FORMATION AND DISTRIBUTION OF THE AUTHORIZED FUND OF BUSINESS ENTITIES

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Abstract: The article discusses issues related to the formation and distribution of the authorized capital of business entities. A tendency has been noted to delay the timing of making contributions to their authorized funds of business entities and the assessment of participants' contributions. The authors noted that overestimating the cost of contributions may undermine their ability to operate effectively. Specific proposals are given on the possibility of recognition it is insolvent if the procedure for making payments from the founders to the authorized fund is grossly violated.

Key words: authorized capital, assessment of deposits, contribution, joint venture, insurance, financial expertise, own funds, financial analysis, efficiency.

When forming and distributing the authorized capital of business entities, monetary and financial problems arise. These include emerging trends in extending the formation of their authorized capital over a long period. Such actions of the founders introduce instability into the work of business entities, and to a certain extent can distort the state of affairs in the field of joint entrepreneurship.

The experience already available in our country could be used to solve this problem. Thus, the Regulations on Joint-Stock Companies and Limited Liability Companies stipulate that by the time of registration of the company, the shareholder (participant) is obliged to make at least 30% of his contribution (contribution). In this case, the remaining 70% must be paid within one year after registration. In case of failure to fulfill this obligation, unless otherwise provided by the constituent

documents, 10% per annum is paid on the outstanding amount for the entire period of delay.

To the above, one could add such a measure as providing certain tax benefits only to those business entities whose authorized capital is formed within the established time frame. The possibility of assigning to the body that registered their obligation to recognize it as failed if the procedure for making contributions of founders to the authorized capital is grossly violated may also be considered.

The noted tendency to delay the deadlines for making contributions to their authorized funds may in practice lead to a situation where a liquidated business entity will not have the funds to fulfill its obligations to third parties. In this case, apparently, the issue of participants reporting their contributions to the amounts specified in the constituent documents should be resolved positively.

The most important monetary and financial problem associated with the formation of the authorized capital of a business entity is the assessment of participants' contributions. The legislation stipulates that this assessment should be made in national currency at world prices. In our opinion, it is very important to assess contributions at an economically feasible level. The current practice of inflating the cost of contributions undermines the ability of business entities to operate effectively.

Indirect evidence that this practice occurs is the fact that up to 40% of capital investments are cash, including freely convertible currency, the valuation of which is indisputable. More than 70% of foreign investment consists of machinery, equipment and technology. Despite the validity in most cases of making a contribution in kind from a foreign participant, it should be noted that this procedure creates the possibility of overestimating the contribution of a foreign participant, since the world price of machinery and equipment in many cases is a very arbitrary concept. In addition, domestic participants sometimes do not show persistence in

including monetary valuations of the rights to use land, natural resources, buildings and structures in their contributions.

When making investments from domestic sources and when liquidating them, difficulties often arise due to the lack of development of legislation in the field of their property rights. The assessment of many types of "intangible" property, for example, a company's reputation ("goodwill"), is very difficult in our country. Meanwhile, if a foreign partner withdraws from the entity's activities, this problem may worsen. The use of internationally accepted criteria for assessing these rights, for example, in the amount of 3-5 average annual profits of the enterprise, strictly speaking, will contradict the legislation in force in this area.

Along with clarification of the legislation, in our opinion, it would also be necessary to give participants in joint entrepreneurial activities the right to independently determine the procedure for settlements in the event of their liquidation or withdrawal of a partner, as well as in the distribution of profits, not necessarily depending on the parties' share in the authorized capital. This kind of procedure, for example, is provided for in relation to profits in the Regulations on joint-stock companies and limited liability companies, according to which profits can be distributed in any way recorded in the constituent documents.

Along with the resources of the participants contributed to the authorized capital, the most important source of funds for organizing joint entrepreneurial activities are loans. In accordance with current legislation, joint venture entities can use loans in national currency obtained on commercial terms from banks, as well as in currency received from the National Bank for Foreign Economic Affairs or, with its consent, from foreign banks and firms. Joint business entities actively attract medium-term foreign currency loans. During the period 2016-2020. from external sources they received about 45.0 billion soums (according to the official exchange rate of the Central Bank). The National Bank for Foreign Economic Activity of the

Republic of Uzbekistan provided approximately 20% of loans. At the same time, domestic banks were very active in financing them.

Commercial banks can also provide short-term loans in foreign currency for the purchase of raw materials, materials, components and other goods abroad for a period of up to 2 years. Such entities can be provided with medium-term (from 5 to 10 years) and long-term (10 years or more) loans to pay for imported equipment, machinery, licenses and other goods, as well as services necessary to improve and expand production. As collateral for loans, it is necessary to use assets of a foreign currency nature belonging to business entities. Decisions to provide long-term and medium-term loans within the framework of so-called “project financing” must also be made by the bank on the basis of a careful consideration of the relevant projects as an alternative.

Project analysis is based on the wide use of international experience and is carried out, as a rule, in three stages: general economic research, risk assessment and financial calculations. At the first stage, first of all, business partners are studied. In this case, special attention is paid to their financial position and business reputation. Experience working abroad in partner countries is also important. Information must be independent in nature and can be obtained from annual reports of business entities, various kinds of directories, from competent domestic and foreign organizations, correspondent banks of the National Bank for Foreign Economic Activity of the Republic of Uzbekistan.

At the first stage, constituent documents and a feasibility study (TES) are also studied. On the basis of the agreement and charter, the subject of activity, the structure of obligations and the nature of the relationship between entrepreneurs as partners in the joint organization of work and the possibility of respecting the interests of the participants are considered. Analysis of the feasibility study allows us to assess the volume of funds raised, the size and procedure for making investments, the existing export market, including for freely convertible currency,

the possibility of obtaining raw materials, components, materials, the reasonableness of prices for purchased machinery and equipment, including through a contribution to authorized capital, etc. During this work, specialized organizations may be involved to obtain an opinion on a particular element of the project, and the availability of the necessary approvals and permits from local authorities, relevant ministries and departments, and environmental authorities is checked. At this stage, a preliminary financial examination of the project is also carried out.

The nature of the risk assessment for a project directly depends on its specifics. The possibility of delays in construction, an increase in its cost, and the likelihood of unforeseen circumstances are taken into account. The risks associated with the sale of products by joint venture entities and logistics are also analyzed.

Risk analysis is now very important to assess the feasibility of a project. The Bank takes all possible measures to reduce these risks. These include: the involvement of independent experts and consultants, tightening the payment terms of counterparties, agreements with the founders on making additional contributions to the authorized capital, if necessary, the inclusion of special clauses in contracts with product buyers, business insurance subjects, etc.

When developing a project, the bank proceeds from the fact that risks should be fairly divided between domestic entrepreneurs and foreign partners, for example, in proportion to their contributions to the authorized capital of the joint venture. The analysis may include fluctuations in certain project parameters, for example, a decrease in product prices by 10-20%, an increase in foreign currency operating costs by 15%, etc. The presence of significant risks in a project, as a rule, necessitates multivariate calculations of project financing.

During the financial analysis of the project, you can also use formulas accepted in international and domestic practice for calculating indicators that determine its viability. An important indicator is the ratio between equity and borrowed funds, including the ratio between the foreign currency part of the

authorized capital and the amount of foreign currency borrowed funds. The maximum ratio of loan to authorized capital recognized in international practice is 3/1, although, of course, for special projects it can be higher.

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