§ 2. No share or share of the new corporation may be attributed in exchange for shares or shares of the absorbed companies held by these absorbed companies themselves or by an intermediary.

Art. 718

The annual accounts of the companies absorbed for the period between the closing date of the last social fiscal year whose accounts have been approved and the date referred to in Article 706, § 2, 5°, shall be established by the management bodies of that corporation, in accordance with the provisions of this Code applicable to it.

They are subject to the approval of the general assembly of the new corporation in accordance with the rules applicable to the new corporation for its annual accounts.

Subject to Article 687, the general assembly of the new company shall decide on the discharge of the management and control bodies of the absorbed companies.

Section III. - Procedure for similar operations  
to absorption fusion

Art. 719

The management bodies of the companies to be merged establish by authentic act or by private act a fusion project.

At least the merger project mentions:

1° the form, name, object and head office of the companies called to be merged;

2° the date on which the operations of the absorbed company are considered from the accounting point of view as performed on behalf of the absorbing company;

3° the rights guaranteed by the absorbing company to the associates of the absorbed companies, who have special rights, as well as to the holders of securities other than the shares, or the measures proposed for them;

4° all special benefits attributed to members of the corporate management bodies called to be merged.

At least six weeks before the general assembly to decide on the merger the proposed merger must be deposited at the registry of the commercial court by each of the companies called to be merged.

Art. 720

§ 1<sup>er</sup>. In each company, the merger project and the possibility reserved for associates to obtain this document at no cost are announced in the agenda of the General Assembly to decide on the proposed merger.

A copy is sent to holders of shares or nominative shares at least one month before the General Assembly meeting.

It is also transmitted without delay to persons who have completed the formalities required by the statutes to be admitted to the assembly.

However, where companies are limited liability cooperative companies, the project must not be forwarded to partners in accordance with paragraphs 2 and 3.

In this case, any partner has the right to know the said document at the head office in accordance with § 2 and to obtain a copy thereof, in accordance with § 3, at least one month before the meeting of the general assembly.

§ 2. A partner also has the right, at least one month before the date of the meeting of the General Assembly to decide on the proposed merger to read at the head office the following documents:

1° the fusion project;

2° the annual accounts of the last three years, of each of the merging companies;

3° for anonymized companies, stock-based companies, limited liability private companies and limited liability cooperative companies, reports of directors or managers and reports of commissioners of the last three years;

4° where the proposed merger is not less than six months after the end of the fiscal year to which the last annual accounts relate, a statement of account that has been determined within three months prior to the date of the proposed merger and written in accordance with paragraphs 2 to 4.

This accounting statement is based on the same methodology and the same presentation as the last annual accounts.

However, a new inventory is not required.

The changes in the evaluations in the last balance sheet may be limited to those resulting from writing movements. However, it must be taken into account interim depreciations and provisions as well as significant changes in values that do not appear in the scriptures.

§ 3. Any partner may obtain, at no cost and upon request, a full copy or, if he wishes, a partial copy of the documents referred to in § 2, with the exception of the one transmitted to him under § 1<sup>er</sup>.

Art. 721

§ 1<sup>er</sup>. A limited liability private corporation or cooperative corporation may only absorb another corporation if the partners of that other corporation meet the requirements to acquire the quality of the absorbent company's partner.

§ 2. In cooperative societies, each partner has the ability, notwithstanding any provision to the contrary of the statutes, to resign at any time during the social exercise and without having to satisfy any other condition, upon the convocation of the general assembly called to decide the fusion of the society with an absorbing society of another form.

The resignation must be notified to the corporation by registered letter to the position filed at least five days before the date of the meeting. It will only have effect if the merger is decided.

The convocations to the assembly reproduce the text of paragraphs 1<sup>er</sup> and 2.

Art. 722

§ 1<sup>er</sup>. Without prejudice to the specific provisions set out in this article and subject to more stringent statutory provisions, the General Assembly may decide on the merger of the company only in accordance with the following rules of presence and majority:

1° those attending the meeting must represent at least half of the social capital. If this condition is not fulfilled, a new convocation will be necessary and the new assembly will deliberate and rule validly, regardless of the portion of the capital represented;

2(a) a merger proposal is accepted only if it brings together three quarters of the vote:



(b) in simple managed societies and cooperative societies, the right to vote of the partners is proportional to their share in social ownership and the quorum of presence is calculated in relation to social ownership.

§ 2. Section 582 is not applicable.

§ 3. If there are several categories of shares, securities or shares, whether representative or not of the expressed capital, and if the merger results in a change of their respective rights, section 560, paragraph 4, applies.

§ 4. The agreement of all partners is required:

1° in absorbent or absorbed societies that are collectively named societies;

2° in absorbed societies when the absorbing society is:

(a) a collective partnership;

(b) a single limited partnership;

(c) an unlimited liability cooperative corporation.

In cases referred to in paragraph 1<sup>er</sup>, the unanimous agreement of non-representative shareholders of social capital is, if necessary, required.

§ 5. In simple sponsorship companies and in share-sponsored companies, the agreement of all sponsorship partners is also required.

Art. 723

In each company participating in the merger, the minutes of the general assembly that decides the merger shall be, barely null and void, established by authentic act.

The notary must verify and certify the existence and legality, both internal and external, of the acts and formalities of the society to which it acts.

Art. 724

Immediately after the merger decision, any changes in the statutes of the absorbing society, including clauses that would alter its social object, shall be determined under the conditions of presence and majority required by this Code. If not, the merger decision remains without effect.

The merger is carried out when the consistent decisions taken within all interested companies have taken place.

Art. 725

Subject to the terms and conditions set out in paragraphs 2 and 3, acts recognizing the merging decisions taken in the absorbing society and the absorbed society shall be deposited and published by extract in accordance with section 74 and, where appropriate, acts amending the statutes of the absorbing society shall be deposited and published in accordance with section 74. They are published simultaneously within fifteen days of the deposit of the act recognizing the decision of fusion made by the General Assembly which last met.

The absorbent company can itself carry out the advertising formalities concerning the absorbed companies.

Art. 726

§ 1<sup>er</sup>. Unless otherwise decided by interested companies, the shares or shares issued by the absorbent corporation in return for the absorbed assets are distributed among the partners of the absorbed companies, to the diligence and responsibility of the bodies that were responsible for the management of these companies at the time of the merger.

Where applicable, these bodies ensure the updating of the registers of name shares or social shares.

The costs of these operations are borne by the absorbing company.

§ 2. No share or share of the absorbing company may be attributed in exchange for shares or shares of the absorbed corporation held:

1° either by the absorbing company itself or by a person acting in its own name but on behalf of the company;

2° either by the company absorbed itself or by a person acting in its own name but on behalf of the company.

Art. 727

The annual accounts of the company absorbed for the period between the closing date of the last social fiscal year whose accounts have been approved and the date referred to in Article 719, § 2, 2°, shall be established by the management bodies of that society, in accordance with the provisions of this code applicable to it.

They are subject to the approval of the General Assembly of the absorbent corporation in accordance with the rules applicable to the corporation for its annual accounts.

Subject to Article 687, the General Assembly of the absorbing society shall decide on the discharge of the management and control bodies of the absorbed society.

CHAPTER III. - Procedure for corporate splitting

Section one. - Procedure for scission by absorption

Art. 728

The bodies responsible for the management of the companies participating in the split establish a draft scission by authentic act or by private act.

The scission project mentions at least:

1° the form, name, object and head office of the companies participating in the split;

2° the exchange report of shares or shares and, if applicable, the amount of the relief;

3° the modalities for the remission of shares or shares of the beneficiary companies;

4° the date from which these shares or shares give the right to participate in the profits and any modality relating to that right;

5° the date on which the company's operations to split are considered from the accounting point of view to be completed on behalf of either of the beneficiary companies;

6° the rights guaranteed by the beneficiary companies to the partners of the society to split with special rights and holders of securities other than the shares or measures proposed in respect of them;

7° the emoluments attributed to the commissioners, business reviewers or external auditors responsible for drafting the report under Article 731;

8° any particular benefits attributed to members of the corporate bodies involved in the split;

9° the precise description and distribution of assets and liabilities to be transferred to each of the beneficiary companies;

10° the distribution to the partners of the company to split shares or shares of the beneficiary companies, as well as the criterion on which this distribution is based.

At least six weeks before the general assembly to decide on the split, the draft scission must be filed at the registry of the commercial court by each of the companies participating in the split.

Art 729

When an element of the active heritage is not assigned to the split project and the interpretation of the project does not allow to decide on the distribution of this element, the latter or its countervalue is distributed among all the beneficiary companies in a proportion to the net assets attributed to each of them in the split project.

When an element of the passive heritage is not allocated in the split project and the interpretation of the project does not allow to decide on the distribution of this element, each of the beneficiary companies is jointly and severally responsible.

Art. 730

In each company, the management body prepares a written and detailed report that outlines the heritage situation of the companies participating in the split and which explains and justifies, from the legal and economic point of view, the opportunity of the conditions, the terms and consequences of the split, the methods used for the determination of the share exchange report or the shares, the relative importance given to these methods, the values to which each method is encountered, and the values to which each

Where the absorbent company is a limited liability private corporation, a limited liability cooperative corporation or an anonymous corporation, the report shall also mention the report referred to in sections 313, 423 or 602 as the case may be; it also indicates the Registry of the Commercial Court where it must be filed.

Art. 731

In each company, a written report on the draft split is prepared either by the Commissioner or, where there is no Commissioner, by a business reviewer or an external auditor designated by the directors or managers.

The Commissioner, the business reviewer or the designated accountant must, in particular, declare whether or not the exchange report is relevant and reasonable.

The declaration must at least:

1° indicate the methods used to determine the proposed exchange report;

2° indicate whether these methods are appropriate in this case and indicate the values to which each of these methods leads, given the relative importance given to these methods in determining the value retained.

The report also indicates the specific evaluation difficulties if there are any.

The Commissioner, the Business Reviewer or the Designated Accountant may be undisplaced by any document that is useful for the performance of his or her mission. They may obtain from the companies participating in the split all explanations or information and carry out all necessary audits.

Where the report relates to an absorbent corporation that has the form of a limited liability private corporation, a limited liability cooperative corporation or an anonymized corporation, it may be established by the Commissioner or by the auditor of undertakings who has prepared the report referred to in sections 313, 423 or 602.

Art. 732

The management bodies of each of the companies affected by the split are required to inform the general assembly of their company and the management bodies of all other companies affected by the splitting of any significant changes in the active and passive heritage that occurred between the date of the establishment of the split project and the date of the last general assembly that decides on the split.

The management bodies that have received this information are required to communicate it to the general assembly of their society.

Art. 733

§ 1<sup>er</sup>. In each company, the draft split and the reports provided for in sections 730 and 731, as well as the possibility reserved for associates to obtain such documents without charge, are announced in the agenda of the General Assembly to decide on the draft split.

A copy is sent to bearers of nominal shares at least one month before the meeting of the General Assembly.

It is also transmitted without delay to persons who have completed the formalities required by the statutes to be admitted to the assembly.

However, where companies are limited liability cooperative companies, the project and reports referred to in paragraph 1<sup>er</sup> shall not be transmitted to partners in accordance with paragraphs 2 and 3.

In this case, any partner has the right to know the documents at the head office in accordance with § 2 and to obtain a copy thereof, in accordance with § 3, at least one month before the meeting of the general assembly.

§ 2. In addition, a partner has the right, at least one month before the date of the meeting of the General Assembly to decide on the draft split, to read at the head office the following documents:

1° the scission project;

(2) the reports referred to in articles 730 and 731;

3° the annual accounts of the last three years, of each of the companies involved in the split;

4° for anonymous companies, share-sponsored companies, limited liability private companies and limited liability cooperative companies, reports of directors or managers and reports of commissioners of the last three years;

5° where the draft split is not less than six months after the end of the fiscal year to which the last annual accounts relate, a statement of account in the three months prior to the date of the split project and in accordance with paragraphs 2 to 4.

This accounting statement is based on the same methodology and the same presentation as the last annual accounts.

However, a new inventory is not required.

The changes in the evaluations in the last balance sheet may be limited to those resulting from writing movements. However, it must be taken into account interim depreciations and provisions as well as significant changes in values that do not appear in the scriptures.

§ 3. Any partner may obtain, at no cost and on a simple request, a full copy or, if he wishes, a partial copy of the documents referred to in § 2, except those transmitted to him under § 1<sup>er</sup>.

Art. 734

Companies participating in the split may not apply sections 730, 731 and 733, as they relate to the reports, if all associates and all holders of titles conferring a right to vote at the general assembly renounce their application.

This renunciation is established by an express vote at the general assembly called to decide on participation in the split.

The agenda of this general assembly refers to the company's intention to make use of this provision and reproduces paragraphs 1<sup>er</sup> and 2 of this article.

Art. 735

§ 1<sup>er</sup>. A limited liability private corporation or cooperative corporation may not participate in a split operation as a beneficiary corporation unless the partners of the split corporation meet the requirements to acquire the partnership quality of that beneficiary corporation.

corporation. In cooperative societies, each partner has the power, notwithstanding any provision to the contrary of the statutes, to resign at any time during the social exercise and without having to satisfy any other condition, upon the convocation of the general assembly called to decide the split of the society for the benefit of beneficiary companies whose at least one has another form.

The resignation must be notified to the corporation by registered letter to the position filed at least five days before the date of the meeting. It will only have effect if the split is decided.

The convocations to the assembly reproduce the text of paragraphs 1<sup>er</sup> and 2 of this paragraph.

#### Art. 736

§ 1<sup>er</sup>. Without prejudice to the specific provisions set out in this article and subject to more stringent statutory provisions, the General Assembly may decide on the splitting of society only in accordance with the following rules of presence and majority:

1° those attending the meeting must represent at least half of the social capital. If this condition is not fulfilled, a new convocation will be necessary and the new assembly will deliberate and rule validly, regardless of the portion of the capital represented;

2(a) a scission proposal is accepted only if it brings together three quarters of the vote;

(b) in single-managed societies and cooperative societies, the right to vote of the partners is proportional to their share in social ownership and the quorum of presence is calculated in relation to social ownership.

§ 2. If there are several classes of shares, securities or shares, whether representative or not of the expressed capital, and if the split results in a change of their respective rights, section 560, paragraph 4, applies.

§ 3. The agreement of all partners is required:

1° in societies that are split companies or beneficiaries in collective name;

2° in the company to split when at least one of the beneficiary companies is:

(a) a collective partnership;

(b) a single limited partnership;

(c) a cooperative society.

In cases referred to in paragraph 1<sup>er</sup> the unanimous agreement of non-representative shareholders of social capital is, if any, required.

Paragraph 1<sup>er</sup>, 2°, c), and paragraph 2 are not applicable in case the beneficiary corporation is a limited liability cooperative corporation.

§ 4. In simple sponsorship companies and in share-sponsored companies, the agreement of all sponsorship partners is also required.

§ 5. When the scission project provides that the distribution to the partners of the company to split shares or shares of the beneficiary companies will not be proportional to their rights in the capital of the society to split, the company's decision to split into the scission operation is taken by the unanimous general assembly.

#### Art. 737

In each company participating in the split, the minutes of the general assembly which observes the participation in the split operation shall be, barely invalid, established by authentic act.

The act reproduces the conclusions of the report referred to in section 731.

The notary must verify and certify the existence and legality, both internal and external, of the acts and formalities of the society to which it acts.

#### Art. 738

Immediately after the decision to participate in the split, any amendments to the statutes of a beneficiary corporation, including the clauses that would alter its social object, shall be determined under the conditions of presence and majority required by this Code. If not, the decision to participate in the split remains without effect.

Scission is carried out when the consistent decisions taken within all interested companies have taken place.

#### Art. 739

Subject to the terms and conditions set out in paragraphs 2 and 3, the acts recognizing the decisions of participation in a split operation taken in the split corporation and beneficiary companies shall be deposited and published by extract in accordance with section 74 and, where appropriate, the acts amending the statutes of a beneficiary corporation shall be deposited and published in accordance with section 74.

They are published simultaneously within fifteen days of the deposit of the act recognizing the decision to participate in the split by the General Assembly which last met.

A beneficiary company may itself carry out the advertising formalities concerning the company being split.

#### Art. 740

§ 1<sup>er</sup>. Unless otherwise decided by the companies concerned, the shares or shares issued by a beneficiary corporation in consideration of the share of assets of the corporation that it is entitled to, shall be distributed among the partners of the corporation that was scintillated at the diligence and under the responsibility of the body that was responsible for the management of that corporation at the time of the split.

If applicable, this body ensures the updating of the registers of nominal shares or social shares.

The costs of these transactions are borne by the recipient companies, each for their part.

§ 2. No share or share of a beneficiary corporation may be allocated in exchange for shares or shares of the sewage corporation held:

1° either by that beneficiary company itself or by a person acting in its own name but on behalf of the corporation;

2° either by the company itself or by a person acting in its own name but on behalf of the company.

#### Art. 741

The annual accounts of the company scinded for the period between the closing date of the last social fiscal year whose accounts have been approved and the date referred to in Article 728, § 2, 5°, shall be established by the management bodies of that society, in accordance with the provisions of this code applicable to it.

They are submitted to the general assembly of each of the beneficiary companies according to the rules applicable to these companies for their annual accounts.

Subject to Article 687, the general assembly of the beneficiary companies shall decide on the discharge to be given to the management and control bodies of the split society.

Section II. - Scission procedure

new companies

#### Art. 742

§ 1<sup>er</sup>. Subject to §§ 2 and 3, the constitution of each new company shall be subject to all the conditions provided for in this code for



§ 1<sup>er</sup>. Subject to §§ 2 and 3, the constitution of each new company shall be subject to all the conditions provided for in this code for the form of a corporation that has been chosen.

§ 2. Regardless of the form of the new society, the constitution of the new society must, hardly nullity, be recognized by authentic act. This act reproduces the findings of the Commissioner's report, the business reviewer or the external auditor referred to in section 731.

§ 3. Sections 444, last paragraph, and 449, section 450, paragraph 2, second sentence, and sections 451, 452 and 453, 9°, do not apply to an anonymous company or, by derogation from section 657, to a share-sponsored company. Sections 395, last paragraph, and 399 do not apply to the limited liability cooperative corporation that originated from the split.

Sections 219, last paragraph, and 224 do not apply to a limited liability private corporation arising out of the split. Section 226, 6°, also does not apply to that corporation.

Art. 743

The bodies responsible for the management of the companies participating in the split establish a draft scission by authentic act or by private act.

The scission project mentions at least:

1° the form, the name, the object and the head office of the society to be split together with new societies;

2° the exchange report of shares or shares and, if applicable, the amount of the relief;

3° the terms and conditions of remission of shares or shares of new companies;

4° the date from which these shares or shares give the right to participate in the profits and any modality relating to that right;

5° the date on which the company's operations to split are considered from the accounting point of view to be completed on behalf of either of the new companies;

6° the rights provided by the new companies to the associates of the society to split with special rights and holders of securities other than the shares or measures proposed for them;

7° the emoluments attributed to the commissioners, business reviewers or external auditors responsible for the drafting of the report under Article 746;

8° any particular benefits attributed to members of the corporate bodies involved in the split;

9° the precise description and distribution of assets and liabilities to be transferred to each new corporation;

10° the distribution to the partners of the company to split shares or shares of the new companies, as well as the criterion on which this distribution is based.

At least six weeks before the general assembly to decide on the split, the draft scission must be filed at the registry of the commercial court by each of the companies participating in the split.

Art. 744

When an element of the active heritage is not assigned to the split project and the interpretation of the project does not allow to decide on the distribution of this element, it or its countervalue is distributed among all new companies in a manner proportionate to the net assets attributed to each of them in the split project.

When an element of the passive heritage is not allocated in the split project and the interpretation of the project does not allow to decide on the distribution of this element, each of the new companies is jointly and severally responsible.

Art. 745

In each company, the management body prepares a written and detailed report that outlines the heritage situation of the companies participating in the split and which explains and justifies, from the legal and economic point of view, the opportunity of the conditions, the terms and consequences of the split, the methods used for the determination of the share exchange report or the shares, the relative importance given to these methods, the values to which each method is encountered, and the values to which each

Where the new corporation is a limited liability private corporation, a limited liability cooperative corporation or an anonymous corporation, the report shall also mention the report referred to in articles 219, 395 or 444; it also indicates the Registry of the Commercial Court where it must be filed.

Art. 746

In each company, a written report on the draft split is prepared either by the Commissioner or, where there is no Commissioner, by a business reviewer or an external auditor designated by the directors or managers.

The Commissioner, the business reviewer or the designated accountant must, in particular, declare whether or not the exchange report is relevant and reasonable.

The declaration must at least:

1° indicate the methods used to determine the proposed exchange report;

2° indicate whether these methods are appropriate in this case and indicate the values to which each of these methods leads, given the relative importance given to these methods in determining the value retained.

The report also indicates the specific evaluation difficulties if there are any.

The Commissioner, the Business Reviewer or the Designated Accountant may be undisplaced by any document that is useful for the performance of his or her mission. They may obtain from the companies participating in the split all explanations or information and carry out all necessary audits.

Where at least one of the new companies has the form of a limited liability private corporation, a limited liability cooperative corporation or anonymous corporation, the report may be prepared by the Commissioner or by the auditor of undertakings who has prepared the report referred to in section 219, section 395 or section 444.

Art. 747

The management bodies of each of the companies affected by the split are required to inform the general assembly of their company and the management bodies of all other companies affected by the splitting of any significant changes in the active and passive heritage that occurred between the date of the establishment of the split project and the date of the last general assembly that decides on the split.

The management bodies that have received this information are required to communicate it to the general assembly of their society.

Art. 748

§ 1<sup>er</sup>. In each company, the draft split and the reports provided for in sections 745 and 746, as well as the possibility reserved for associates to obtain such documents without charge, are announced in the agenda of the General Assembly to decide on the draft split.

A copy is sent to holders of shares or nominative shares at least one month before the General Assembly meeting.

It is also transmitted without delay to persons who have completed the formalities required by the statutes to be admitted to the

assembly.  
§ 4. The draft constitutive act, at least one month before the date of the meeting of the General Assembly to decide on the draft split to read at the head office the following documents:

1° the scission project;

(2) the reports referred to in articles 745 and 746;

3° the annual accounts of the last three years, of each of the companies involved in the split;

4° for anonymous companies, share-sponsored companies, limited liability private companies and limited liability cooperative companies, reports of directors or managers and reports of commissioners of the last three years;

5° where the draft split is not less than six months after the end of the fiscal year to which the last annual accounts relate, a statement of account in the three months prior to the date of the split project and in accordance with paragraphs 2 to 4.

This accounting statement is based on the same methodology and the same presentation as the last annual accounts.

However, a new inventory is not required.

The changes in the evaluations in the last balance sheet may be limited to those resulting from writing movements. However, it must be taken into account interim depreciations and provisions as well as significant changes in values that do not appear in the scriptures.

§ 3. Any partner may obtain, at no cost and on a simple request, a full copy or, if he wishes, a partial copy of the documents referred to in § 2, except those transmitted to him under § 1<sup>er</sup>.

Art. 749

Corporations participating in the split may not apply sections 745, 746 and 748, as they relate to the reports, if all associates and all holders of titles conferring a right to vote at the general assembly renounce their application.

This renunciation is established by an express vote at the general assembly called to decide on participation in the split.

The agenda of this general assembly refers to the company's intention to make use of this provision and reproduces paragraphs 1<sup>er</sup> and 2.

Art. 750

§ 1<sup>er</sup>. A limited liability private corporation or a cooperative corporation may not participate in a split operation as a new corporation unless the partners of the split corporation meet the requirements to acquire the partnership quality.

§ 2. In cooperative societies, each partner has the power, notwithstanding any provision to the contrary of the statutes, to resign at any time during the social exercise and without having to satisfy any other condition, upon the convocation of the general assembly called to decide the split of the society for the benefit of new societies, at least one has another form.

The resignation must be notified to the corporation by registered letter to the position filed at least five days before the date of the meeting. It will only have effect if the split is decided.

The convocations to the assembly reproduce the text of paragraphs 1<sup>er</sup> and 2 of this paragraph.

Art. 751

§ 1<sup>er</sup>. Without prejudice to the specific provisions set out in this article and subject to more stringent statutory provisions, the General Assembly may decide on the splitting of society only in accordance with the following rules of presence and majority:

1° those attending the meeting must represent at least half of the social capital. If this condition is not fulfilled, a new convocation will be necessary and the new assembly will deliberate and rule validly, regardless of the portion of the capital represented;

2(a) a scission proposal is accepted only if it brings together three quarters of the vote;

(b) in single-managed societies and cooperative societies, the right to vote of the partners is proportional to their share in social ownership and the quorum of presence is calculated in relation to social ownership.

§ 2. If there are several classes of shares, securities or shares, whether representative or not of the expressed capital, and if the split results in a change of their respective rights, section 560, paragraph 4, applies.

§ 3. The agreement of all partners is required:

1° in collective societies;

2° in the company to split when at least one of the new companies is:

(a) a collective partnership;

(b) a single limited partnership;

(c) a cooperative society.

In cases referred to in paragraph 1<sup>er</sup> the unanimous agreement of non-representative shareholders of social capital is, if any, required.

Paragraph 1<sup>er</sup>, 2°, c), and paragraph 2 are not applicable if the new corporation is a limited liability cooperative corporation.

§ 4. In simple sponsorship companies and in share-sponsored companies, the agreement of all sponsorship partners is also required.

§ 5. When the scission project provides that the distribution of shares or shares of the new companies to the partners of the company will not be proportional to their rights in the capital of the corporation to split, the decision of the company to split up to participate in the scission operation is taken by the unanimous general assembly.

Art. 752

In each company participating in the split, the minutes of the general assembly which observes the participation in the split operation shall be, barely invalid, established by authentic act.

The act reproduces the conclusions of the report referred to in section 746.

The notary must verify and certify the existence and legality, both internal and external, of the acts and formalities of the society to which it acts.

Art. 753

Immediately after the scission decision, the draft constitutive act and the statutes of each of the new societies must be approved by the general assembly of the society under the same conditions of presence and majority as those required for the scission decision. Otherwise, the scission decision remains without effect.

Art. 754

The split is realized when all new companies are incorporated.

Art. 755

§ 1<sup>er</sup>. Subject to the terms set out in § 2, the act establishing the decision of splitting made by the general assembly of the split society shall be deposited and published by extract in accordance with Article 74 and Articles 67 to 69 and 71 to 73 shall apply to the constitutive act of each new society.

§ 2. The act and extracts of acts referred to in § 1<sup>er</sup> are published simultaneously within fifteen days of the deposit of the act

recognizing the decision of scission made by the general assembly of the scinded society.

Article 756. The companies concerned shall carry out the advertising formalities concerning the scinded society.

Art. 756

§ 1<sup>er</sup>. unless otherwise decided by the companies concerned, the shares or shares issued by a new corporation in return for the share of the assets of the corporation that it returns, shall be divided between the partners of the corporation scinded to the diligence and under the responsibility of the body that was responsible for the management of that corporation at the time of the split.

If applicable, this body ensures the updating of the registers of nominal shares or social shares.

The costs of these transactions are borne by the new companies, each for their part.

§ 2. No share or share of a beneficiary corporation may be attributed in exchange for shares or shares of the split corporation held by the split corporation itself or by an intermediary.

Art. 757

The annual accounts of the company scinded for the period between the closing date of the last social fiscal year whose accounts have been approved and the date referred to in article 743, § 2, 5°, shall be established by the management bodies of that society, in accordance with the provisions of this code applicable to it.

They are submitted to the general assembly of each new corporation according to the rules applicable to these companies for their annual accounts.

Subject to Article 687, the general assembly of the new companies shall take action on the discharge to be given to the management and control bodies of the scinded society.

Section III. - Mixed split procedure

Art. 758

Mixed splitting is carried out in accordance with Sections I, for beneficiary companies and II, for new companies.

PART III. - Universality or business branch contributions

Art. 759

The contributions of universality or branch of activity carried out by a society obey the rules set out in this title.

The companies concerned may decide not to submit the industry input to the plan organized by sections 760 to 762 and 764 to 767 and referred to in the act of contribution. In this case, the contribution does not have the effects referred to in section 763.

CHAPTER PREMIER. - Procedure

Art. 760

§ 1<sup>er</sup>. Organs responsible for the management of the bringing society and the beneficiary society establish a project of universality or contribution of the industry by authentic act or by private act.

When the contribution is made on the occasion of the formation of the beneficiary society, the project is established by the bodies responsible for the management of the supplying society.

There are as many separate projects as there are beneficiary companies.

§ 2. The draft report mentions at least:

1° the form, the name, the object and the head office of the companies participating in the contribution;

2° the date on which the shares or shares attributed by the beneficiary corporation give the right to participate in the profits and any modality relating to that right;

3° the date on which the company's operations are considered from the accounting point of view to be performed on behalf of either of the beneficiary companies;

4° any particular benefits attributed to members of the management bodies of the companies participating in the contribution.

When the contribution of universality is made for the benefit of several companies or in the event of an activity branch input, the contribution project describes and specifies the distribution of the elements of the contributor's heritage.

§ 3. At least six weeks before the realization of the contribution and, where applicable, the holding of the general assembly of the bringing society to a decision on the principle of universality intake, the draft contribution must be deposited at the office of the commercial court by each of the companies participating in the contribution.

Art. 761

§ 1<sup>er</sup>. The contribution of universality must be decided by the general assembly of the associates of the bringing society.

§ 2. The organ responsible for the management of the company provides a written and detailed report which outlines the heritage situation of the companies concerned and which explains and justifies, from a legal and economic perspective, the opportunity, conditions, terms and conditions and consequences of the contribution.

A copy of the project and report is sent to holders of shares or nominative shares at least one month before the meeting of the General Assembly. It is also transmitted without delay to persons who have completed the formalities required by the statutes to be admitted to the assembly.

However, paragraph 2 does not apply when the company is a cooperative corporation, the project being made available to the partners at the head office.

§ 3. The decision to make the contribution shall be taken under the conditions of presence and majority established by Article 558, subject to more stringent statutory provisions.

In single-sponsored societies and cooperative societies, the partner's right to vote is proportional to their share in social ownership and the presence quorum is calculated relative to social ownership.

The agreement of all the partners is required in the partnership in collective name and the agreement of all the sponsored partners is also required in single sponsorship companies and in share-sponsored companies.

Art. 762

The act recognizing the contribution of a universality or the contribution of a branch of activity is filed and published by extracts in accordance with section 74.

CHAPTER II. - Effects

Art. 763

The contribution of universality directly leads to the transfer to the beneficiary society of the entire assets and liabilities of the company that made the contribution.

The contribution of a branch of activity directly leads to the transfer of assets and liabilities to the beneficiary company.

Art. 764

When an element of the active heritage is not assigned to the contribution project and the interpretation of the project does not allow for the determination of the distribution of this element, the latter or its counter-value is distributed among all the companies

concerned in a proportional manner to the net assets attributed to each of them in the draft contribution.

When the contribution of the passive heritage is not allocated in the contribution project and the interpretation of the project does not allow to decide on the distribution of this element, each of the companies in the case of the input of the business branch or, in the case of the contribution of universality, each of the beneficiary companies is in solidarity.

#### CHAPTER III. - Opposability

##### Art. 765

The contribution is opposable to third parties under the conditions set out in section 76.

#### CHAPTER IV. - Setting security rights

##### Art. 766

At the latest within two months of the publication in the Annexes of the Belgian Monitor of the acts recognizing the contribution, creditors of each of the companies participating in the transaction, whose debt is prior to the publication and is not yet exhausted, may require a security right, notwithstanding any agreement to the contrary.

The beneficiary company to which this obligation is assigned in accordance with the draft contribution, and if so, the company may each deviate this claim by paying the debt to its value, after deduction of the discount.

In the absence of an agreement or if the creditor is not paid, the contestation is submitted by the most diligent party to the president of the trade tribunal in whose jurisdiction the debtor company has its seat. The procedure is introduced and instructed as referred; the same is true of the execution of the decision rendered. All rights except on the merits, the President shall determine the security to be provided by the corporation and shall set the time limit within which it shall be constituted, unless the President decides that no security rights shall be provided, in respect of either the guarantees and privileges enjoyed by the creditor or the solvency of the beneficiary corporation concerned.

If the security right is not provided within the specified time limits, the receivable becomes immediately payable and the companies concerned are held in solidarity with this obligation.

#### CHAPTER V. - Accountability

##### Art. 767

§ 1<sup>er</sup>. The tender company remains jointly held certain and payable debts on the day of the contribution that are transferred to a beneficiary corporation.

This liability is limited to the net assets retained by the company outside of the heritage provided.

§ 2. If the company is a collective partnership, a single limited partnership, a share-sponsored corporation, or an unlimited liability cooperative corporation, partners in collective name, partners or co-operators shall remain held in solidarity and indefinitely with respect to third parties, commitments of the undertakings of the company prior to the third party of the act of contribution in accordance with section 76.

#### CHAPTER VI. - Intake by a physical person

##### Art. 768

In the event of an activity branch input to a society by a natural person, the parties may submit the operation to the regime organized by articles 760, 762, 764, § 2, 765 to 767. The draft contribution is signed by the contributor himself. For the liability referred to in Article 767, § 2, the contributor is assimilated to a partner in solidarity. Intake has the effects referred to in section 763.

#### CHAPTER VII. - Sanction

##### Art. 769

Any interested third party may avail itself of the inopposability of the effect of the report in violation of sections 760 to 762 and 764 to 766. In this case, the contribution does not have the legal effect referred to in section 763.

#### PART IV. - Disposals of universality and branch of activity

##### Art. 770

In the event of a free or expensive assignment of a universality or branch of activity that meets the definitions of sections 678 to 680, the parties may submit the transaction to the regime organized by sections 760 to 762 and 764 to 767, or to the regime organized by section 768.

This will is expressly referred to in the draft assignment established in accordance with section 760 and in the assignment deposited in accordance with section 762. This project and act are established in the authentic form.

The assignment shall, in this case, have the effects referred to in section 763.

#### PART V. - Exceptional provisions

##### Art. 771

The procedure provided for in sections 395, 399, 422, 423 and 670 to 758 is not applicable to mergers, scissions and inflows of business branches between companies in a federation of credit institutions, as defined in section 61 of the Act of 22 March 1993 on the status and control of credit institutions, provided that the following conditions are met:

1° it must be cooperative societies;

2° the statutes shall provide that in the event of withdrawal or liquidation of the corporation, the partners shall be entitled only to the nominal amount of their contribution and that in the event of dissolution of the corporation, the reserves shall be transferred to the central agency or to another corporation of the federation;

3° the fusion, splitting or intake of a branch of activity shall be performed at the book value.

##### Art. 772

In the case referred to in section 771, the merger, splitting or input of a branch of activity shall be carried out after the general assemblies of the companies concerned, deliberating on the conditions of majority required for the modification of the statutes, have approved the proposed merger, splitting or input of a branch of activity proposed by the management body.

The fusion, splitting or intake of a branch of activity results in full right and simultaneously the effects provided for in section 682.

#### PART VI. - Criminal provisions

##### Art. 773

Are punished with a fine of fifty francs to ten thousand francs:

1° the members of the management body that have not made in the proposed merger or split the statements required by section 693, article 706, article 728 and article 743;

2° the members of the management body who have not submitted the special report together with the report of the Commissioner or the business reviewer, or, as the case may be, the external auditor, as provided for in sections 695 and 697, sections 708 and 710, sections 731 and 733 and sections 746 and 748.

#### LIVRE XII

##### The transformation of societies

## You're the first. - Introductory provisions

### Global Regulation



This book applies to all legal persons governed by this Code, with the exception of agricultural companies and economic interest groups.

The provisions of this book are also applicable to the transformation of legal persons other than corporations in one of the forms of commercial societies listed in Article 2, § 2, of this Code, to the extent that the particular laws relating to these legal persons provide for it and in accordance with the special provisions of these particular laws.

#### Art. 775

The adoption of another legal form by a corporation incorporated in one of the forms listed in Article 2, § 2, does not result in any change in the legal personality of the society that remains in the new form.

#### PART II. - Formalities before the decision the transformation of a society

#### Art. 776

Prereally to the transformation, a statement summarizing the active and passive situation of the society, which was decided on a date not more than three months.

Where in companies other than collective corporations and cooperative companies with unlimited liability, the net assets are less than the social capital in the aforementioned state, the state will in conclusion mention the amount of the difference.

In collective societies and cooperative societies with unlimited liability, this state indicates the social capital of the society after its transformation. This capital cannot exceed the net assets as it results from the aforementioned state.

#### Art. 777

The Commissioner or, where there is no Commissioner, a business reviewer or an external auditor designated by the management body or, in the collective-name companies and cooperative corporations, by the general assembly, reports on this condition and indicates, in particular, whether there has been any overestimation of the net assets.

If, in the case referred to in section 776, paragraph 2, the net assets are less than the capital recovered in the statement summarizing the active and passive situation of the corporation, the report shall, in conclusion, mention the amount of the difference.

#### Art. 778

The transformation proposal is the subject of a supporting report prepared by the management body and announced in the agenda of the meeting to be decided. This report is attached to the statement summarizing the active and passive situation of society.

#### Art. 779

A copy of the report of the management body and the report of the Commissioner, the Business Reviewer or the Accountant and the draft amendments to the Regulations are annexed to the summons of the Partners on behalf.

They are also transmitted without delay to persons who have completed the formalities required by the statutes to be admitted to the assembly.

Any partner has the right to obtain a copy of these documents free of charge, on the production of his title, fifteen days before the assembly.

#### Art. 780

The decision of a general assembly to transform the society is null and void when it was taken in the absence of the reports provided for in this chapter.

#### PART III. - Transformation decision

#### Art. 781

§ 1<sup>er</sup>. Without prejudice to the specific provisions set out in this article and subject to more stringent statutory provisions, the General Assembly may decide on the transformation of society only in accordance with the following rules of presence and majority:

1° those who attend the meeting shall represent, on the one hand, half of the social capital and, on the other hand, half of the total number of the beneficiary shares;

2° (a) a transformation proposal is accepted only if it brings together at least four fifths of the vote;

(b) Notwithstanding any provision to the contrary of the statutes, the beneficiary shares shall be entitled to one vote by title. They will not be able to be allotted a number of votes greater than half that attributed to all the shares, nor be counted in the vote for a number of votes greater than two-thirds of the number of votes cast by the shares. If the votes subject to limitation are issued in different directions, the reduction will be carried out proportionally; it is not taken into account the fractions of votes;

(c) in single-sponsored societies and cooperative societies, the right to vote of the partners is proportional to their share in social ownership and the quorum of presence is calculated from that social asset.

§ 2. If there are several categories of shares or shares and if the transformation results in a change of their respective rights, the provisions of section 560, with the exception of paragraph 2 and 1 of paragraph 4, are applicable. The General Assembly may, however, validly deliberate and decide only if it brings together in each category the conditions of presence and majority established by § 1<sup>er</sup>.

§ 3. In the event of an anonymous transformation of a partnership by share or cooperative corporation, a new general assembly must be convened if the presence quorum referred to in § 1<sup>er</sup>, 1°, is not reached.

In order for the new assembly to deliberate and rule validly, it will suffice for any portion of the capital to be represented.

§ 4. The transformation of a single sponsorship company or a share-sponsored company also requires the agreement of all sponsored partners.

For the transformation into a share-sponsored company, the agreement of all partners designated as sponsors is required.

§ 5. The agreement of all partners is also required:

1° for the decision to transform into a society in a collective name or in a single partnership;

2° for the decision to transform into an unrestricted cooperative society of a single limited partnership, a share-sponsored company, a limited liability private corporation or an anonymous corporation;

3° for the decision to transform a society into a collective name or a cooperative society with unlimited liability;

4° if the company has not existed for at least two years;

5° if the statutes provide that it will not be able to adopt another form. Such a statute clause may only be amended under the same conditions.

§ 6. In cooperative societies, each partner has the power, notwithstanding any provision to the contrary of the statutes, to resign at any time during the social exercise and without having to satisfy any other condition, upon the convocation of the general assembly called to decide the transformation of the society.





The resignation must be notified to the corporation by registered letter to the position filed at least five days before the date of the meeting. It will only have effect if the transformation proposal is adopted.

The convocations to the meeting reproduce the text of this paragraph, paragraphs 1 and 2.

Art. 782

Immediately after the transformation decision, the statutes of the company in its new form, including the clauses that would alter its social object, are decided on the same conditions of presence and majority as those required for the transformation.

If not, the transformation decision remains without effect.

Art. 783

Any transformation is, barely null, recognized by an authentic act.

This act reproduces the conclusion of the report prepared by the Commissioner, the Registrar or the Accountant.

The act of transformation and the statutes are published simultaneously in accordance with section 74. The act of transformation is published in full; the statutes are by extract in accordance with articles 69, 71 and 72.

Authentic or private mandates are, as well as the report of the Commissioner, the Reviewer or the External Accountant, deposited in shipment or original at the same time as the act to which they relate.

The transformation is opposable to third parties under the conditions set out in section 76.

Art. 784

Articles 213, paragraph 1<sup>er</sup>, 219, 224, 225, 226, 3°, and 6° to 9°, 229, 231, 314 and 315 are not applicable in case of transformation into private limited liability society.

Articles 395, 399, 401, 405, 424 and 665, § 2, are not applicable in case of transformation into a limited liability cooperative society.

Articles 444, 449, 453, 6° and 9° to 12°, 450, paragraph 2, 451, 452, 456, 459, 610 and 611 are not applicable in case of transformation into an anonymous society.

Articles 444, 449, 453, 6° and 9° to 12°, 451, 452 and 658, as it regulates the responsibility of the founders, are not applicable in the event of a transformation into a limited partnership.

PART IV. - Responsibilities during the transformation

Art. 785

The partners of a society in collective name and the members of the management body of the society to be transformed are held in solidarity with the persons concerned, despite any stipulation to the contrary:

1° of the possible difference between the net assets of the corporation after processing and the minimum social capital prescribed by this code;

2° of the over-evaluation of the net assets as provided for in section 776;

3° of compensation for damage that is an immediate and direct result of the nullity of the processing operation due to the violation of the rules laid down in article 227, 2° to 4°, 403, 2° to 4°, 454, 2° to 4°, applied by analogy, or in article 783, paragraph 1<sup>er</sup>, either of the absence or falsehood of the statements prescribed by articles 226, with the exception of 3° and points 6° to 9°, 453, with the exception of 6° and points 9° to 12° and 783, paragraph 2.

Art. 786

In the event of the transformation of a partnership into a collective name, of a single limited partnership or of a share-sponsored corporation, the partners in a collective name and the partners in command remain held in solidarity and indefinitely with respect to third parties, of the commitments of the corporation prior to the third party of the act of transformation in accordance with section 76.

In the event of a transformation into a society in a collective name, in a single order or by share, the partners in a collective name or the partners in command meet indefinitely with respect to third parties, the commitments of the company prior to the transformation.

In the event of a transformation into a limited liability cooperative corporation, an anonymous corporation, a share-sponsored corporation or a limited liability private corporation, the fixed share of the capital provided for in Article 390, paragraph 1<sup>er</sup>, is equal to the amount of the capital of the corporation before its transformation.

In the event of the transformation of a cooperative corporation with unlimited liability into a corporation where the liability of all or certain partners is limited, the co-operators shall remain bound to third parties within the limits originating from the commitments of the corporation prior to the third party of the act of transformation in accordance with section 76.

PART V. - Disposition specific to society in collective name

Art. 787

Where the statutes of a partnership provide that, in the event of a partner's death, the company will continue with its beneficiaries or some of them, who will have the quality of sponsors, sections 776 to 785 and 786, paragraphs 3 and 4, are not applicable to the transformation resulting from this statutory provision.

The transformation is observed, either by an authentic act or by an act under private seing, which is published by extract in the manner provided for in articles 69 and 74.

PART VI. - Criminal provisions

Art. 788

Are punished with a fine of fifty francs to ten thousand francs:

1° the members of the management body who have not written a statement summarizing the active and passive situation of the company and who have not designated an external auditor, auditor or auditor, as provided for in section 777;

2° the members of the management body that have not resumed the conclusions of the report of the Commissioner, the Registrar or the external auditor, in the act recognizing the transformation as provided for in section 783, paragraph 2;

3° the members of the management body who have not submitted the special report together with the report of the Commissioner, the Registrar or the external auditor, as provided for in sections 778 and 779.

LIVRE XIII

Agricultural society

You're the first. - Nature and qualification

Art. 789

The agricultural company is a company that is intended to operate an agricultural or horticultural enterprise.

Art. 790

It consists of either only managing partners, or one or more managing partners and one or more sponsoring partners.

Only natural persons can be part of the agricultural society.

Managing partners provide physical work; Sponsored partners make a capital contribution.

Art. 791

The commitment of a managing partner can only be contracted by persons who will operate an agricultural or horticultural



The commitment of a managing partner carrying so conducted by persons who operate an agricultural or non-agricultural enterprise in an agricultural company, from which they will earn at least 50% of their working income and to which they will devote at least 50% of their activity.

This commitment is recognized by the fact that the identity of the person concerned as a managing partner is mentioned in accordance with Article 69, 4° and 9°.

Art. 792

The agricultural company bears a name that must include, besides the word "agricultural society" in all letters or shortened, the name of at least one of the managing partners.

The name of the sponsoring partners may not be included in the name.

Art. 793

Managing partners assume unlimited liability for all of the company's commitments.

Sponsored partners are only responsible up to their contribution.

PART II. - Constitution and formation of capital

Art. 794

The constitution of an agricultural company requires:

1° that the number of partners and the social object meet the legal requirements;

2° that the contribution is made in full and without conditions;

3° that the partners have engaged in a total contribution of 250,000 francs at least, fully freed from the constitution;

4° that, for the surplus, each of the shares representing a cash contribution shall be released up to at least one fifth;

5° that any supply of capital other than cash, below in kind, is fully released.

Art. 795

Capital contributions may be made in cash or in kind.

Art. 796

In-kind contributions can only be made by assets that are likely to be of economic valuation.

Commitments relating to the execution of work or the provision of services cannot be included. The rights and obligations of the lessee arising from the farm lease may also not be included.

Art. 797

The assessment of in-kind contributions must be done with sincerity and good faith. It is recorded in a report, which will refer to the method of assessment applied.

Art. 798

In the event of a cash contribution, the funds that must be released are, prior to the formation of the corporation, deposited by payment or transfer to a special account opened on behalf of the company in training at the Post (Poscheque) or a credit institution established in Belgium, other than a communal savings fund, governed by the Act of 22 March 1993 on the Status and Control of Credit Institutions. The special account must be at the exclusive disposal of the corporation to be established. It can only be disposed of by the persons authorized to hire the company, upon presentation of a copy of the constitutive act signed by all the partners.

If the corporation has not been incorporated within three months of the opening of the special account, the funds will be returned to applicants who request it.

Art. 799

The corporation mentions, in addition to the indications in the extract:

1° respect for the legal conditions relating to the constitution;

2° the conditions of accession and resignation of the managing associates as well as the conditions of assignment of the social shares.

The act is signed by all founding associates, who appear in person or by agent. The report on the assessment of in-kind contributions and a supporting certificate of the deposit of released cash contributions are annexed to the report.

Art. 800

Notwithstanding any stipulation to the contrary, the founders and, in the event of an increase in capital, the managing partners are jointly and severally responsible for all concerned:

1° of the whole part of the intake that has not been validly engaged, as well as the possible difference between the prescribed minimum intake and the amount released: they are in full right supposed to have engaged them;

2° of the actual payment of the non-liberated party, in accordance with the provisions of Article 794, 3° and 4°, as well as the portion of the contribution of which they are held in full right under the 1°;

3° of compensation for the damage that is an immediate and direct result, either of the nullity of the company or of the absence or falseness of the statements prescribed by articles 69 and 799;

4° of the harm that would result from the manifest over-evaluation of in-kind intake.

PART III. - Titles and their transfer

CHAPTER PREMIER. - Social shares

Art. 801

The capital of the agricultural company is divided into equal shares. The shares are nominal.

Art. 802

If a share belongs to a number of owners or is encumbered with usufruct, the corporation has the right to suspend the exercise of the related rights until a single person is designated as the owner of the property.

If the share has been pledged by the owner, the owner retains the exercise of the right to vote.

Art. 803

A register of associates is maintained at the headquarters, which contains:

1 the identity of each partner and the number of shares owned by him;

2° the indication of payments made;

3° each assignment of shares with its date; the mention must be dated and signed by the assignor and the assignee;

4° the transmissions for cause of death and the powers after sharing with their date; these statements must be dated and signed by the managing partners and the entitled.

Transfers and assignments are only enforceable to the corporation when they are registered in the registry. However, the company may invoke them before that date.

Any partner or interested third party may be aware of this registry.

CHAPTER II - Transfer of shares

The shares may only be transmitted for cause of death or transferred between partners with the approval of all the managing partners, on the one hand, and of the majority of the sponsored partners, on the other hand, and according to the provisions of section 824. Unless more restrictive provisions of the statutes, such approval is not required where the actions are transmitted or disposed of:

- 1° to an associate;
- 2° to the spouse of the assignor;
- 3° to direct ascendants;
- 4° to direct descendants and their allies, including adoptive children and the children of the spouse.

#### Art. 805

If, pursuant to section 804, the assignment of shares is refused, or, in the event of death, the quality of the partner is denied, the partners who oppose the assignment or transmission must return these shares.

If more than one partner enters into an account for the resumption of the shares, and subject to the exercise of the right of pre-emption under section 806, these shares are, unless otherwise stipulated by the statutes, distributed on account of the shares owned by the acquirers.

In the absence of an agreement to the amicable, the takeover of shares is made at the price and according to the payment terms determined in the statutes. In the absence of statutory provisions, the price shall be fixed by the judge in respect of the heritage and performance of the society. The judge may not grant more than one year for payment. The purchaser of the shares cannot give them as long as the price of the shares taken has not been fully paid.

#### Art. 806

Notwithstanding any stipulation to the contrary and without prejudice to section 804, any assignment between live is subject to the right of preemption of the managing partners. The partner who proposes to assign shares is required to inform by registered letter the managing partners of his intention and the terms and conditions of the assignment.

The right of pre-emption must be exercised within two months of the notification referred to in paragraph 1<sup>er</sup>. The price and means of payment are determined in accordance with Article 805.

If several managerial partners present themselves for the redemption of the shares, the shares are, unless otherwise stipulated in the statutes, assigned to the partners concerned to the pro rata of their participation in the capital.

If the right of pre-emption has not been exercised for all or part of these shares, the proposed assignment may be valid in respect of the shares for which the right has not been used, subject to the authorization of the majority of the sponsored partners and the conditions provided for in section 805.

#### Art. 807

The shareholder shall be liable for the amount remaining to be paid.

The assignor remains bound to the company, in solidarity with the assignee, to respond to the appeals of funds previously decided to the assignment, as well as to the appeals of subsequent funds when they are necessary to pay the debts arising prior to the issuance of the assignment.

The assignor appeals in solidarity against the one to whom he has transferred his share and against the subsequent assignees, unless the parties have agreed otherwise.

### PART IV. - Organs and oversight

#### CHAPTER PREMIER. - Management and representation

#### Art. 808

A partner's commitment to providing physical work gives him the status of managing partner.

#### Art. 809

New associates may only be admitted as managing partners with the approval of all partners and the conditions specified in the statutes, in accordance with Article 791. The statutes may have that direct-line descendants and their allies may acquire the quality of managing partner in full right without the prior approval of all partners. They may submit this quality to certain conditions.

#### Art. 810

The duration of the managerial partner function is equal to the duration of the company.

#### Art. 811

Each managing partner is paid at least on the basis of the minimum hourly wage of a skilled worker in the same sector. The statutes determine how to determine the number of hours to be considered.

Managers are entitled to this compensation, regardless of the nature and importance of the operating result.

#### Art. 812

Partners may terminate their status on a two-year notice to serve in writing to all partners. The company may waive this period by a decision taken, on the one hand, unanimously by the other managing partners and, on the other, by a majority of the votes of the sponsoring partners, according to the provisions of section 824.

#### Art. 813

A managerial partner may only be dismissed from office for serious reasons. This decision shall be made by the other partners, subject to the conditions set out in section 826.

#### Art. 814

Each managing partner has full competence to manage the company. It may perform all acts necessary or useful to society, except those that the law reserves to the general assembly.

#### Art. 815

The statutes may state that the managing partners form a college.

#### Art. 816

The statutes may stipulate that certain decisions may be made only by the agreement of the general assembly of the sponsored partners.

#### Art. 817

The division of management tasks between associates and the limitations on management competencies by statutes in accordance with section 816 are not applicable to third parties, even if published.

#### Art. 818

Each managing partner represents the corporation in respect of third parties and in court, either by asking, or by defending.

However, the statutes may state that the company is represented by several managers acting jointly. This clause is only applicable to third parties if it concerns the general power of representation and if it has been filed and published in accordance with section

The managing partners are responsible to the society for the faults committed in the exercise of their mission, even if they have divided the tasks between them. Their responsibility is determined as in terms of mandate.

They shall be jointly and severally liable to third parties for any damages resulting from breaches of the provisions of this Code or the statutes.

They will not be discharged from this responsibility as to the facts to which they have not taken part, unless they prove that no fault is attributed to them and that they have denounced all the facts to the next general assembly after they have been aware of it.

#### CHAPTER II. - General Assembly of Associates

##### Art. 820

The General Assembly is convened by the managing partners, either on their own initiative or at the request of any other partner, in accordance with the statutory rules.

##### Art. 821

The agenda is attached to the convocation.

Sponsored partners may vote in writing or be represented by proxy.

##### Art. 822

The assembly is presided over by the senior manager of the present partners.

It makes its decisions in the manner defined by the statutes.

##### Art. 823

The managing partners transmit to each sponsoring partner, at least fifteen days prior to the meeting, a written report on the operating results, which will contain sufficient elements to allow the sponsoring partners to know the financial situation of their business and the operating results.

Without prejudice to the right of consultation provided for in section 828, each sponsoring partner may request additional information on this report from the managing partners.

##### Art. 824

A decision of the General Assembly of Sponsored Partners is required to:

- 1° the discharge of their management to give to the managing partners,
- 2° the distribution of the operating result,
- 3° the remuneration of the managing partners,
- 4° the proposals submitted to its approval in accordance with Article 816.

The decision is taken by a majority vote.

Each social part gives a voice. Managing associates have the right to attend the assembly, even if they are not holding shares.

##### Art. 825

Decisions referred to in Article 824, paragraph 1<sup>er</sup>, 1° to 3° are taken each year, no later than six months after the closing of the social exercise.

##### Art. 826

A decision of the General Assembly of Managing Partners and Sponsor Partners is required to:

- 1° a modification of the statutes,
- 2° the voluntary dissolution of the society.

Decisions are made, on the one hand, unanimously of the voices of the managing partners and, on the other, by a three-quarters majority of the sponsoring partners.

Each partner has one voice.

#### CHAPTER III. - Control

##### Art. 827

Titles VI and VII of Book IV are not applicable to agricultural companies.

##### Art. 828

Sponsored partners have the right to know, twice a year, without displacement, books and documents of the company.

They may ask questions in writing about management, to which it must be answered in writing.

##### Art. 829

Unless otherwise stipulated in the statutes, this right is exercised in the middle and end of each fiscal year. Sponsored partners may be assisted by an expert. This may be challenged by the managing partners. In this case, the expert is appointed by the president of the court, at the request of the sponsored partners.

#### PART V. - Recipient distribution

##### Art. 830

The distribution of the operating result is as follows:

- 1° with the approval of the managing partners, the General Assembly may decide to reserve all or part of the positive result after deducting the remuneration referred to in section 811;
- 2° in the event that the positive result would not have been reserved in full, in accordance with the 1°, it will be attributed to the various social shares a quota which cannot exceed the legal interest of the released capital;
- 3° the possible balance shall be attributed to the managing partners in remuneration of their work and to the various parts, according to a proportion determined by the statutes.

##### Art. 831

The sponsoring partner may be compelled by third parties to report the interest and dividends it has received, if they have not been deducted from the real profits of the company and, in this case, if there is fraud, bad faith or serious negligence on the part of the managing partners, the sponsor may sue the latter in payment of what he had to return.

#### PART VI. - Dissolution

##### Art. 832

Unless otherwise provided by the statutes, the company is prosecuted, in the event of death of one of the partners, with its heirs. Unemancipated minor heirs can only obtain the quality of sponsorship partners.

##### Art. 833

Sections 39, 5°, 43 and 44 do not apply to an indeterminate agricultural company.

The dissolution of the agricultural society can be brought to justice for fair reasons. It shall be pronounced, either at the request of any party having a legitimate interest, or at the request of the Public Prosecutor's Office, or even by the judge's office, if its object or activity is not in accordance with the provisions of Article 700, the Public Prosecutor's Office shall be heard at any time.

activity is not in accordance with the provisions of Article 769, the Public Prosecutor's Office shall be heard at any time.  
 Also, for the dissolution of an agricultural company requires a decision made in accordance with the rules set out in section 826.

Art. 834

§ 1<sup>er</sup>. Unless more stringent provisions of the statutes, if, as a result of loss, the net assets are reduced to less than half of the social capital, the general assembly of the managing associates and of the sponsoring partners must be reunited within a period not exceeding two months from the time when the loss was found or should have been made under the legal or statutory obligations, in order to deliberate and decide.

The managing partners justify their proposals in a special report made available to the partners at the headquarters of the company fifteen days before the general assembly. If the managing partners propose the continuation of the activities, they set out in their report the measures they intend to adopt to correct the financial situation of the society. This report is announced on the agenda. A copy is sent to the partners at the same time as the summons.

§ 2. The same rules are observed if, as a result of loss, the net assets are reduced to less than a quarter of the social capital but, in this case, the dissolution will take place if approved by a quarter of the votes emitted to the meeting of the managing partners and of the sponsoring partners.

§ 3. Where the General Assembly has not been convened in accordance with this article, the damage suffered by third parties is, unless otherwise proved, presumed to result from the absence of summons.

Art. 835

When the net asset is reduced to less than 250,000 francs, any interested person may apply to the court for the dissolution of the corporation. The court may, where appropriate, grant the company a time limit to regulate its situation.

Art. 836

When, in the course of its existence, the company consists only of one partner, it continues to exist as a legal person until the dissolution has been decided.

PART VII. - Miscellaneous provisions

Art. 837

At the time of the formation of an agricultural company, the King may grant the latter a financial intervention of the state, in accordance with the rules it determines.

It may also grant any other form of financial assistance.

The company is approved for this purpose by the Minister of Agriculture.

Art. 838

For the purposes of the Farm lease law, the operation as a managing partner of an agricultural company is assimilated to personal exploitation. This rule applies to both the lessee and the lessor whose rights and obligations remain in full.

In the event of the contribution of the property or the right to use and/or enjoyment of the property leased by the lessor in an agricultural company, the leave may be given by the corporation only if the lessor, spouse, descendants or adoptive children or those of the lessor's spouse, have the status of managing partner in the corporation.

LIVRE XIV

The economic interest group

You're the first. - Nature and qualification

Art. 839

The economic interest group, referred to as the "grouping" is a corporation that, constituted by contract, for a fixed or indeterminate duration, between natural or legal persons, is the exclusive purpose of facilitating or developing the economic activity of its members, improving or increasing the results of this activity to which the activity of the economic interest group must be linked and in relation to which it must have an auxiliary character.

Art. 840

The grouping cannot:

1° subject to its own object, directly or indirectly interfere in the exercise of the activity of its members;

2° or hold directly or indirectly any shares or shares of partners, regardless of form, in a commercial corporation or in a commercial form;

3° nor seek profits for its own account;

4° or be a member of another group or European economic interest group;

5° or contract loans through bond issuance.

Art. 841

The appeal to the public for participation in a group is prohibited.

Art. 842

A grouping contract may provide for the obligation of members or some of them to make cash or goods or services contributions, below in kind.

Art. 843

The members of the group contribute annually to the settlement of the excess expenditure on revenues in the proportion provided for in the grouping contract or, if not, by equal shares.

Subject to the provisions of articles 848 and 852, the members of the group shall act in solidarity with all the obligations of the group.

No personal condemnation of members on the basis of the group's undertakings can be rendered before there is a conviction against the group.

PART II. - Constitution

Art. 844

In the event of in-kind intake, a company reviewer is designated before the formation of the group by the founders. The reviewer reports, including the description of each in-kind contribution and the methods of evaluation adopted.

The reviewer's intervention is also required for any subsequent in-kind input.

The reviewer's report is filed at the Court of Commerce Registry in accordance with section 75.

The King may, by order deliberately in the Council of Ministers, determine the categories of groupings exempted from the formality referred to in this article.

Art. 845

The constitutive contract of a group mentions, in addition to the indications contained in the publication extract, the terms and



conditions for the management and control of the grouping.

The founders are held in solidarity with the people concerned, despite any stipulation to the contrary:

1° of compensation for damage, which is an immediate and direct result of the nullity of the grouping, or of the absence or falseness of the statements prescribed by articles 70 and 845;

2° of the commitments made by the incapable.

PART III. - Withdrawals and exclusions

Art. 847

The admission of a new member may only take place if the contract provides for it and sets the conditions for it.

Art. 848

Any new member responds to group debts in accordance with section 843. However, it may be exempted from the payment of debts prior to its admission by an express clause of the constitutive contract or the admission certificate.

To be enforceable to third parties and grouping, this provision must be published in accordance with section 74.

Art. 849

The withdrawal of a member may only take place if the contract provides for it and sets the conditions for it.

Art. 850

The contract determines the causes and conditions of exclusion of members.

In the event of a breach of the contract, a member may only be excluded by a decision of the court at the request of the General Assembly and where the member seriously contravenes his or her obligations or causes serious disturbances in the operation of the group. A member whose exclusion is proposed may not vote on this item.

Art. 851

In the event of a member's exclusion, the grouping, unless otherwise provided by the contract, shall remain among the other members remaining under the terms and conditions provided for by the contract or, if not, arrested by the assembly according to the rules provided for the amendments to the contract.

Art. 852

Whoever loses membership and, in the event of death, heirs as long as they are not themselves admitted as members, are not bound by obligations that the group enters from the day of publication of these facts.

Art. 853

If one of the members of the group ceases to be part of the group without the loss of its membership result in the dissolution of the grouping, an assessment of the grouping's heritage is made to determine its rights and obligations. Under deduction of its obligations to the grouping, the contributing member is entitled at least to the reimbursement of his or her contribution, either in kind or in equivalent.

Unless otherwise provided by the contract, the valuation of the property is made by a company reviewer on the date of the event that resulted in the loss of membership quality. The enterprise reviewer shall be chosen in common agreement between the parties or, failing agreement, designated by the President of the Commercial Court in whose jurisdiction the group shall have its seat, upon request of the most diligent party. The President's decision is not subject to appeal.

PART IV. - Management and representation

CHAPTER PREMIER. - Managers

Art. 854

The grouping is managed by one or more physical persons members or not members of the grouping.

Art. 855

Notwithstanding any provision to the contrary of the contract, a member may appeal to a manager for fair reasons.

Art. 856

The manager or managers are designated in the grouping contract or by decision of all members of the grouping.

If there are several managers, they form a college.

Art. 857

The manager or college of managers has the power to perform all necessary or useful acts for the realization of the social object of the group, except those that the law reserves to the general assembly of the members of the group.

Limitations made by the contract to the powers of the manager are not enforceable to third parties, even if they are published.

Art. 858

Each manager represents the group towards third parties and in court, either by asking, or by defending.

However, the contract may give quality to one or more managers to represent the grouping jointly or collegially. These clauses are only applicable to third parties if they relate to the general power of representation and are published in accordance with Article 74.

Art. 859

The grouping is bound by the acts performed by the managers, even if these acts exceed the object, unless it proves that the third party knew that the act exceeded that object or could not ignore it, given the circumstances, without the only publication of the statutes sufficient to form that evidence.

Art. 860

Managers are jointly and severally responsible for the grouping of faults committed by them in the fulfilment of their mission, even though they have divided their tasks. Their responsibility appreciates the mandate.

They shall jointly respond to third parties of any damage resulting from breaches of the provisions of this Code or contract.

They will not be discharged from their responsibility, as to the offences to which they have not taken part, unless they are responsible for any fault and have denounced these offences to the next assembly after they have been aware of them.

CHAPTER II. - The General Assembly of Members

Art. 861

All members of the group are the assembly. It meets at least once a year at the place and day provided by the contract. The convocations contain the agenda and are addressed to the members by registered letter to the post at least fifteen days before the meeting.

The meeting is mandatory at the request of a manager or member of the group.

Art. 862

Unless otherwise provided by the contract, the assembly shall have the widest powers to make any decision or perform any act necessary or useful to the realization of the object of the grouping.

It is, in any case, solely authorized to make any decisions regarding the modification of the constitutive contract, the admission or

Global Regulation  
exclusion of members, the early dissolution of the group or its extension, and to approve the annual accounts submitted to it by the members of the group in accordance with s. 866.

Art. 863

In any case where this Code does not provide that decisions must be made unanimously and without prejudice to section 850, the grouping contract may determine the terms and conditions of quorum and majority in which decisions or some of them will be taken. In the silence of the contract, the decisions will be taken unanimously.

Art. 864

The members of the group can only unanimously decide:

- 1° modify the object of the grouping;
- 2° change the number of votes assigned to each member;
- 3° amend the decision-making conditions;
- 4° extend the duration of the grouping beyond the term specified in the grouping contract;
- 5° modify the contribution of each member or some of them to the financing of the grouping;
- 6° amend any other obligation of a member unless the grouping contract otherwise provides;
- 7° make any modification of the grouping contract not referred to in this paragraph unless the contract otherwise provides.

Art. 865

Each member has a voice. The grouping contract may, however, assign several votes to some members according to the importance of their potential contributions, provided that none of them holds the absolute majority of votes.

Art. 866

Pursuant to Article 92, § 1<sup>er</sup>, annual accounts are subject to approval by the assembly. For this purpose, the documents referred to above are communicated to members at least 15 days before the date of the meeting.

Non-managing members have the right to know at the headquarters of the group for at least 15 days before the date of the assembly, books and documents and to obtain a copy thereof.

PART V. - Dissolution

Art. 867

The group is dissolved:

- 1° by the realization or extinction of its object;
- 2° by the arrival of the term for which the grouping is constituted;
- 3° by the decision of its members under the conditions provided for in Article 864;
- 4° by judicial decision at the request of a member when there is an intellect between members or groups of members that prevents the functioning of the bodies of the group, or for any other reason;
- 5° by the incapacity, death, dissolution, bankruptcy or resignation of a member of the group, unless the contract otherwise provides that the grouping remains between the other members on the terms and conditions determined by the contract or, failing that, by those members deliberating and ruling according to the rules relating to the amendments to the contract;
- 6° when it only includes one member.

Art. 868

The dissolution of a grouping may be pronounced, either at the request of any party having a legitimate interest, the public prosecutor being heard, or at the request of the public prosecutor, if the object or activity of the grouping is not in accordance with the provisions of Articles 840, 1° to 3°, 869 and 870.

PART VI. - Special prohibitions and requirements

Art. 869

In the case of a grouping of public or private credit companies, this grouping may not derogate from the requirements of the Act of 22 March 1993 relating to the status and control of credit institutions.

Art. 870

Without prejudice to the specific provisions applicable to them, national public credit institutions can only be members of a grouping through the agreement of national guardianship ministers.

Art. 871

Companies with a business council, members of a group, are required to provide their business council with information relating to the grouping of which they are members as defined in sections 5, 8, 11 and 14 of the Royal Decree of 27 November 1973 regulating the economic and financial information to be provided to the business councils.

PART VII. - Criminal provisions

Art. 872

Will be punished by imprisonment from one month to two years and a fine of three hundred francs to ten thousand francs or of one of these penalties only, the founders of a group constituted in violation of articles 839 and 840, 1° to 3°, and 870, as well as the members and the manager(s) who, during the existence of the group, contravene these provisions.

Art. 873

Will be punished by a fine of fifty francs to ten thousand francs:

- 1° the managers who would have neglected to summon, within three weeks of the requisition made to them, the assembly provided for in article 861;
- 2° those who contravene the provisions of articles 840, 4° and 841.

LIVRE XV

Miscellaneous and transitional provisions

You're the first. - Miscellaneous provisions

Art. 874

§ 1<sup>er</sup>. Articles 92, 94 to 96, 98, 100 to 102, 104 and 105, 143 and 144, 553 to 555, 616 to 619 and 624 of this Code are, notwithstanding any provisions to the contrary of the statutes, applicable to public legal persons constituted in the form of a commercial corporation.

§ 2. If, within a corporation of public law, a College of Commissioners shall be established comprising members designated as auditors and members not designated in that capacity, the provisions of this Code, relating to the Commissioners, shall apply, notwithstanding any provisions to the contrary of the statutes, to Commissioners appointed as auditors of business; they prepare a separate report.

These provisions do not apply to other commissioners unless the statutes expressly provide.

Art. 875

The King may adapt Articles 514 to 516, 534, 545 and 556 to the obligations arising from the directives of the Council of European  
Global Regulation  
to the extent that these are matters that the Constitution does not reserve to the legislator.

Art. 876

§ 1<sup>er</sup>. The King is entitled to replace the references in title IX of Book I of the Commercial Code or other legal or regulatory texts contained in this Code, contained in provisions of royal laws or orders, with references to this Code of Companies, with the help of the table of concordance set out in the annex.

§ 2. Until their adaptation by the King, the references in title IX of Book I of the Code of Commerce or to other legal or regulatory texts contained in this Code, contained in provisions of laws or royal decrees, must, using the table of concordance, annexed, be read as referring to the Code of Companies.

PART II. - Transitional provisions

Art. 877

Section 556 is not applicable to the rights conferred on third parties by 5 August 1991. However, the existence of these rights must be communicated to the first ordinary general assembly.

Art. 878

§ 1<sup>er</sup>. Article 632, § 2, is applicable to shares held on 5 August 1991 by an anonymous company with its head office in Belgium or to the shares of such a corporation that are held by a corporation on 5 August 1991 when the voting rights attached to it represent more than 10% of all the votes attached to the securities issued on that date.

§ 2. Where reciprocal participations within the meaning of Article 632 exist on 5 August 1991, the companies concerned shall agree with the provisions necessary to ensure that at least one of them reduces its participation to not more than 10%.

If no agreement is reached, the companies concerned must each reduce their participation to not more than 10% within one year from 5 August 1991.

In the absence of regular alienation within the prescribed time limits, the voting rights attached to the beneficiary shares or shares to be disposed of are suspended.

§ 3. When participations within the meaning of articles 627 and 631, §§ 1<sup>er</sup> and 4, exist on 5 August 1991, the companies concerned agree and within one year the necessary measures to comply with these provisions. In the absence of agreement on these measures among the companies concerned, this alienation must take place proportionally to the number of voting rights attached to the securities in possession of each of the companies concerned.

In the absence of regular alienation within the prescribed time limits, the voting rights attached to the beneficiary shares or shares to be disposed of are suspended.

The company, which, as of 5 August 1991, is a subsidiary corporation of another corporation, shall notify the latter within six months of the date of entry into force referred to above of the number and nature of the titles with the right to vote issued by the latter and which are in its possession, as well as any changes in that securities portfolio.

§ 4. By derogation from §§ 2 and 3, the percentages of participation referred to in Articles 631, § 1<sup>er</sup> Paragraph 1<sup>er</sup> and 632, and calculated in accordance with the Act of 2 March 1989 on the advertisement of significant participations in publicly traded companies and regulating public tenders, existing between a corporation that has made or publicly relied on savings and another corporation, are not the subject of the reductions set out in sections 631 and 632, provided that such participations have been communicated to the Banking and Financial Commission before 1<sup>er</sup> January 1996.

When participations within the meaning of Article 627 exist on 17 June 1995, the companies concerned agree, before 1<sup>er</sup> January 1997, the measures necessary to comply with this provision as it prohibits the companies concerned from holding, together with the issuing company, the securities of the latter company representing more than 10% of its equity.

In the absence of agreement, alienations are proportionate to the fraction of the capital corresponding to the securities held by each company.

For the application of articles 627 and 631, § 1<sup>er</sup> Paragraph 1<sup>er</sup>, the voting rights attached to the beneficiary shares or shares acquired before 4 December 1992 may be exercised until 1<sup>er</sup> January 1998, provided that, for all the companies concerned, they do not represent more than 10% of the voting rights attached to all the securities issued, including the securities held by the issuing company under section 620. »

CHAPTER III. - Amendments to certain necessary texts

by the introduction of the Corporate Code

Art. 3. Section 15, (b), of the Act of 20 September 1948 on the organization of the economy, as amended by the Act of 21 February 1985, is supplemented by the following paragraph:

"A business that may be considered small under the criteria set out in the Corporate Code is required to communicate to the Business Council, together with the annual accounts if established in a shorter format, the aggregated or omitted data from these accounts. "

Art. 4. Section 15bis of the Act, inserted by the Act of 21 February 1985, is replaced by the following provision:

"Art. 15bis. In each company where a board of business has been established pursuant to this Act, with the exception of subsidiated educational institutions, one or more corporate reviewers are designated.

The mission of these reviewers with respect to the board of business as well as their presentation, appointment, renewal, revocation and resignation are governed by sections 151 to 164 of the Corporate Code relating to control in companies where there is a board of business.

In the absence of a general meeting of the partners, the board of directors or, in the absence of the board, the head of business shall exercise the rights conferred by the provisions referred to in paragraph 2 to the General Assembly and fulfil the obligations imposed by the General Assembly. "

Art. 5. In the title of the Act of 17 July 1975 on accounting and annual accounts of enterprises, the words "and annual accounts" are deleted.

Art. 6. In Article 1<sup>er</sup> Paragraph 1<sup>er</sup>, 1°, of the same law, the words "and groups of economic interest" are deleted.

Art. 7. Sections 8 and 14 of the Act of 17 July 1975 on accounting and annual accounts of enterprises become sections 7 and 13.

Art. 8. It is inserted in the same law, instead of section 9, which becomes section 8, a new article 9 as follows:

"Art. 9. § 1<sup>er</sup>. Any company shall, at least once a year, with good faith and prudence, carry out the necessary survey, verification, review and evaluation operations to establish at the selected date a complete inventory of its assets and rights of any kind, its debts, obligations and commitments of any kind relating to its activity and the specific means that are allocated to it. The pieces of the inventory are transcribed in a book. The documents whose volume makes the transcription difficult are summarized in the book to which they are annexed.

§ 2. The inventory is ordered in the same way as the company's accounting plan.

The King may prescribe inventory assessment criteria.

The preceding paragraph is applicable to businesses referred to in Article 5. "

Art. 9. Section 10 of the Act, replaced by the Act of 24 March 1978, is replaced by the following provision:

"Art. 10. § 1<sup>er</sup>. The accounts are, after alignment with the inventory data, synthesized in a descriptive statement constituting the annual accounts.

§ 2. However, companies that are not subject to the Corporations Code and its enforcement orders are required to comply with them in the form, content, control and filing of annual accounts and management report.

The content and extent of their obligations are determined on the basis of the criteria for occupied personnel, annual turnover and total planned balance sheet for companies subject to the Corporate Code.

Annual accounts of public bodies referred to in Article 1<sup>er</sup> Paragraph 1<sup>er</sup>, 3°, of this Act shall be filed within seven months of the closing date of the fiscal year, even if the control and approval procedure to which the annual accounts are submitted, is not yet completed. In this case, it is explicitly reported that the procedure in question has not yet been completed.

This subsection does not apply:

1° to physical merchants referred to in Article 5;

2° to companies operating under Article 1<sup>er</sup> 4°, to which Chapter I is not declared applicable;

3° to enterprises referred to in Article 16, § 1<sup>er</sup>;

4° to insurance and reinsurance companies;

5° to branches and operating seats established in Belgium by foreign companies not subject to the Corporate Code, where these branches and trading seats do not have any specific products related to the sale of goods or the provision of services to third parties or to goods delivered or to services presumed to the foreign enterprise of which they report, and whose operating expenses are borne entirely by the latter;

6° to physical merchants, with regard to the filing of annual accounts and the management report. "

Art. 10. Section 11 of the Act, replaced by the Act of 1<sup>er</sup> July 1983 is replaced by the following provision:

"Art. 11. § 1<sup>er</sup>. Public bodies of Belgian law who carry out a statutory mission of a commercial, financial or industrial nature, except for companies referred to in Article 15, § 1<sup>er</sup>, of this Act, are required to comply with the Corporate Code and its Implementing Orders with respect to the form, content, control and filing of consolidated annual accounts and consolidated management report. The content and extent of their obligations are determined on the basis of the criteria for occupied personnel, annual turnover and total planned balance sheet for companies subject to the Corporate Code.

The King may extend the scope of the preceding paragraph to other companies than those referred to in Article 1<sup>er</sup>.

§ 2. The King may adapt and supplement the rules established under articles 4, 6, and 9, paragraphs 2, 10 and 11, § 1<sup>er</sup>, or foresee the exemption of all or part of these rules according to the size of enterprises, business branches or economic sectors. "

Art. 11 Section 13 of the Act becomes Article 12 of the Act, on the understanding that in paragraph 2 of this section, the words "section 7, paragraph 4, articles 10, 11, 1 and 3, and 12" are replaced by the words "section 9, § 2, articles 10 and 11".

Art. 12. Section 15 of the Act, as amended by the Act of 1<sup>er</sup> July 1983 becomes Article 14, on the understanding that the following amendments are made to this section:

1° in the first sentence the words "Article 7, paragraph 4, and Articles 10, 11 and 12" are replaced by the words "Article 9, § 2, Articles 10 and 11";

2° in the second sentence, the words "companies referred to in Article 12, § 2" are replaced by the words "societies and other companies that can be declared small in the sense that this term is understood in the Code of Societies".

Art. 13. Section 16 of the Act, replaced by the Act of 6 April 1995, becomes section 15, provided that the following amendments are made to this section:

1° in § 1<sup>er</sup>, the words "Article 5 and Articles 10 to 15, as well as the decrees taken pursuant to Article 4, paragraph 6, and Article 7, paragraph 4" are replaced by the words "Article 5 and Articles 10, 11 and 12 to 14 and the decrees taken pursuant to Article 4, paragraph 6, and Article 9, § 2";

2° in § 2, the words "Articles 5 and 12 are not applicable" are replaced by the words "Article 5 and Article 10, § 2, paragraph 2, are not applicable"; in paragraph 2, the words "Article 7, paragraph 4, Article 10, § 1<sup>er</sup>, Article 11, 2°" are replaced by the words "Article 9, § 2, Article 10, § 2, paragraph 1<sup>er</sup> Article 11, § 2.

Art. 14. Section 17 of the Act becomes section 16, provided that the following amendments are made to this section:

1° to paragraph 1<sup>er</sup> the words "Article 7, paragraph 4" and "Article 8, § 2" are replaced by the words "Article 9, § 2" and "Article 7, § 2".

2° in paragraph 2 the words "articles 5 and 7" and the words "articles 6, 8 and 9" are replaced respectively by the words "articles 5 and 9" and the words "articles 6, 7 and 8".

Art. 15. Article 2 of the Act of 12 July 1989 on various measures for the application of Council Regulation (EEC) No 2137/85 of 25 July 1985 on the establishment of a European economic group is replaced by the following provision:

"Art. 2. Subject to the provisions of the Regulation (EEC) n<sup>o</sup> 2137/85 of the Council of 25 July 1985 on the institution of a European group of economic interests, the rules governing, on the one hand, the contract of grouping, except for matters relating to the state and capacity of natural persons and the capacity of legal persons, on the other hand, the internal functioning of the grouping, as well as its liquidation and the closure of the liquidation, are those contained in the Code of Economic Interest concerning the Groups. "

#### CHAPTER IV. - Abrogatory Provisions - Transitional Provisions Entry into force - Jurisdiction

##### Section 1. - Abrogatory provisions

Art. 16. Book III, Title IX of the Civil Code is repealed.

Art. 17. Book I, title IX of the Trade Code is repealed.

Art. 18. Sections 15ter, 15quater and 15quinquies of the Act of 20 September 1948 on the organization of the economy are repealed.

Art. 19. to section 33 of the Act of 22 July 1953 creating an Institute of Business Reviewers are made the following amendments:

1° § 2 is deleted;

2° § 3 becomes § 2.

Art. 20. Sections 7, 12 and 17 bis of the Act of 17 July 1975 on accounting and annual accounts of enterprises are repealed.

Art. 21. The Act of 12 July 1979 establishing the agricultural company is repealed.

Art. 22. Articles 5, paragraph 2, 6, 7, 8, paragraph 1<sup>er</sup>, 2° and 3°, paragraph 2, second sentence, and paragraph 3, and 17bis of the Act of 2 March 1989 relating to the advertising of important participations in publicly traded companies and regulating public tenders are repealed.



Sections 5, paragraph 3, and 8, paragraph 2, first sentence, 4 and 5, of the Act of 2 March 1989 relating to the advertisement of significant stakes in publicly traded companies and regulating public tenders are repealed to the extent that they are applicable to companies referred to in section 515 of the Corporate Code.

Art. 23. The Economic Interest Groups Act of 17 July 1989 is repealed.

Section II. - Transitional provisions and entry into force

Art. 24. Existing companies are required to adapt their statutes to the Corporate Code within three years of the coming into force of the Corporate Code.

As long as the statutes are not adapted, any statutory clause referring to texts repealed by this Act or whose numbering has been amended by the Code of Societies shall be read as referring to the new number of these texts, using the table of concordance set out in the annex.

If the statutes are not adapted within the three-year period, any interested person may apply to the court for the dissolution of the society. The court may, where appropriate, grant the company a time limit to regulate its location.

Art. 25. This law comes into force on the date provided by the King and no later than eighteen months after its publication in the Belgian Monitor.

Section III. Attribution of skills

Art. 26. Royal decrees of execution of articles 15, § 6, 16, § 4, 92, § 1<sup>er</sup>, 93, 116, 117, § 1<sup>er</sup>, 122, 123 and 149 of the Corporate Code are taken on the proposal of the Minister who has the Economic Affairs in his or her powers and are also signed by the Minister of Finance, the Minister of Justice and the Minister who has the Average Classes in his or her powers.

Art. 27. The King may adapt the references of laws and royal decrees to the provisions of the Code of Societies using the table of concordance contained in the annex.

The King can also adapt the references to the "participation association" and the "time association" to the new terminology of the Code of Societies. The same applies to the new term "common law society".

Promulgate this law, order that it be clothed with the seal of the State and published by the Belgian Monitor.

Given in Brussels on 7 May 1999.

Brussels, 7 May 1999.

ALBERT

By the King:

Minister of Justice,

T. VAN PARYS

Seal of the state seal:

Minister of Justice,

T. VAN PARYS

Note

(1) See:

Documents of the House of Representatives:

- 1838 - 98/99:

- N<sup>bones</sup> 1-3: Bill.

- N<sup>bones</sup> 4 to 9: Amendments.

Report.

- No. 11: Text adopted by the commission.

- No. 12: Text adopted in plenary and transmitted to the Senate.

Annales de la Chambre : 31 mars et 1er avril 1999.

Document of the Senate:

1-1349 - 1998/1999:

- No. 1: Project transmitted by the House of Representatives.

- Number 2: Project not referred to by the Senate.

Annex 1

Contents of the Code of Societies

LIVRE I: Introductory provisions

Title I: Society and legal personality

Part II: Definitions

Chapter I. Companies listed

Chapter II. Control, parent companies and subsidiaries

Section I. Monitoring

Section II. Consortium

Section III. Related and associated companies

Section IV. Participation and participation link

Chapter III. Corporate and group dimensions

Section I. Small corporations

Section II. Small groups

Part III: General criminal provision

LIVRE II: Provisions common to all companies

Part I: General provisions

Part II: Commitments of the partners

Part III: Different ways the society ends

LIVRE III: The common law society, the momentary society and the internal society

Title I: Definitions

Part II: Evidence

Title III: Partner Responsibility

Part IV: Liquidation

LIVRE IV: Provisions common to legal persons governed by this Code

Part I: Provisions of Private International Law

Part II: Commitments on behalf of a training company





Part III: Groups  
 Chapter I. Corporate representation  
 Chapter II. Rules of deliberation and sanctions  
 Title IV: Company Name  
 Title V: Constitution and advertising formalities  
 Chapter I. Form of the constitutive act  
 Chapter II. Advertising forms  
 Section I. Belgian companies  
 Sub-section Ire. Advertising forms on the occasion of the constitution  
 Sub-section II. Other advertising formalities  
 Sub-section III. Opposability  
 Sub-section IV. Certain indications to be made in acts  
 Section II. Foreign companies with branches in Belgium  
 Sub-section Ire. Advertising forms during the opening of the branch  
 Sub-section II. Other advertising formalities  
 Sub-section III. Advertising procedure  
 Sub-section IV. Certain indications to be made in acts from branches  
 Section III. Foreign companies that publicly use savings in Belgium without a branch  
 Chapter III. Criminal provisions  
 Part VI: Annual accounts and consolidated accounts  
 Chapter I. Annual accounts, management report and advertising formalities  
 Section I. Annual accounts  
 Section II. Management report  
 Section III. Advertising forms  
 Sub-section Ire. Belgian companies  
 Sub-section II. Foreign societies  
 Chapter II. Consolidated accounts, management report and advertising  
 Section I. Scope  
 Section II. General: the obligation to consolidate  
 Section III. Consolidation factor and consolidated accounts  
 Section IV. Management report on consolidated accounts  
 Section V. Advertising forms  
 Chapter III. Royal Enforcement Orders of this Title and Exceptions  
 Chapter IV. Criminal provisions  
 Part VII: Control of annual and consolidated accounts  
 Chapter I. General control provisions  
 Section I. Appointment  
 Section II. Remuneration  
 Section III. Resignation and revocation  
 Section IV. Jurisdiction  
 Section V. Accountability  
 Chapter II. Annual accounts oversight  
 Chapter III. Consolidated accounts control  
 Section I. General regime  
 Section II. Royal Decrees on the Control of Consolidated Accounts  
 Chapter IV. Control in companies where there is a business council  
 Section I. Nature of control  
 Section II. Companies where a Commissioner is appointed  
 Section III. Companies where no Commissioner has been appointed  
 Section IV. Royal control orders in companies where there is a business council  
 Chapter V. Individual Investigation and Control Authority of Associates  
 Chapter VI. Auditors  
 Chapter VII. Criminal provisions  
 Title VIII: Procedure and effects of corporate nullities and decisions of the General Assembly  
 Chapter I. Procedure and effects of corporate nullity and conventional amendments to corporate acts  
 Chapter II. Procedure and effects of nullity of decisions of the General Assembly  
 Part IX: Dissolution and liquidation  
 Chapter I. Proposal for liquidation  
 Chapter II. The judicial dissolution of societies that are no longer active  
 Chapter III. liquidation  
 Chapter IV. Criminal provision  
 Part X: Actions and requirements  
 LIVRE V: The partnership and the limited partnership  
 Title I: Definitions  
 Part II: Responsibilities  
 Title III: Setting shares  
 LIVRE VI: Limited liability private company  
 Title I: Nature and qualification  
 Title II: Constitution  
 Chapter I. Amount of capital  
 Chapter II. Subscription of capital  
 Section I. Total subscription  
 Section II. In kind

# Global-Regulation

Section III. Transfers of securities  
 Section III. Transfers of securities  
 Chapter III. Release of capital  
 Chapter IV. Constitution forms  
 Chapter V. Nullity  
 Chapter VI. Responsibilities  
 Part III: Titles and their transfer  
 Chapter I. General provisions  
 Chapter II. Shares  
 Section I. General provisions  
 Section II. Non-voting shares  
 Chapter III. Certificates  
 Chapter IV. Obligations  
 Chapter V. Transfers of securities  
 Section I. Transfer in general  
 Section II. Loss of parts between  
 Section III. Transmission of parts because of death  
 Section IV. Transfer of bonds  
 Part IV: Organs  
 Chapter I. Management and representation bodies  
 Section I. Status of managers  
 Section II. Competence and operation  
 Section III. Responsibilities  
 Chapter II. General Assembly of Associates  
 Section I. Common provisions  
 Sub-section Ire. Jurisdiction  
 Sub-section II. Convening of the General Assembly  
 Sub-section III. Participation in the General Assembly  
 Sub-section IV. General Assembly  
 Sub-section V. Procedures for the exercise of the right to vote  
 Section II. General Assembly  
 Section III. Special General Assembly  
 Sub-section Ire. Amendment of statutes in general  
 Sub-section II. Modification of the social object  
 Sub-section III. Change in title rights  
 Chapter III. Social action and minority action  
 Section I. Social action  
 Section II. Minority action  
 Chapter IV. General Assembly of bonds  
 Section I. Jurisdiction  
 Section II. Convening of the General Assembly  
 Section III. Participation in the General Assembly  
 Section IV. General Assembly  
 Section V. Methods of exercising the right to vote  
 Part V: Capital  
 Chapter I. Capital increase  
 Section I. Common provisions  
 Section II. Increase in capital by cash flows  
 Sub-section Ire. Right of preference  
 Sub-section II. Release of cash contributions  
 Section III. Increase in capital by in-kind contributions  
 Section IV. Responsibilities  
 Chapter II. Capital reduction  
 Chapter III. Maintenance of social capital  
 Section I. Recipient distribution  
 Sub-section Ire. Establishment of a reserve fund  
 Sub-section II. Distributable benefits  
 Section II. Acquisition of own shares or certificates  
 Sub-section Ire. Conditions of acquisition  
 Sub-section II. Exit of acquired shares or certificates  
 Sub-section III. Statements in social documents  
 Sub-section IV. Financing the acquisition of shares or certificates by a third party  
 Sub-section V. Gage take-off of own shares or certificates  
 Sub-section VI. Purchase of voting shares without the right to vote  
 Section III. Social losses  
 Part VI: The internal conflict resolution procedure  
 Chapter I. Exclusion  
 Chapter II. Withdrawal  
 Chapter III. From publication  
 Part VII: Duration and Dissolution  
 Part VIII: Criminal provisions  
 LIVRE VII: Cooperative society  
 Title I: Provisions common to all cooperative societies  
 Chapter I. Nature and qualification

# Global Regulation

Chapter I. Nature and qualification  
 Chapter II. Constitution  
 Section I. Total subscription  
 Section II. Disclaimer of the act of society  
 Chapter III. Titles and their transfer  
 Section I. General statements  
 Section II. Transfer of shares  
 Chapter IV. Changes in the composition of society and the social fund  
 Section I. Changes in the composition of society  
 Section II. Refund of shares  
 Section III. Changes in the liberation of capital  
 Chapter V. Organs and oversight  
 Section I. Management  
 Section II. General Assembly of Associates  
 Section III. Monitoring  
 Chapter VI. Duration and dissolution  
 Chapter VII. Criminal provisions  
 Part II: Provisions specific to the limited liability cooperative corporation  
 Chapter I. Constitution  
 Section I. Fixed share and variable share of capital  
 Section II. Subscription of capital  
 Sub-section Ire. General provision  
 Sub-section II. In kind  
 Sub-section III. Quasi-apport  
 Section III. Release of capital  
 Section IV. Constitution forms  
 Section V. Nullity  
 Section VI. Responsibilities  
 Chapter II. Organs  
 Section I. Representation powers  
 Section II. Responsibilities  
 Section III. General Assembly of Associates  
 Sub-section Ire. Information of partners  
 Sub-section II. General Assembly  
 Sub-section III. Modification of the social object  
 Sub-section IV. Extension of the General Assembly  
 Section IV. Social action and minority action  
 Sub-section Ire. Social action  
 Sub-section II. Minority action  
 Chapter III. Capital  
 Section I. Capital increase  
 Section II. Decrease in the fixed share of capital  
 Section III. Maintaining capital  
 Sub-section Ire. Refund of the share value  
 Sub-section II. Recipient distribution  
 Sub-section III. Financing the purchase of own shares by third parties  
 Sub-section IV. Social losses  
 Chapter IV. Criminal provisions  
 Part III: Change in the responsibility of partners in a cooperative society  
 LIVRE VIII: Anonymous society  
 Title I: Nature and qualification  
 Title II: Constitution  
 Chapter I. Amount of capital  
 Chapter II. Subscription of capital  
 Section I. Total subscription  
 Section II. In kind  
 Section III. Quasi-apport  
 Chapter III. Release of capital  
 Chapter IV. Constitution forms  
 Section I. Procedures of incorporation  
 Section II. Disclaimer of the act of society  
 Chapter V. Nullity  
 Chapter VI. Responsibilities  
 Part III: Titles and their transfer  
 Chapter I. General provisions  
 Chapter II. The form of titles  
 Section I. Named titles  
 Section II. Carrier titles  
 Section III. Dematerialized titles  
 Chapter III. Different categories of titles  
 Section I. Shares  
 Sub-section Ire. Shares in general  
 Sub-section II. Actions without the right to vote  
 Section II. Recipient shares

# Global Regulation

Section II. Recipient shares  
 Section III. Recipient shares  
 Sub-section Ire. Fixed condition  
 Sub-section II. Premium obligations  
 Sub-section III. Convertible bonds  
 Sub-section IV. Mortgage bonds  
 Section IV. Subscription rights  
 Section V. Certificates  
 Chapter IV. Transfers of securities  
 Section I. Transfer in general  
 Section II. Legal restrictions on securities negotiability  
 Section III. Conventional restrictions on trade in securities  
 Section IV. Forced transfer of securities  
 Section V. Major participation advertising  
 Part IV: Organs  
 Chapter I. Administration and Daily Management  
 Section I. Board of Directors  
 Sub-section Ire. Professional status  
 Sub-section II. Competence and operation  
 Section II. Daily management  
 Section III. Overcoming the social object  
 Section IV. Responsibilities  
 Chapter II. General Meeting of Shareholders  
 Section I. Common provisions  
 Sub-section Ire. Jurisdiction  
 Sub-section II. Convening of the General Assembly  
 Sub-section III. Participation in the General Assembly  
 Sub-section IV. General Assembly  
 Sub-section V. Methods of exercising the right to vote  
 Section II. General Assembly  
 Section III. Special General Assembly  
 Section IV. Special General Assembly  
 Sub-section Ire. Amendment of statutes in general  
 Sub-section II. Modification of the social object  
 Sub-section III. Change in title rights  
 Chapter III. Social action and minority action  
 Section I. Social action  
 Section II. Minority action  
 Chapter IV. From the General Assembly of Bonds  
 Section I. Jurisdiction  
 Section II. Convening of the General Assembly  
 Section III. Participation in the General Assembly  
 Section IV. General Assembly  
 Section V. Methods of exercising the right to vote  
 Part V: Capital  
 Chapter I. Capital increase  
 Section I. Common provisions  
 Section II. Increase in capital by cash flows  
 Sub-section Ire. Right of preference  
 Sub-section II. Derogations to the right of preference  
 Sub-section III. Release of cash contributions  
 Section III. Increase in capital by in-kind contributions  
 Section IV. Authorized capital  
 Sub-section Ire. Principles  
 Sub-section II. Limitations  
 Sub-section III. Information in the management report  
 Section V. Staff capital increase  
 Section VI. Responsibilities  
 Chapter II. Capital reduction  
 Chapter III. Capital amortization  
 Chapter IV. Maintaining capital  
 Section I. Recipient distribution  
 Sub-section Ire. Establishment of a reserve fund  
 Sub-section II. Distributable benefits  
 Sub-section III. Dividend deposit  
 Sub-section IV. Sanction  
 Section II. From the acquisition of own securities  
 Sub-section Ire. Acquisition of equity by the anonymous company itself  
 Sub-section II. Purchase of securities of an anonymous company by a directly controlled subsidiary company  
 Sub-section III. Financing by an anonymous company of the acquisition of its securities by a third party  
 Sub-section IV. Clean title pledge  
 Section III. Cross-cutting participations  
 Section IV. Losses of social capital

Part VI: The internal conflict resolution procedure  
 Chapter I. Resolution  
 Chapter II. Exclusion  
 Chapter III. Withdrawal  
 Chapter IV. From publication  
 Part VII: Duration and Dissolution  
 Part VIII: Criminal provisions  
 LIVRE IX: The company sponsored by shares  
 LIVRE X: Societies with Social Purpose  
 Chapter I. Nature and qualification  
 Chapter II. Rules specific to the capital of a society with a social purpose  
 Chapter III. Transformation of a non-profit association into a society with a social purpose  
 LIVRE XI: Corporate restructuring  
 Title I: Introductory provision and definitions  
 Chapter I. Introductory provision  
 Chapter II. Definitions  
 Section I. Mergers  
 Section II. Scissions  
 Section III. Similar operations  
 Section IV. Universality or business branch contributions  
 Part II: The regulation of mergers, scissions and similar operations  
 Chapter I. Common provisions  
 Section I. Merging or splitting companies in liquidation or bankruptcy  
 Section II. Effects of fusion or splitting  
 Section III. Opposability of merger or split  
 Section IV. Setting security rights  
 Section V. Accountability  
 Section VI. Nullity of fusion or split  
 Chapter II. Procedure to be followed when merging companies  
 Section I. Procedure for absorption fusion  
 Section II. Merger procedure by constitution of a new corporation  
 Section III. Procedure for transactions similar to the merger of companies  
 Chapter III. Procedure for corporate splitting  
 Section I. Procedure for absorption split  
 Section II. Scission procedure by constitution of new companies  
 Section III. Mixed split procedure  
 Part III: Universality or business branch contributions  
 Chapter I. Procedure  
 Chapter II. Effects  
 Chapter III. Opposability  
 Chapter IV. Setting security rights  
 Chapter V. Accountability  
 Chapter VI. Intake by a physical person  
 Chapter VII. Sanction  
 Title IV: Disposals of universality and branch of activity  
 Title V: Exceptional provisions  
 Part VI: Criminal provisions  
 LIVRE XII: The transformation of societies  
 Title I: Introductory provisions  
 Title II: Formalities Prior to the Transformation of a Society  
 Part III: Transformation Decision  
 Title IV: Responsibilities for Transformation  
 Title V: Disposition specific to society in collective name  
 Part VI: Criminal provisions  
 LIVRE XIII: The agricultural company  
 Title I: Nature and qualification  
 Title II: Constitution and formation of capital  
 Part III: Titles and their transfer  
 Chapter I. Social shares  
 Chapter II. Transfer of shares  
 Part IV: Organs and oversight  
 Chapter I. Management and representation  
 Chapter II. General Assembly of Associates  
 Chapter III. Monitoring  
 Part V: Recipient Distribution  
 Part VI: Dissolution  
 Part VII: Miscellaneous provisions  
 LIVRE XIV: The economic interest group  
 Title I: Nature and qualification  
 Title II: Constitution  
 Title III: Withdrawals and Exclusions  
 Part IV: Management and representation  
 Chapter I. Managers



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