

COMPARISON OF THE LEGAL NATURE OF THE CHARTER CAPITAL IN LIMITED LIABILITY PARTNERSHIPS AND PRIVATE COMPANIES IN THE ASTANA INTERNATIONAL FINANCIAL CENTRE

(information valid as of 7 July 2025)

We continue our series of publications addressing legal aspects of doing business in the Astana International Financial Centre (hereinafter, the **"AIFC"**).

In this publication, we would like to focus in more detail on the legal nature of charter capital in the context of current practical issues of corporate and currency regulation that arise in the course of operations of private companies established under the AIFC jurisdiction. Of particular interest is a comparison of this regulatory framework with the approaches applied to limited liability partnerships. These two legal forms have been selected due to their practical relevance and predominant use in the legal systems of the Republic of Kazakhstan (hereinafter, the **"RK"**) and the AIFC, respectively.

Regulatory Framework

Let us begin by outlining the key legal acts and terminology. The primary acts applicable in the AIFC include the AIFC Constitutional Statute¹, the AIFC Companies Regulations² (hereinafter, the **"Regulations"**), the AIFC Companies Rules³ (hereinafter, the **"Rules"**), and the AIFC Currency Regulation Rules⁴.

In the general jurisdiction of the RK, the main legislative acts include the Civil Code⁵, the Entrepreneurial Code⁶, the Law on State Registration⁷, the Registration Rules⁸, the Law on

¹ Constitutional Law of the RK "On the Astana International Financial Centre" dated 7 December 2015 No. 438-V ZRK (as amended and supplemented as of 1 April 2023) (hereinafter – the "AIFC Constitutional Law").

² AIFC Companies [Regulations](#) No. 2 dated 20 December 2017 (as amended on 14 October 2024, effective from 1 January 2025).

³ AIFC Companies [Rules](#) (COR) No. GR0004 dated 29 December 2017 (as amended on 22 September 2024, effective from 1 January 2025).

⁴ AIFC [Rules](#) on Currency Regulation and Provision of Information on Currency Transactions in the AIFC No. 6 dated 10 November 2021 (as amended on 15 February 2024) (hereinafter – the **"AIFC Currency Regulation Rules"**).

⁵ Civil Code of the RK (hereinafter – the **"Civil Code"**) – General Part adopted by the Supreme Council of the RK on 27 December 1994 (as amended and supplemented as of 10 June 2025).

⁶ Entrepreneurial Code of the RK (hereinafter – the **"Entrepreneurial Code"**) dated 29 October 2015 No. 375-V ZRK (as amended and supplemented as of 10 June 2025).

⁷ Law of the RK "On State Registration of Legal Entities and Record Registration of Branches and Representative Offices" (hereinafter – the **"Law on State Registration"**) dated 17 April 1995 No. 2198 (as amended and supplemented as of 7 January 2025).

⁸ Rules for the Provision of Public Service "State Registration of Legal Entities, and Record Registration of Their Branches and Representative Offices," approved by Order of the Minister of Justice of the RK dated 29 May 2020 No. 66 (Appendix 4) (hereinafter – the **"Registration Rules"**).

Limited Liability Partnerships⁹, the Law on Business Partnerships¹⁰, the Law on Currency Regulation¹¹, the Rules for Conducting Foreign Currency Transactions¹², and the Rules for Monitoring Currency Transactions¹³.

Legal Nature of Shares / Participation Interests

According to paragraph 4 of Article 3 of the LLP Law, a limited liability partnership (hereinafter – “LLP”) is defined as a partnership established by one or more persons, the charter capital of which is divided into participation interests of specific sizes determined by the founding documents. The participants of an LLP are not liable for its obligations and bear the risk of losses related to the LLP’s activities within the limits of the value of their contributions. Exceptions to this rule are provided by the Civil Code and the LLP Law. Participants who have not fully paid their contributions to the charter capital bear joint and several liability for the LLP’s obligations in the amount of the unpaid portion of each participant’s contribution (paragraph 4 of Article 2).

According to paragraph 2 of Article 35 of the AIFC Companies Regulations, a Private Company (hereinafter – “LTD”) means a limited liability company (translated on the AIFC website as “a company limited by shares”¹⁴). An LTD must have at least one shareholder (paragraph 1 of Article 26). The obligations of the company are the obligations of the company itself, not of its shareholders, except where expressly provided in the AIFC Companies Regulations (Article 12). A shareholder’s liability is limited to the amount unpaid on the shares held by that shareholder (paragraph 1 of Article 35).

Under the definition provided in Schedule 1 to the Regulations, a share represents an ownership interest in the charter capital of the company, regardless of its class. In addition, unlike shares of a joint-stock company, the shares of an LTD do not require the issuance of a prospectus, do not need to be registered with an authorized body, and are not subject to recording with the Central Securities Depository.

Thus, it is evident that both legal forms share a common feature – limited liability of participants (shareholders), and the shares of an LTD are analogous to participation interests in the charter capital of an LLP.

According to Article 42 of the AIFC Companies Regulations, the legal nature of shares in an LTD is as follows:

- (a) Subject to the articles of association and the terms of issue, each share must carry voting rights at general meetings, represent a proportionate ownership interest in the company, and, if fully paid, be classified under a certain class or category, and in all respects be equal to other shares of the same class.

By comparison, in an LLP, a participation interest grants the right to attend and vote at the general meeting (paragraph 2 of Article 42 of the LLP Law). All participants’ shares in the charter capital – and consequently their share in the value of the LLP’s property (ownership interest) – are proportional to their contributions, unless otherwise provided by the founding documents (paragraph 1 of Article 28 of the LLP Law). At the same time, a participant’s right to their share in the LLP’s

⁹ Law of the RK “On Limited and Additional Liability Partnerships” (hereinafter – the “LLP Law”) dated 22 April 1998 No. 220-I (as amended and supplemented as of 17 July 2024).

¹⁰ Law of the RK dated 2 May 1995 No. 2255 “On Business Partnerships” (as amended and supplemented as of 17 July 2024).

¹¹ Law of the RK dated 2 July 2018 No. 167-VI “On Currency Regulation and Currency Control” (as amended and supplemented as of 8 June 2024).

¹² Rules for Conducting Foreign Currency Transactions in the RK, approved by Resolution of the Management Board of the National Bank of the Republic of Kazakhstan dated 30 March 2019 No. 40 (as amended and supplemented as of 14 March 2025).

¹³ Rules for Monitoring Currency Transactions in the RK, approved by Resolution of the Management Board of the National Bank of the RK dated 10 April 2019 No. 64 (as amended and supplemented as of 1 January 2024).

¹⁴ <https://afsa.aifc.kz/registration/types-of-participants/private-company/>

property is obligatory, not proprietary in nature (paragraph 4 of Article 28), meaning that a participant does not own a portion of the LLP's property directly (i.e., has no ownership title to a "portion" of the LLP's assets), but holds a contractual right – a claim against the LLP itself (e.g., the right to receive profits (dividends), the return of contribution upon withdrawal, or upon liquidation).

- (b) Shares or other property rights of a shareholder in an LTD may be transferred in the manner provided by the company's articles of association.

By contrast, under the LLP regime, a participant's interest may be disposed of or pledged prior to full payment of their contribution only to the extent that the contribution has already been made (paragraph 1 of Article 29 of the LLP Law). In addition, LLP participants have a pre-emptive right to purchase another participant's interest (or part thereof) in the event of its sale to a third party (paragraph 1 of Article 31 of the LLP Law).

In the AIFC jurisdiction, there are no equivalent statutory pre-emptive rights for shareholders in the case of a transfer. The only instance where pre-emptive rights are explicitly provided under AIFC law concerns new share issuances: shareholders have a pre-emptive right of subscription to newly issued shares unless otherwise provided in the articles or unless the company resolves to disapply such right (Articles 48 and 49 of the Regulations).

- (c) An LTD may create different classes of shares, to the extent permitted by its articles of association¹⁵.

In the founding documents of an LLP, it is permissible to specify that the number of votes may differ from the size of the participation interest, or that voting rights may be limited by the size of the interest (paragraph 5 of Article 42 and paragraph 3 of Article 28 of the LLP Law). In the AIFC, such issues are resolved by creating different classes of shares, each with specific rights, privileges, or restrictions – for example, one class of shares may carry more voting power or entitlement to dividends.

However, unlike in an LTD, the distribution of income in an LLP is made strictly in proportion to the size of each participant's interest in the charter capital (paragraph 2 of Article 40 of the LLP Law).

Another common way to introduce non-proportional dividend distribution in an LTD is through the shareholders agreement, which may regulate such matters freely. This approach is consistent with Article 8 of the AIFC Contract Regulations¹⁶, which provides that any person is free to enter into a contract and to determine its terms.

By way of example, the following LTDs registered in the AIFC have multiple classes of shares: [ZHYLDYZ Ltd.](#), [Sota Ltd.](#), [Real Estate Investment Trust TS Property Group OEIC Ltd](#), [Kazakhstan Green Hope Ltd](#), and [PLIX Ltd.](#), the latter having both voting and non-voting shares.

As an additional point of reference, we note that in the Hong Kong Companies Register, whenever a company has more than one class of shares, the register includes detailed information about each class – including its name, number of shares, and the rights, privileges, and restrictions attached to that class (Particulars of Rights Attached to Shares).

¹⁵ <https://afsa.aifc.kz/ru/registratsiya/chto-nuzhno-znat-pered-otkrytiem-biznesa/>

¹⁶ AIFC Contract Regulations No. 3 dated 20 December 2017 (as amended on 10 June 2022, effective from 1 October 2022).

Procedure for Forming Charter Capital

Under current legislation, participants of an LLP, as well as shareholders of an LTD, are not required to contribute charter capital prior to the company's state registration¹⁷.

The minimum charter capital for both LTDs and LLPs may be set at zero, however, in practice, due to technical specifics of the registration system, it is customary to indicate a positive amount.

At the same time, an LLP that qualifies as a medium or large business entity must have a minimum charter capital of 100 MCI (Monthly Calculation Index)¹⁸. In addition, legislation establishes prudential capital requirements for microfinance¹⁹ and payment²⁰ organizations (paragraph 2 of Article 23 of the LLP Law). Similar capital requirements apply in the AIFC for companies engaged in regulated financial activities²¹.

In the case of an LLP, the charter capital must be fully paid within one year from the date of registration (paragraph 2 of Article 24). If a participant fails to contribute their share within the prescribed timeframe, the LLP must either: cover the unpaid portion using its own capital (net assets), or reduce the charter capital to the amount that has actually been contributed (paragraphs 3 and 4 of Article 24). Otherwise, the LLP is subject to compulsory liquidation by a court decision upon the application of interested parties (paragraphs 1 and 3 of Article 69 of the LLP Law).

By contrast, the AIFC framework does not impose a mandatory deadline for payment of charter capital. Shareholders are free to set such a deadline themselves in the resolution establishing the company. As a result, an LTD may legally operate with unpaid charter capital. As previously noted, in this case, the shareholder's liability is limited exclusively to the amount unpaid on the shares they hold (paragraph 1 of Article 35 of the Regulations).

It is worth noting that for shares that are not fully paid, the Share Register must indicate the amount outstanding on each such share. However, this information is not shown in the AIFC Public Register and is not accessible to third parties (paragraphs 2, 4, and 14 of Article 52 of the Regulations).

By comparison, in the Hong Kong Companies Register, such information is disclosed, and users can view data on both paid and unpaid shares of companies.

A participant in an LLP who has fully paid their contribution has the right to receive from the partnership a certificate confirming their participation (paragraph 6 of Article 24 of the LLP Law). Similarly, in an LTD, shareholder rights may be confirmed by a share certificate (Article 58 of the Regulations). However, in practice, this method of confirmation is rarely used due to the availability of electronic record-keeping systems. Nevertheless, if the share register is maintained by the LTD itself, rather than by an AIFC-authorized Registrar, the issuance of share certificates is commonly practiced.

¹⁷ Prior to 2010, participants of an LLP were required to contribute the charter capital in the statutory minimum amount before the company's registration..

¹⁸ The Monthly Calculation Index (MCI) as of 1 January 2025 is 3,932 KZT.

¹⁹ Resolution of the Management Board of the National Bank of the Republic of Kazakhstan dated 14 November 2019 No. 192 "On Approval of Prudential Norms and Other Mandatory Standards and Limits to Be Observed by Organizations Engaged in Microfinance Activities, and the Methodology for Their Calculation".

²⁰ Resolution of the Management Board of the National Bank of the Republic of Kazakhstan dated 27 October 2020 No. 129 "On Establishing the Minimum Charter Capital Requirement for Payment Organizations".

²¹ See, for example: AIFC Prudential Rules for Investment Firms, AIFC Banking Business Prudential Rules, AIFC Prudential Rules for Insurance Intermediaries, AIFC Insurance and Reinsurance Prudential Rules, AIFC Islamic Banking Business Prudential Rules, and other relevant acts.

Payment of Charter Capital in Foreign Currency

An interesting feature of the AIFC regime is that, unlike in an LLP, where the charter capital must always be denominated in KZT, an LTD may express its charter capital in either Kazakhstani tenge (KZT) or US dollars (USD). Upon registration, the LTD selects one currency – either KZT or USD – for the purpose of recording its charter capital. This choice is reflected in the AIFC Public Register²² based on the selected currency. However, it remains unclear why, in the notification form²³, the charter capital must be indicated in both currencies. It is assumed that this is required for internal accounting purposes by the justice authorities.

The contribution of charter capital in an LLP often presents practical challenges, particularly where the founder is a foreign legal entity unable to transfer funds in KZT directly from its jurisdiction.

In the case of initial capital contributions, the issue arises from the requirement to specify the amount of charter capital in KZT already at the stage of submitting the application for LLP registration. However, the funds are received into the LLP's account after registration, and due to potential exchange rate fluctuations, the actual amount credited may differ from the declared capital.

If the received amount exceeds the declared charter capital, the difference can be treated as income of the LLP, subject to taxation. If the amount is less, the participant must either transfer the shortfall via an additional payment or adopt a resolution to reduce the charter capital accordingly.

In contrast, where the capital is being increased (rather than initially formed), the procedure is somewhat simplified since the LLP is already registered. There are mechanisms to mitigate exchange rate discrepancies between the date of the capital increase resolution, the actual transfer of funds (in accordance with Article 26 of the LLP Law), and the subsequent amendment of the charter.

Additional complications arise where the contributed amount exceeds the equivalent of USD 500,000. In such cases, it is necessary to obtain a registration number from the National Bank of Kazakhstan (hereinafter – the “NBK”) in advance for the document/contract that forms the basis for the foreign currency transaction. Typically, such a currency document is the foundation agreement or the charter, in which the capital is always stated in KZT. However, an effective solution is to assign the registration number to the founding resolution (or resolution to increase capital, if the LLP is already incorporated), where the capital can be denominated in foreign currency. Once the registration number is obtained and funds are received: conversion to KZT is carried out; a resolution is adopted to amend the charter to reflect the capital in KZT; and the registering authority is notified in the prescribed manner. The initial registration number is obtained through the NBK's online portal. If a registration number already exists, a correction notice is submitted to the territorial branch of the NBK. Notification to the registering authority regarding changes is submitted via the e-otynysh platform in accordance with the procedure set out in Article 14-2 of the Law on State Registration.

Currency Transaction Registration

As is well known, for the purpose of monitoring currency transactions, the NBK conducts transactional registration of foreign exchange agreements that form the basis for or are executed

²² AIFC Public Register: <https://publicreg.myafsa.com>

²³ Notification of actualization of information.

in connection with capital movement operations (Article 13(1) of the Law on Currency Regulation²⁴).

The transactional registration of a foreign exchange agreement involving capital movement includes the assignment of a registration number to such agreement and requires the resident party to the agreement to submit reports and disclosures to the NBK (Article 14(1) of the Law on Currency Regulation).

A foreign exchange agreement involving capital movement is subject to registration if it provides for:

- 1) Receipt of assets (funds) into the RK and/or the emergence of a resident's obligation to return assets (funds) to a non-resident, in an amount exceeding the equivalent of USD 500,000; or
- 2) Transfer of assets (funds) from the RK and/or the emergence of a resident's right to demand return of assets (funds) from a non-resident, in an amount exceeding USD 500,000²⁵.

The most common currency transactions we encounter include: registration of loan agreements; charter capital increases, where funds are transferred into Kazakhstan by a non-resident; sale of participation interests/shares in a Kazakhstani legal entity, where funds are transferred from a resident to a non-resident as payment.

However, the transactional registration requirement does not apply to foreign exchange transactions conducted by AIFC Participants within the AIFC territory (Article 14(6) of the Law on Currency Regulation; Article 5(4) of the Constitutional Law on the AIFC).

Accordingly, it is not required to obtain a registration number for: increases of charter capital of an LTD established under AIFC law; loan proceeds received by such LTD.

In practice, this exception is also applied in situations where a Kazakhstani legal entity (even if not incorporated in the AIFC) sells its participation interest/shares, as long as a party to the foreign exchange agreement is an AIFC-registered LTD (for example, where an AIFC LTD is purchasing a Kazakhstani asset from a non-resident seller).

Nevertheless, under Clause 5.1 of Annex 5 to the AIFC Rules on Currency Regulation²⁶, an AIFC *"The AIFC participant provides the AFSA²⁷ with information on the contract, on the basis of and pursuant to which capital movement transactions are carried out, for an amount equal to or exceeding the equivalent of USD 500,000, in accordance with Annex 4 to this Schedule. The information is provided before the expiration of 30 (thirty) calendar days from the date of commencement of payments under this contract"*.

Failure to submit the required information in a timely manner results in a fine of USD 300 if the notice, report, or declaration is not submitted within 3 business days of the deadline. If the fine is

²⁴ Law of the Republic of Kazakhstan dated 2 July 2018 No. 167-VI "On Currency Regulation and Currency Control" (as amended as of 08.06.2024) (hereinafter – the "Law on Currency Regulation").

²⁵ Clause 9 of the Resolution of the Management Board of the National Bank of the Republic of Kazakhstan dated 10 April 2019 No. 64 "On Approval of the Rules for Monitoring Currency Transactions in the Republic of Kazakhstan" (as amended as of 15.09.2024).

²⁶ AIFC Rules No. 6 dated 10 November 2021, as amended on 15 February 2024 (hereinafter – the "Rules on Currency Regulation").

²⁷ The Astana Financial Services Authority (AFSA) is the regulatory body of the AIFC responsible for the registration, licensing, regulation, and supervision of market participants operating within the AIFC jurisdiction.

not paid within 30 calendar days, an additional penalty of 10% of the original fine accrues for each day of delay²⁸.

Increase of Share Capital

The increase of the share capital of an LTD is governed by Article 44 of the Regulations (*Alteration of Share Capital*) and may include the following actions:

1) *Increasing Share Capital by Issuing New Shares*

An LTD may create new shares of an existing class with the same nominal value, or new shares of a different class with an appropriate nominal value.

Example: If an LTD has 1,000 Class A shares with a nominal value of USD 10, it may issue an additional 500 shares of the same class, increasing the share capital by USD 5,000.

Alternatively, the LTD may create a new class of shares, such as Class B with a nominal value of USD 5, and issue 2,000 such shares, increasing the share capital by USD 10,000.

2) *Consolidation and Subdivision of Shares*

An LTD may consolidate existing shares to increase their nominal value.

Example: An LTD has 100 shares with a nominal value of USD 1 each. Upon consolidation, every 2 shares are merged into 1 share with a nominal value of USD 2. The number of shares is reduced to 50, but the total share capital remains unchanged (USD 100).

3) *Subdivision of Shares into Smaller Denominations*

Shares may be split into a greater number of shares with a smaller nominal value, provided the proportion between the paid and unpaid amount is maintained.

Example: A share with a nominal value of USD 10 is split into 2 shares with a nominal value of USD 5 each. If the original share was fully paid, the new shares will also be considered fully paid.

The Regulations do not specify the exact form of shareholder decision²⁹ required to approve such changes. However, as suggested in the Model Articles of an LTD, a simple resolution of the shareholders is generally sufficient to increase the share capital, unless otherwise provided by the Regulations (Article 11 of Appendix 5 to the Rules).

The most common method of increasing share capital is through the issuance of new shares of an existing class with the same nominal value. Where the LTD has a sole shareholder, a unilateral decision by that shareholder is sufficient. In an LTD with multiple shareholders, a decision to increase the share capital may be made at the general meeting. Following this, the board of directors may be delegated the authority (based on the articles or a shareholders' resolution) to: (a) allot and issue shares; or (b) grant rights to subscribe³⁰ for shares (paragraphs 3(a) and 5 of Article 44 of the Regulations). Under Article 48 of the Regulations, existing shareholders have

²⁸ Clause 7.1.3 of Annex 10 to the AIFC Fees Rules (fees) No. FR0007 dated 10 December 2017 (as amended on 9 December 2022, effective from 1 January 2024) (hereinafter – the "Fees Rules"), and Clause 9.2 of the AIFC Rules on Currency Regulation.

²⁹ According to Section 4 of Schedule 1 of the AIFC Companies Regulations, an Ordinary Resolution of a company means a resolution passed by a simple majority of the votes of shareholders (or shareholders of a particular class of shares) who vote in person or, where proxies are allowed, by proxy...// A Special Resolution of a company means a resolution passed by not less than 75% of the votes of shareholders (or shareholders of a particular class of shares) who vote in person or, where proxies are allowed, by proxy...

³⁰ Subscription is effected through the conclusion of a Subscription Agreement between the company and the shareholder.

pre-emption rights in respect of newly issued shares over third parties.

Under the LLP Law, the charter capital of an LLP may be increased through the following means (Article 26(2) of the LLP Law):

- 1) Additional pro rata contributions made by all participants;
- 2) Increase of the charter capital from the LLP's own funds, including its reserve capital;
- 3) Additional contributions by one or more participants with the consent of all other participants;
- 4) Admission of new participants into the LLP.

If an LTD allots shares for consideration other than cash, the Board of Directors is required to adopt a resolution in accordance with Article 45(2) of the Regulations and submit a copy of the resolution to the AIFC Registrar together with the notice of allotment. Notably, there is no requirement for an independent valuation of the non-cash contribution (unlike the rules for LLPs under Article 23(4) of the LLP Law). Examples of non-cash contributions, in addition to tangible assets, may include equity interests or shares in other legal entities contributed by a shareholder in exchange for issued shares of the LTD. As a result, the LTD becomes a participant or shareholder in the relevant legal entity, triggering the need for re-registration of that entity.

According to the AIFC Participant Filing Guide³¹, a notice of increase of share capital must be submitted to the Registrar within 14 calendar days, either via the automated service on the e-Residence portal (www.digitalresident.kz) or in paper form by email to Post-registration@afsa.kz. It is worth noting that from 2025 onward, all notifications must be submitted from the LTD's registered email address (Article 24-1 of the Regulations)³².

The notification comprises the following AIFC forms, signed by the LTD's director: AIFC Notification of Change in Registered Details³³; Notification of actualization of information³⁴; AIFC Notice on Amendment of Articles of Association³⁵.

Additionally, the applicant must attach a copy of the Articles of Association, the resolution on the share capital increase and the corresponding amendments to the Articles, a certificate issued by the LTD's director confirming that the proposed amendment complies with the AIFC Regulations and Rules, and a receipt confirming payment of the registration fee – USD 50 (USD 100 if filed via email to the AIFC Registrar³⁶). The invoice is generated online.

Failure to comply with these requirements may result in a fine of up to USD 10,000 (Annex 3 to the Rules), although the AIFC Participant Filing Guide indicates that the fine is typically capped at USD 2,000.

Another notable distinction under the LLP Law is that an increase in charter capital is permitted only after the initial capital has been fully paid. Moreover, at least 50% of the amount by which the capital is increased must be paid before notifying the registering authority (Articles 26(1) and 26(5) of the LLP Law).

In contrast, no such requirements are found in the Regulations or Rules in relation to LTDs. In fact, an analysis of the relevant provisions (Articles 25(2), 44(2), 52(2), 60(3), and 61(4) of the

³¹ [Guidance](#) on Post-registration applications to the Office of the Registrar of Companies и [Guidance](#) on Post-registration (event-driven) applications to the Registrar of Companies.

³² See the [Guide](#) on How to Register an Email Address.

³³ AIFC [Notification](#) of Change in Registered Details.

³⁴ [Notification](#) of actualization of information.

³⁵ AIFC [Notice](#) on Amendment of Articles of Association.

³⁶ Annex 5-1 to the AIFC Fees Rules.

Regulations) leads to the conclusion that LTDs may maintain unpaid share capital. However, in such cases, the company is prohibited from making false or misleading representations in its communications, including any statement regarding the size of its share capital, which must refer only to the fully paid portion.

Furthermore, Article 42(1) of the Regulations provides that each share must entitle the holder to vote at meetings and, if fully paid, be equal in all respects to other shares of the same class. Thus, it is reasonable to conclude that unpaid shares do not confer voting rights on shareholders.

Regarding unpaid contributions, a similarity may be observed between the LLP Law and the Regulations. Article 2(4) of the Law on LLPs states: *"Participants of an LLP who have not fully paid their contributions to the charter capital shall bear joint and several liability for the LLP's obligations up to the amount of the unpaid portion of each participant's contribution."* Likewise, Article 35 of the Regulations states: *"A shareholder's liability is limited to the amount (if any) unpaid on the shares held by that shareholder."* Thus, both frameworks establish a comparable principle: the liability of a participant or shareholder is directly tied to the amount of unpaid capital, reflecting a common approach aimed at protecting creditor interests.

Reduction of Share Capital

It should be noted that an LTD may not reduce its share capital if (i) such reduction is prohibited by its Articles of Association; or (ii) the reduction would cause the capital level to fall below the prudential minimum thresholds established for companies engaged in regulated financial activities (Clause 3, Article 44 of the Regulations). Similar provisions are provided for LLPs under Subparagraph 2, Paragraph 1, Article 69 of the LLP Law.

Clause 4 of Article 64 of the Regulations stipulates that an LTD may reduce its share capital in any manner and under any terms it considers appropriate, including by extinguishing or reducing liability for unpaid shares, writing off capital that is lost or not backed by assets, or returning surplus paid-up capital that is not required by the company.

According to Paragraph 1 of Article 27 of the LLP Law, the charter capital of an LLP may be reduced either by proportionally decreasing the contributions of all participants or by full or partial redemption of shares held by specific participants.

In Kazakhstan's general jurisdiction, charter capital reduction is permitted in cases such as partial payment of capital, return of surplus amounts not needed by the LLP, or discrepancies between declared and actually contributed capital due to foreign exchange fluctuations. Capital reduction may also occur as part of a spin-off, when assets and liabilities are transferred to a newly established legal entity based on a separation balance sheet.

A distinctive requirement under the LLP Law is that capital reduction is only permitted once the participants have fully paid their capital contributions as specified in the charter (Paragraph 9, Article 27). However, a General Meeting resolution may redistribute an unpaid portion of a participant's interest among the other participants or offer it to third parties. If the interest cannot be sold, the charter capital must be reduced accordingly (Paragraph 4, Article 24).

In cases where an LTD has an overstated share capital – i.e., one that is formally paid-up but not actually represented by assets – Clause 4(b)(i) of Article 64 of the Regulations permits such capital to be cancelled. The provision specifically states that paid-up capital may be annulled if lost or not supported by real assets.

According to Paragraph 3 of Article 25 of the LLP Law: *“If the declared charter capital of an LLP exceeds its actual capital, the participants are jointly and severally liable to creditors for the excess amount.”* Although this provision has drawn criticism for vague terminology and lack of clarity on liability standards³⁷, the underlying idea of aligning capital with net asset value is not new. It previously appeared in Article 39 of the Presidential Decree “On Business Partnerships” dated 2 May 1995, which required LLPs to reduce charter capital if net assets fell below the declared capital.

In Kazakhstan’s general jurisdiction, a capital reduction in an LLP triggers mandatory re-registration (Paragraph 6 of Article 42 of the Civil Code; Article 14 of the State Registration Law). By contrast, under the Regulations, re-registration is only required when an LTD is converted into a public company or vice versa (Articles 39 and 40). A mere change in shareholders does not trigger re-registration; however, the AIFC Registrar does forward such changes³⁸ to the Ministry of Justice, which updates the National Register of Business Identification Numbers accordingly, resulting in the technical re-registration of the LTD.

Creditors of an LLP have the right, within one month from notification or publication, to demand additional guarantees or early performance/termination of obligations by the LLP, as well as compensation for damages (Paragraph 4, Article 27 of the LLP Law). Another important provision is the LLP’s duty to notify new creditors – i.e., those whose claims arise after the capital reduction resolution (Paragraph 3, Article 27). Payouts following the capital reduction may be made only after its registration, and not later than three months from such registration (Paragraph 8, Article 27).

A distinctive procedural feature is that LTD directors are required to adopt a solvency statement (Clause 1, Article 64). The Regulations set out a 30-day publication period (Subparagraph 1, Article 65), but unlike the LLP Law, they do not grant specific rights to creditors. This is likely because the solvency statement itself is a formal confirmation from the directors that the LTD will be able to meet its obligations for one year following the date of the resolution³⁹.

As for whether charter capital may be used: there is no legal prohibition against using charter capital funds in either an LLP or an LTD. However, if an LTD intends to engage in a regulated activity, it must comply with minimum capital requirements. These consist of base capital, credit risk capital, market risk capital, and operational risk capital⁴⁰. For instance, the required base capital for firms licensed to manage collective investment schemes ranges from USD 50,000 to USD 500,000, depending on the type and nature of the fund.

Other Aspects of Financing an LTD and the Licensing Requirements for Intra-Group Loan Agreements

In conclusion, we would like to briefly address another topic which, although not directly related to charter capital, remains highly relevant in the context of available financing mechanisms for companies.

³⁷ Klimkin, S.I. Limited Liability Partnership: Commentary on the Law of the Republic of Kazakhstan dated 22 April 1998. – Almaty: Yurist Publishing, 2016. – p. 89..

³⁸ Information is publicly available on the website of the Electronic Government of the Republic of Kazakhstan.

³⁹ For more details on the procedure for reducing charter capital, see the article by T. Kultelev, “10 Legal Questions About Post-Registration Actions in the AIFC.”

⁴⁰ See, for example, AIFC Prudential Rules for Investment Firms, AIFC Banking Business Prudential Rules, AIFC Prudential Rules for Insurance Intermediaries, AIFC Insurance and Reinsurance Prudential Rules, AIFC Islamic Banking Business Prudential Rules, and other acts.

LTDs that provide financial services are considered regulated entities (see Schedules 1–4 of the General Rules⁴¹), and the conduct of regulated activities requires obtaining the appropriate licence.

However, the legislation does not prohibit the registration of companies within the AIFC that do not provide financial services and instead operate in other sectors. Such companies are not entitled to tax incentives (except for the exemption from taxation of dividends paid on shares/participations of AIFC participants, and from capital gains tax arising from the sale of shares/interests in an AIFC participant company). The AIFC also permits the registration of holding companies⁴². This type of activity is not classified as regulated and does not require licensing.

Accordingly, the acts governing regulated activities do not apply to such companies, and they are not required to obtain a licence for regulated activity. If a company's business is not regulated under AIFC law but is regulated or subject to authorisation under the laws of Kazakhstan, then such activity will fall under the general Permits Law⁴³.

One of the main financing mechanisms for an LTD is through the issuance of additional shares and an increase in share capital, with the allocation of shares to existing shareholders or the admission of a new investor as a shareholder (for more on this, see T. Kultleev's article "10 Legal Questions on Post-Registration Procedures in the AIFC"). Other options include shareholder contributions to the LTD without increasing the share capital (similar to the mechanism available for LLPs under Paragraph 3 of Article 39 of the LLP Law) and intra-group loans.

The advantage of financing through an increase in share capital is that funds received by the LTD are not treated as income and are not subject to taxation (unlike shareholder contributions without an increase in share capital, which are considered taxable income). Regarding intra-group loans, the funds received are not treated as income; however, the loan must eventually be repaid. If the loan is forgiven, the amount will be recognised as income and subject to corporate income tax.

As noted above, foreign currency transactions conducted by AIFC participants (including loan agreements) are not subject to registration with the NBK.

Nevertheless, in practice, the question often arises whether a licence is required for carrying out loan transactions (e.g., when a private company intends to issue loans to other group companies), especially if this is not the company's main activity and such services are provided to affiliated entities.

The main regulatory act governing foreign exchange regulation within the AIFC is the AIFC Rules on Currency Regulation.

Clause 3.1.1 of the Rules on Currency Regulation states: "*Unless otherwise prohibited under the Acting Law of the AIFC and (or) the legislation of RK, AIFC participants have the right to provide financial and related services to residents that are not AIFC participants only in accordance with Schedule 2 to these Rules.*" This Schedule sets out permitted banking and payment services, insurance services, investment services, and digital asset services which may be provided by AIFC Participants on the basis of an appropriate licence.

⁴¹ AIFC General Rules No. FR0001 of 2017 (as amended up to 10 September 2023, effective from 1 January 2024).

⁴² See Clause 7 of Article 6 of the Constitutional Statute on the AIFC, as well as: <https://aifc.kz/tax-benefits/>

⁴³ Law of the Republic of Kazakhstan "On Permits and Notifications" dated 16 May 2014 No. 202-V ZRK (hereinafter – the "Law on Permits") (as amended and supplemented as of 10 June 2025).

However, these Rules do not regulate intra-group loans, which are typically granted to facilitate efficient structuring of cash flows and operations within a corporate group.

At the same time, we believe that the provision of intra-group loans falls outside the scope of licensing. Clause 1.1.12 of the General Rules provides an exemption for actions undertaken with or for group companies: *“A Person does not carry on any of the Regulated Activities for the purposes of Providing Credit where that Person is a Body Corporate and carries on that activity solely as principal with or for other Bodies Corporates:*

(a) which are within the same Group as that Person; or

(b) which are or propose to become participators in a joint enterprise and the transaction is entered into for the purposes of or in connection with that enterprise”.

A similar exemption applies to investment activities⁴⁴. Therefore, when an AIFC Participant makes an investment into a foreign legal entity or provides financial support to a foreign legal entity within the same corporate group, this is not considered a regulated financial service under AIFC law and does not require a financial services licence.

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For those interested in the comparative legal regime of LTDs and LLPs, we recommend reviewing previously published materials on this topic:

- Specifics of setting up and registering companies in the AIFC;
- Procedure for registration and licensing of private companies in the AIFC;
- AIFC versus national legislation of the Republic of Kazakhstan;
- 10 questions to a lawyer about registration of companies in the AIFC;
- 10 questions to a lawyer about redomiciliation of companies to the AIFC;
- 10 questions to a lawyer about a director and the CEO in the AIFC;
- 10 questions to a lawyer about post-registration actions in the AIFC;
- 10 questions to a lawyer about recent legislation amendments on the issues of migration and registration of legal entities in the Republic of Kazakhstan and the AIFC;
- 10 burning questions to a lawyer about activities of private companies in AIFC and
- Specifics of winding up, strike off and suspension of activities of companies in the AIFC.
- Comparative analysis of company liquidation procedures in the Republic of Kazakhstan and the AIFC.

⁴⁴ Dealing in Investments as Principal, Dealing in Investments as Agent, Managing Investments, Advising on Investments, Arranging Deals in Investments.