

TO: Clients and Friends of the Firm
FR: Frishberg & Partners
RE: Ukrainian Company Law & Business Structures

The Economic Code of Ukraine divides enterprises into two categories: unitary and corporate enterprises. *Unitary enterprises* are defined as enterprises created by one founder, which apportions the property necessary for such creation, forms the authorized capital pursuant to legislation, approves a charter not separated into shares, distributes incomes, administers the enterprise and forms its labor collective on the basis of hired labor directly or via an appointed chief executive and decides issues regarding reorganization and liquidation. Notably, state and communal enterprises and enterprises established on the property of a union of citizens, religious organizations or private property are also considered unitary enterprises.

Conversely, *corporate enterprises* are defined as enterprises created, as a rule, by two or more founders pursuant to their mutual agreement, acting on the basis of the union of property and/or entrepreneurial or labor activity of the founders (participants), and their mutual administration of affairs on the basis of corporate rights, including via the bodies, which are created thereby, and the participation of the founders (participants) in the division of profits and risks of the enterprise. Corporate enterprises include enterprises created in the form of a business company and other enterprises, including those founded on the private property of two or more entities.

Further, the Ukrainian Civil Code (No. 435-IV, dated January 16, 2003, effective January 1, 2004) and Economic Code (No. 436-IV, dated January 16, 2003, effective January 1, 2004) in combination provide for various types of companies (also known in general as legal entities – organizations, which are established and registered pursuant to the procedure established by law), including the following principal types:

- A) Private enterprises;
- B) Collective enterprises;
- C) Communal enterprises;
- D) State enterprises;

- E) Enterprises established in a mixed form of ownership (on the basis of the unification of property of various ownership forms);
- F) Other enterprises, which are provided by law (this catch-all type of enterprises leaves enough leeway in the law to add various types of enterprises in the future);
- G) Stock companies;
- H) Companies with limited liability;
- I) Companies with additional liability;
- J) General partnerships; and
- K) Limited partnerships.

The companies listed in points G-K above are known as economic associations and are governed by the Civil and Economic Codes of Ukraine, as well as specifically by the Law of Ukraine No. 1576-XII “On Economic Associations,” dated September 19, 1991. The companies listed in points A-F were once governed by the Law of Ukraine No. 887-XII “On Enterprises in Ukraine,” dated March 27, 1991, which lost its legal force on January 1, 2004 when the new Economic Code of Ukraine came into force. However, the Economic Code of Ukraine covers many of the basic enterprise forms which were formerly included in the Law “On Enterprises in Ukraine.”

The general characteristics of the above main types of company structures are discussed in more detail below.

1) Private Enterprise

A private enterprise is defined by the Economic Code of Ukraine as an enterprise, which acts on the basis of the private ownership of a citizen (citizens) or a subject of business activity (legal entity). Whereas a private enterprise may be created by one or more citizens, as natural persons, a private company may not be created by more than one legal entity.

2) Collective Enterprise

Under the Economic Code of Ukraine this refers to an enterprise which acts on the basis of collective ownership of the founder (founders). This category includes production cooperatives, enterprises of consumer cooperatives, enterprises of public and religious organizations, etc.

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