

ESTABLISHMENT OF AN LLC (OOO) IN RUSSIA

Lear more about the most common
legal form in Russia

INTRODUCTION

When establishing your own business in Russia, the first question is what legal form to choose. Most common legal forms for a foreign business in Russia are: representative office, branch or a limited liability company (LLC; in Russian Obschestvo s Ogranichenoy Otvetstvennostyu or OOO). This guide explains what of these legal forms is most suitable for your Russian project and provides a general overview of the key issues required to start business in Russia (in the form of an LLC).

Please consult your lawyer for detailed legal advice.

WHAT LEGAL FORM IS THE BEST?

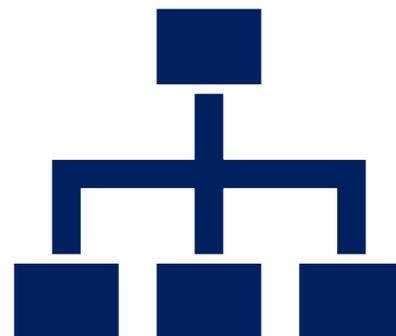
Both a **representative office** and a branch are separate permanent subdivisions (integral parts) of its parent company and are not separate legal entities. A representative office is entitled to represent the interests of its parent company, including marketing and advertising, setting up contacts, public relations etc.

A **branch** may perform all function of a representative office as well as carry out commercial activities. Being a part of the parent company, a branch performs commercial activities on its behalf. In other words, all contracts are concluded by the branch exclusively on behalf of the parent company.

The disadvantage of a branch or a representative office is that the parent company is fully liable to Russian contractors and state authorities for all activities of the branch or a representative office.

If you plan to be commercially active in Russia, then the liability of the parent company shall be limited.

A Russian **limited liability company** (LLC) is a separate legal entity. It may be engaged in any legal activities. Just like in Europe, the shareholders of an LLC are liable with their shares only. The limited liability of the parent company as the shareholder of an LLC is the big advantage of an LLC compared to a branch or a representative office.



ESTABLISHMENT OF A LIMITED LIABILITY COMPANY IN RUSSIA

Unlike in Europe, an LLC is considered to be established only when registered by the tax authority in Russian companies' register (Unified State Register of Legal Entities). Prior to that moment, an LLC may not enter into transactions or be active in another way.

After the registration an LLC is attributed with two identification numbers – “OGRN” (main **state registration number**) and “INN” (**individual taxpayer's number**). Subsequently, the bank account shall be opened and a stamp (if necessary) produced. Only then an LLC becomes operational.

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SHAREHOLDERS



An LLC may have maximum 50 shareholders. If this number is exceeded, an LLC shall be converted into a joint-stock company.

A foreign company may be a shareholder of an LLC. A foreign parent company may not hold 100% of the shares in the LLC if the parent company itself has only one shareholder – the so-called "prohibition of grandchildren". A second shareholder (a legal entity or a person) shall be introduced into the LLC in this case. A minor participation of the second shareholder (for example, 0.1% or 0.01%) is sufficient.

NAME OF THE COMPANY

The name of an LLC shall be chosen at the moment of its establishment. It should be noted that the use of terms like "Russian Federation", "Russia", official names and derived terms is subject to strict licensing. The use of individual city names may also be subject to authorization and fees. It is common that the name of a Russian subsidiary includes the name of its parent company (for example, "Parent Company Rus" OOO or "Parent Company Eurasia" OOO).

REGISTERED ADDRESS

Every company in Russia shall have a registered legal address – in other words, lease or buy real estate and register there its address. The legal address serves as a primary contact address of the company required to communicate with state authorities and counterparties. Both tax authorities and banks treat this issue very strict. The legal address shall be communicated to the tax authority for the registration of an LLC. In order to confirm a legal address, the landlord shall issue a guarantee letter and a copy of its real estate ownership certificate. The registration of an LLC will be rejected should the LLC have no or a fake legal address.



SHARE CAPITAL

The minimum share capital of an LLC is 10,000 RUB (approx. EUR 150) and must be paid in full by its shareholders within four months after the LLC is registered. It is recommended to transfer the whole amount at once. To signal the seriousness of the project, it is advisable to have a larger share capital.

MANAGEMENT AND REPRESENTATION



The mandatory organs of a Russian limited liability company are:

- shareholders' meeting (or a sole shareholder) and
- a general director (single executive body).

The position of a general director corresponds to that of the managing director in Europe. The general director manages the day-to-day business of the company. For any violations of the law by the LLC, the general director is mostly liable personally.

Control mechanisms such as the four-eyes principle are already provided under Russian law since 2014. However, the distribution of powers between two or more general directors is not possible, all general directors will be entitled to represent the company on all issues.

The power of the general director to represent the company is not limited. However, some transactions entered into by the general director on behalf of the company may be subject to approval by its shareholders as requested by the company's articles of association. If not approved, such transactions may be declared null and void by a court order. However, same as in Europe, the counterparty to the transaction should have known about the need to approve the transaction, otherwise the transaction will be declared valid. Thus it is advisable to inform contractors and banks of any limitations of the general director's powers (a copy of the company's articles of association will be enough).

Considering the broad powers of a general director, this position shall be occupied by a trustworthy person. It could be also advisable to transfer the powers of a general director to a professional manager or a management company.

The general director's term of office shall be specified in the articles of association of the Company.

The general director is an employee of the company subject to Russian labor law and shall have an employment contract. However, unlike a normal Russian employee, a general director may be dismissed any time - with a compensation of at least three-monthly salaries.

A foreign citizen may be nominated as a general director of a Russian company. A work permit is required in this case. The application for a work permit shall be signed by a Russian general director. Therefore, at the time of a company's establishment, a general director with Russian citizenship must be appointed to apply for the work permit for the next foreign general director.

The issuance of the work permit takes about three months. Our firm can take over the position of a general director of your Russian company for a period required to arrange all formalities.

SHAREHOLDERS' AGREEMENT

If a joint venture with Russian partners is planned, it is highly advisable to elaborate and sign a shareholder's agreement. This agreement will regulate in detail the management, share transfer procedures, profit distribution as well as many other issues vital to avoid corporate conflict.

ESTABLISHMENT DECISION

The shareholders' resolution on the establishment of the company is mandatory for its registration and shall generally contain the following:

- information on shareholders and their shares;
- shareholders' decision on the establishment of the company, approval of its name, registered address and share capital;
- terms and conditions of shares' payment;
- approval of articles of association;
- election of a general director;
- other issues (for example, approval of an external auditor).

If the company has two or more shareholders, they shall also sign a formal foundation agreement on their cooperation during foundation and registration of the company.



ARTICLES OF ASSOCIATION

The articles of association is a constitutional document of the company and shall contain the following:

- company's name - complete and abbreviated versions;
- location of the company (the indication of a city within Russian Federation is sufficient);
- powers and structure of the management bodies, voting procedures;
- rights and obligations of shareholders;
- share transfer procedures;
- storage of company' documents and their provision to interested parties;
- other issues.



REGISTRATION OF THE COMPANY

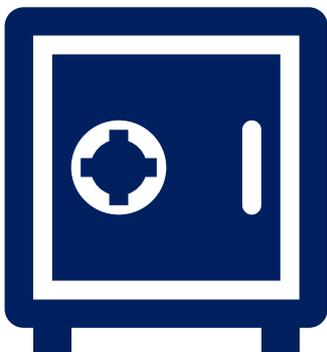
The registration application shall be signed by each shareholder (its managing director) personally in front of a notary. Signing by a power of attorney is not allowed. If the application is signed in front of a foreign notary, an apostille and its translation are required.

After the application is filed to the competent tax authority, the registration of an LLC takes five business days.

Registration of an LLC in other authorities (Pension Fund, Statistics Authority) is carried out automatically simultaneously with the registration in the tax authority.



OPENING BANK ACCOUNTS



After the registration, the bank accounts of the company shall be opened.

It is possible that (i) the power to sign bank orders is attributed to one person (for example, to the general director of the Company) or (ii) it is distributed among several persons who will be entitled to act solely or jointly. It is advisable to use the second option to implement the four-eyes control principle with regard to corporate financial issues. All persons authorized to sign bank orders on behalf of the company shall be its employees.

The same applies to online-banking. However, in some banks it is possible that the online-signature is used by a non-employee of the LLC (for example, by a financial officer of the parent company).

The bank thoughtfully controls the powers of the signatories. For example, if the powers of a general director expired, all payments will be suspended until the powers are extended or a new general director is appointed.

REQUIRED DOCUMENTS AND INFORMATION

The following documents and information are generally required to start the establishment of a Russian limited liability company:

- power of attorney, with notarization and apostille – from each shareholder;
- trade register extract (not older than three months) and articles of association, with notarization and apostille – from each shareholder that is a legal entity;
- foreign passport copy - from each shareholder that is a person;
- guarantee letter from the landlord and a copy of its real estate certificate;
- name of the LLC;
- fields of LLC's activities.



IMPORTANT NOTE

This guide has been drawn up to the best of our knowledge and belief and only applies to orientation with regard to the establishment of a LLC in Russia. It does not replace legal advice in individual cases.

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