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## Swiss Stock Corporation vs. Swiss Limited Liability Company

Many entrepreneurs who intend to establish a business in Switzerland at some point face the question of what legal form they prefer for their Swiss company.

To facilitate this decision please find below a brief schedule comparing the Swiss Stock Corporation (limited by shares) to the Swiss Limited Liability

Company. This schedule identifies the fundamental criteria of each of these two somehow similar – yet substantially different – legal forms.

	Stock Corporation	Limited Liability Company
<b>Incorporation</b>	<ul style="list-style-type: none"> <li>– public deed</li> <li>– at least 1 corporate or individual founder</li> <li>– entry in the commercial register is constitutive</li> </ul>	<ul style="list-style-type: none"> <li>– public deed</li> <li>– at least 1 corporate or individual founder</li> <li>– entry in the commercial register is constitutive</li> </ul>
<b>Share Capital</b>	<ul style="list-style-type: none"> <li>– minimum: CHF 100,000.–</li> <li>– maximum: no limits</li> </ul>	<ul style="list-style-type: none"> <li>– minimum: CHF 20,000.–</li> <li>– maximum: no limits</li> </ul>
<b>Capital Structure</b>	<ul style="list-style-type: none"> <li>– registered shares</li> <li>– participation certificates (non-voting shares with nominal value)</li> <li>– minimal nominal value: CHF 0.01</li> </ul>	<ul style="list-style-type: none"> <li>– at least one share per shareholder</li> <li>– minimal nominal value per share: CHF 100.–</li> </ul>
<b>Minimum Contribution (in Cash or in Kind)</b>	<ul style="list-style-type: none"> <li>– 20% of the share capital, but at least CHF 50,000.–</li> </ul>	<ul style="list-style-type: none"> <li>– 100% of the share capital</li> </ul>
<b>Duties of Shareholders</b>	<ul style="list-style-type: none"> <li>– obligation to pay, i.e. obligation of the shareholder to pay the issue amount of the share(s) subscribed by him/her/it</li> <li>– obligation to notify the beneficial owner of the shares when acquiring at least 25% of the share capital or voting rights</li> <li>– possibility of introducing further contractual shareholder obligations through a shareholders' agreement</li> </ul>	<ul style="list-style-type: none"> <li>– obligation to pay, i.e. obligation of the shareholder to pay the issue amount of the share(s) subscribed by him/her/it</li> <li>– obligation to notify the beneficial owner of the shares when acquiring at least 25% of the share capital or voting rights</li> <li>– personal duties of shareholders (e.g. fiduciary duty and non-competition undertaking)</li> <li>– possibility of introducing further contractual shareholder obligations through a shareholders' agreement</li> </ul>

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	Stock Corporation	Limited Liability Company
<b>Transfer of Shares</b>	<ul style="list-style-type: none"> <li>- principle of free transferability</li> <li>- statutory restrictions on transferability are possible for both registered shares and participation certificates</li> <li>- further contractual restrictions on transferability are possible in a shareholders' agreement</li> </ul>	<ul style="list-style-type: none"> <li>- principle of statutory restricted transferability</li> <li>- consent of at least <math>\frac{2}{3}</math> of the votes represented at the meeting and an absolute majority of the entire nominal capital</li> <li>- the shareholders' meeting may refuse consent without giving reasons</li> <li>- obligation of assignment in written form; possibly amendment of the articles of association</li> <li>- contract of assignment must name statutory rights and duties</li> <li>- withdrawal for valid reasons</li> <li>- registration at the commercial register</li> </ul>
<b>Organisation</b>	<ul style="list-style-type: none"> <li>- shareholders' meeting</li> <li>- board of directors</li> <li>- auditors (opting out if all shareholders agree and less than 10 full-time employees in a year on average)</li> </ul>	<ul style="list-style-type: none"> <li>- shareholders' meeting</li> <li>- managing officers</li> <li>- auditors (opting out if all shareholders agree and less than 10 full-time employees in a year on average)</li> </ul>
<b>Management</b>	<ul style="list-style-type: none"> <li>- board of directors</li> <li>- managing officers (optional)</li> <li>- members of the board of directors and managing officers do not necessarily have to be shareholders</li> </ul>	<ul style="list-style-type: none"> <li>- all shareholders together, or</li> <li>- one or several individual shareholder(s) (optional), or</li> <li>- managing officers which are not shareholders at the same time (optional)</li> </ul>
<b>Residence Requirements</b>	<ul style="list-style-type: none"> <li>- at least one member of the board of directors, managing officer or signatory with sole signature power for the company (or two with joint signature power) must be a Swiss resident</li> </ul>	<ul style="list-style-type: none"> <li>- at least one managing officer or signatory with sole signature power for the company (or two with signature power jointly by two) must be a Swiss resident</li> </ul>
<b>Liability</b>	<ul style="list-style-type: none"> <li>- only the business assets</li> </ul>	<ul style="list-style-type: none"> <li>- only the business assets, unless the articles of association explicitly provide for additional contributions of shareholders</li> </ul>
<b>Anonymity</b>	<ul style="list-style-type: none"> <li>- no public disclosure of shareholders in the commercial register</li> </ul>	<ul style="list-style-type: none"> <li>- public disclosure of each shareholder with name, hometown/nationality, place of residence and shareholding in the commercial register</li> </ul>

	Stock Corporation		Limited Liability Company	
	Advantage	Disadvantage	Advantage	Disadvantage
<b>Initial Capital</b>		– CHF 100,000.–	– CHF 20,000.–	
<b>Minimum Contribution</b>		– at least 20 % of the share capital and at the same time at least CHF 50,000.–	– CHF 20,000.–	
<b>Nominal Value of Each Share</b>	– at least CHF 0.01			– at least CHF 100.–
<b>Capital Increase</b>	– ordinary, authorized and conditional share capital increase possible		– only ordinary share capital increase possible	– no authorized and conditional share capital increase possible
<b>Duties of the Shareholders</b>	– only duty to pay in capital contribution		– non-compete possible (if foreseen in the articles of association)	– duty of loyalty of shareholders
<b>Subsequent Financial Contribution of Shareholders</b>	– none	– none	– subsequent contribution possible (if foreseen in articles of association)	
<b>Ancillary Duties</b>	– none	– none	– establishment of ancillary obligations possible, provided they are related to the company's purpose, to the maintenance of the company or to the preservation of the circle of shareholders (must be foreseen in the articles of association)	
<b>Right to Information and Inspection</b>	– right to inspect the annual report and to ask questions to the board of directors at the general shareholders' meeting		– without auditor: full information and inspection rights – with auditor: information and inspection rights to the extent the shareholder has legitimate interest	

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	Stock Corporation		Limited Liability Company	
	Advantage	Disadvantage	Advantage	Disadvantage
<b>Transfer of Shares</b>	<ul style="list-style-type: none"> <li>– simple transfer of shares possible if no statutory restrictions of transferability exist</li> </ul>			<ul style="list-style-type: none"> <li>– transfer is more time-consuming, as the shareholders' meeting must approve the transfer and every transfer of shares must be entered in the commercial register</li> </ul>
<b>Field of Application</b>	<ul style="list-style-type: none"> <li>– big corporations: high number of shareholders</li> <li>– anonymity: More investor-friendly company form due to the non-existing publication obligation of the shareholder structure in the commercial register</li> <li>– limitation of liability</li> </ul>	<ul style="list-style-type: none"> <li>– high administrative costs</li> </ul>	<ul style="list-style-type: none"> <li>– duty of shareholders to subsequent contributions and ancillary duties</li> </ul>	<ul style="list-style-type: none"> <li>– strongly individualistic</li> <li>– suitable for a small number of shareholders</li> <li>– investor-unfriendly company form due to the publicity of the shareholders in the commercial register</li> </ul>
<b>Anonymity</b>	<ul style="list-style-type: none"> <li>– shareholders are not published in the commercial register</li> </ul>			<ul style="list-style-type: none"> <li>– shareholders are published in the commercial register</li> </ul>



CHECKLIST AS PDF:

<https://www.wengervieli.ch/en-us/publications?typ=checklist>

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