



## **The 3<sup>rd</sup> Meeting of the Eurasian Corporate Governance Roundtable**

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*Shareholder Rights, Equitable Treatment and the Role of the State*

**Questionnaire – Armenia**

By

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**The Global Corporate  
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## Questionnaire

### Country background information

#### 1. Corporate Ownership structures:

1.1 Number and aggregate annual turnover of Open Joint Stock Companies (publicly listed / traded companies):

*According to the Armenian Stock Exchange (established in 2001), number of companies: 133, aggregate annual turnover data: N/A.*

1.1.1 Number of listed companies that have never had any trades:  
*100 companies, according to the Armenian Stock Exchange.*

1.1.2 Number of listed companies that have had more than one trade:  
*23 companies, according to the Armenian Stock Exchange.*

1.1.3 Number of companies that are regularly traded on a monthly basis:  
*According to the Armenian Stock Exchange, regular trades on monthly basis for certain quantities of shares of joint stock companies were not registered.*

1.2 Number and aggregate annual turnover of Closed Joint Stock Companies (non publicly listed / non traded companies):

*Data is not available.*

1.3 Number and aggregate annual turnover of Joint Stock Companies with state owned stakes:

*According to data of the Central Depository of the Republic of Armenia, number of joint stock companies, in which the state owns a stock, is 129. However, we counted in only the companies, which have conveyed maintenance of shareholder registers to the Central Depository of the Republic of Armenia (Information on only 35 %-40 % of joint stock companies is being registered in the Central Depository). Data concerning aggregate annual turnover is not available.*

1.3.1 Where the State owns over 50% of the company:

*According to data of the Central Depository of the Republic of Armenia, number of joint stock companies, in which the state owns more than 50 %, is 105. Here, again, only the companies, which have conveyed maintenance of shareholder registers to the Central Depository of the Republic of Armenia, were counted in.*

1.3.2 Where the State owns from 30 to 50% of the company:

*According to data of the Central Depository of the Republic of Armenia, number of joint stock companies, in which the state owns 30 % - 50 % is 105. Here, again, only the companies, which have conveyed maintenance of shareholder registers to the Central Depository of the Republic of Armenia, were counted in.*

1.3.3 Where the State owns less than 30% of the company:

*According to data of the Central Depository of the Republic of Armenia, number of joint stock companies, in which the state owns less than 30 % is 1.*

1.4 What is the aggregate market capitalisation of publicly listed / traded companies as a percentage of GDP?

*Over the recent three years, according to annual program of the Securities Commission (hereinafter referred to as **the SC**) the level of market capitalization has not exceeded 4.5 %.*

1.5 Major sources of corporate financing? (Bank loans? State subsidies? Securities?)

*Companies' proprietary funds can be considered major source of financing. This equals to about 30 % of GDP. The second important sources of financing are bank loans (about 10 % of GDP). Speaking of issuance of securities, we should point out that it is not used in Armenia as a source of raising funds.*

1.5.1 What is the average debt-to-equity ratio of publicly listed / traded companies?

*Data unavailable.*

1.5.2 What is the aggregate amount of annual direct state subsidy to enterprises?

*Data unavailable.*

1.5.3 What is the aggregate amount of direct foreign investment in the domestic economy?

*According to data analytical reports of the National Statistics Service of the Republic of Armenia, total amount of investments in the domestic economy of the Republic of Armenia equaled to 151.9 billion of Armenian drama (\$US 263 million).*

1.6 Total number of shareholders:

*According to data of the Ministry of Privatization of the Republic of Armenia, total number of shareholders in result of privatization is 151,222. However, due to that, on the one hand, concentration of shareholder capital has become a general tendency in the post-privatization period and, on the other hand, the privatization in Armenia has not yet been completed and the register of joint stock companies is not maintained by the Central Depository, its is simply impossible to answer the question.*

1.6.1 – Average number of shareholders of open joint stock companies:

*Average number of shareholders of open joint stock companies is 300-350, according to data of the Central Depository.*

1.6.2 - What percentage of these shares are held by: *Data unavailable.*

-employees:

-executive managers:

-foreign shareholders or institutional investors:

-the state:

-domestic corporations:

1.6.3 – Average number of shareholders of closed joint stock companies:

*3-5 shareholders, according to data the State Register.*

1.6.4 - What percentage of these shares are held by: *Data unavailable.*

-employees:

-executive managers:

-foreign shareholders or institutional investors:

-the state:

-domestic corporations

1.7 Are there any cross shareholdings? If so is this a wide spread practice? Does it affect corporate control landscape?

*This practice is uncommon and thus does not affect corporate relations.*

1.8 Is there a trend towards the development of corporate groups? If so, for what reasons are corporate groups developing?

*According to results of privatization, we may separate two major corporate groups: former administration and labor collectives. Among the two, the “administrative” group of shareholders has accumulated an absolute majority of shares while the second group obtained an inconsiderable part of company shares in result of “privatization for free”. However, labor collective in Armenia is not a monolithic formation united by common interests and, therefore, is not able of maintaining of even primitive control system at joint stock companies. In result, labor collectives*

of joint stock companies are hardly be taken for corporate groups. Meanwhile, interests of administration are well defined: preservation of control over the enterprise, which the administration used to have prior to privatization. At the same time, any special tendencies in development of corporate groups have not taken shape over the privatization period.

1.9 Are there any special links between financial institutions and corporate groups?

*Participation of financial institutions in the corporate ownership structure is insignificant and, in result, there does not exist a definite link between financial institutions and corporate groups. Major reason for that is that over the privatization period financial investors practically did not participate in privatization and, therefore, banks and other financial structures do not own any share packages.*

**2. Privatisation procedures:**

2.1 Percent of state commercial/production assets privatised to date:

2.1.1 Number and aggregate annual turnover of enterprises privatised to date:

*As of March 1, 2002, in the Republic of Armenia there were privatized 1,659 large and medium enterprises and 6,930 "small objects" (in catering, domestic services and trade). In general in the Republic more than 7- % of total number of large and medium enterprises and almost 100 % of small objects were privatized. Private sector accounts for about 80 % of GDP of the Republic.*

2.2 By what methods may state assets be privatised?

*According to Law of the Republic of Armenia "On Privatization of State-Owned Property", state-owned assets can be privatized by means as follows:*

- *Open subscription for shares;*
- *Auction sales;*
- *Tenders including on international scale;*
- *Direct sales;*
- *Open or closed allocation of shares of a new issuance;*
- *Issuance of convertible bonds;*
- *Trade in shares on stock exchange;*
- *Conveyance of rights to use of property to individuals and entities and municipal structures to other persons.*

2.2.1 Identify the percentage of assets privatized through each method.

- *Open subscription for shares: 62.5 % of all privatised big and medium enterprises);*
- *Auction sales: (5.6 %);*
- *Tenders including on international scale (6.4 %);*

- *Direct sales (22.7 %);*
- *Open or closed allocation of shares of a new issuance (0);*
- *Issuance of convertible bonds (0);*
- *Trade in shares on stock exchange (1 enterprise, 0.06 %);*
- *Conveyance of rights to use of property to individuals and entities and municipal structures to other persons (0).*

2.3 What are the privatisation objectives and current methods used?

*The current privatization program in Armenia is already the fifth designed for the period of 2001-2003 and established by Law of the Republic of Armenia “On program of Privatization of State-Owned Property for 2001-2003”. It has the goals and objectives as follows:*

- *Improvement of effectiveness of operational activity of commercial enterprises;*
- *Improvement of methods of privatization of state-owned property with priority assigned to the methods of privatization which promotes investment attraction to privatized companies. At the same time, much attention is given to securing jobs and undertaking certain social measures at privatized enterprises. As a rule, it is achievable through tender sales of state stakes, where not only price but other criteria also can be set as prerequisites.*

2.4 To what extent may foreign investors participate in privatisation?

*In accordance with Law of the Republic of Armenia “On Privatization of State-Owned Property”, subjects of privatization are individuals and entities including foreigners (i.e. citizens of other state and stateless persons, legal entities under legislation of other countries, international organizations, companies (enterprises), owned fully or to a considerable extent (more than half of property) by individuals or entities of other countries, international organizations or other countries. The Law established that foreign individuals and entities enjoy the same right as local citizens.*

**3. The legal and regulatory framework providing for shareholder rights**

3.1 Identify the principal normative acts establishing and protecting the rights of shareholders (title of act, promulgating state body, date of adoption, identification number)?

	Name of regulatory act	Body of public authority which approved the act	Date of approval	Identification number
1	Law of the Republic of Armenia “On Circulation of Securities” (not enforced)	Supreme Board of the Republic of Armenia	20 <sup>th</sup> of July, 1993	0910-I
2	Law of the Republic of Armenia “On Joint Stock Companies”	National Assembly of the Republic of Armenia	30 <sup>th</sup> of June, 1996	
3	Civil Code of the Republic of Armenia	National Assembly of the Republic of Armenia	5 <sup>th</sup> of May, 1998	010.0239.280798

4	Law of the Republic of Armenia “On Securities Market Regulation”	Securities Commission of the Republic of Armenia	27 <sup>th</sup> of October, 2001	232
5	Law of the Republic of Armenia “On Joint Stock Companies”	National Assembly of the Republic of Armenia	6 <sup>th</sup> of July, 2000	82
6	Abridgement of rules regulating securities market	Securities Commission of the Republic of Armenia	28 <sup>th</sup> of September, 2001	392/01

### 3.2 How recent and effective is the existing legislation?

*Economic reforms stipulated the necessity of reformation of legislation. It should be noted that currently effective legislation has come several stages of changes and amendments. Armenia has inherited from the Soviet epoch continental legal system, upon which all legislative documents of the first phase of reformation were based. Basic point of law-making was adoption of the Constitution, which prescribes that the state guarantees liberal economic development and equal legal protection of all forms of ownership, liberty of economic activities and free economic competition. The second phase of the law-making was stipulated by new stage of economic reformation (1996). In 1998, new Civil Code of the Republic of Armenia was adopted and due to inconsistencies arisen on the legislative field caused initiation of a row of legislative modifications. Law of the Republic of Armenia “On Securities Market Regulation” can be regarded as rather late in time. Despite of formed tradition, this law has introduced elements of Anglo-Saxon juridical system into Armenian reality. Effective legislative area can be described as follows:*

- *Laws undergone frequent changes and amendments, while regulatory acts are late in time;*
- *Scope of law protecting shareholder rights are poorly integrated in the common system of legislative regulation;*
- *Imperative nature of laws is compensated by their facultative execution in practice;*
- *Effective law is not a result of development of economic realities of Armenia but rather a product of activities of foreign advisors;*
- *Ambiguity of interpretation of law and its provisions;*
- *Process of law enforcement is very imperfect etc.*

### 3.3 What are in your opinion the most important areas for reform of existing normative acts or the adoption of additional normative acts?

*At the heart of reformation of Armenian legislation lies the principle of bringing regulatory acts in conformity with actuality and business traditions of Armenia.*

### 3.4 Are there any significant pending laws or normative acts?

*According to annual program of the SC of the Republic of Armenia for 2002, development of the following regulatory acts is envisaged:*

- *Rules regulating procedures of initial allocation of shares and reorganization of joint stock companies;*
- *Regulatory acts regulating the system of collective investment governance;*

- *The rule regulating procedures of use of voting ballots;*
- *The rule regulating procedures of tender bids at purchase of shares;*
- *The rule regulating procedures of submission of periodic issuer reports to shareholders.*

### 3.5 What procedures are required to amend the bylaws / regulations of a company?

*According to article 84 of the Law of the Republic of Armenia “On Joint Stock Companies”, resolution concerning approval of company’s bylaws regulating activity of management bodies of a joint stock company as well as modification of those documents falls within the authority and powers of the boards of joint stock companies.*

### 3.6 What procedures are required to amend the charter of a company?

*According to article 14 (1) of the Law of the Republic of Armenia “On Joint Stock Companies”, introduction of changes and amendments into the charter of joint stock company, approval of revised charter shall be voted by three fourths of votes of holders of voting shares participating in the general shareholder meeting. However, in cases of increase of authorized capital this issue should be supported by majority votes of shareholder-owners of voting shares or nominal shareholders or by unanimously passed resolution of the board.*

*According to (2) therein, if introduced of changes and amendments into the charter of joint stock company or approval of revised charter restrict shareholder rights and if they voted against adoption of relevant resolution or did not participate in voting, the shareholders-owners of voting shares are entitled to request repurchased by the company of all or a part of shares owned by them.*

## **Does the corporate governance framework protect the rights of shareholders?**

### **1. Ownership Rights**

*Basic shareholder rights include the right to secure methods of ownership registration and to convey or transfer shares.*

#### 1.1 Are Shareholders able to register their shares without undue difficulties? What are the steps, documents, permissions and time required to register shares? On what grounds may authorities refuse the registration of shares?

*Entering record in the shareholder register is effected subject to request of the shareholder or nominal shareholder not later than within three days following the time of submission of documents required by legislative acts of the Republic of Armenia. Refusal of making relevant entry in the shareholder register of the company is not permissible except for the cases provided for by legislative acts of the Republic of Armenia. In case of refusal of introduction of records in the shareholder registry of the company, the holder of the register shall send to the person who requested the record be introduced in the register notice of refusal not later than within five days following the time of the request. The refusal of the register entry-making may be appealed in court. Subject to ruling if court, the holder of the shareholder register of the company is liable for introduction of relevant entry in the register.*

Identify the relevant section(s) of the normative act(s) governing this issue

*Article 52 of the Law of the Republic of Armenia “On Joint Stock Companies” – Entries in the shareholder register.*

Describe any issues or problems arising in practice in connection with this matter

*According to the annual program of the SC of the Republic of Armenia, among the problems arising due to register maintenance, there is also the problem of absence in Armenia of a shaped system for maintenance of a centralized register. Another problem is that maintenance of the register by issuers according to requirements of applicable law is coupled with certain difficulties, which has its affect on exercising shareholder rights.*

1.2 How is share registration handled in public companies? What are the steps, documents, permissions and time required to register shares? On what grounds may authorities refuse the registration of shares?

*According to the Law of the Republic of Armenia “On Securities Market Regulation”, registration is binding for shares of accountable issuers (the companies in which the number of owners of shares of one class is more than 50 and amount of net assets correspond to the amount established by the SC of the Republic of Armenia.*

*Registration is performed in accordance with submitted declaration of securities registration with the stock exchange and the SC of the Republic of Armenia. The registration should comprise information concerning: type of activity (operation) and the company’s organizational issues, earlier issues of securities, terms and conditions of issuance, rights and liabilities of these securities’ owners, management system, issuer’s agreements, terms and conditions of issuance and type of issued securities, data of balance sheet, statements of profit and loss, modifications of equity capital and funds of the company over the last three years etc. At the same time, the charter of the issues should be submitted and other documents on request of the SC.*

*If the stock exchange notifies the SC on that a certain security is registered with the exchange, this security is deemed registered with the SC within 10 days following the time of receipt of such notice. During this period of time, the Commission is entitled to refuse of registration of the security if submitted information or documents are incomplete or invalid. In this event, the securities should be deemed registered on the day when the Commission acknowledges that the declaration has been completed to satisfaction of the Commission requirements.*

*The issuer should be liable for registration of its securities with the Commission within 60 days after it is becoming an Accountable Issuer. Securities should be deemed registered on the 30<sup>th</sup> day since the date of receipt of declaration. During the aforementioned period of time the Commission considers the documents and in case of their incompleteness issue the reasonable refusal of registration. Securities should be deemed registered on the day when the Commission finds out that the declaration has been prepared or completed to satisfaction of requirements of the Commission’s resolution.*

Identify the relevant section(s) of the normative act(s) governing this issue

Chapter 3 of the Law of the Republic of Armenia “On Securities Market Regulation”, Consolidated rules regulating securities market.

Describe any issues or problems arising in practice in connection with this matter

As a result of inadequacy of law requirements concerning disclosure of information to Armenian realities, issuers agree to their new status unwillingly and with some fear and try to avoid it by all means. The problem is that in result of disclosure of information in the environment characterized by under-developed and non-liquid securities market have practically no possibilities to make use of advantages of issuance of securities and at the same time have to disclose information this disrupting their competition positions. Obvious inadequacy of legal requirements to real state to economy often leads to deformation of competition environment for economic entities.

1.3 How are registers regulated?

*In accordance with article 51 of the Law of the Republic of Armenia “On Joint Stock Companies”, joint stock company after state registration should ensure maintenance and safe-keeping of the shareholder register in accordance with legislative acts of the Republic of Armenia. The company or a professional participant of the securities market carrying out its activity in maintenance registered shareholder registers can act as a holder of shareholder register of the company. The company, which in accordance with the Law of the Republic of Armenia “On Securities Market Regulation” is an Accountable Issuer, should assign maintenance of the register to a specialized organization (in Armenia, it is the Central Depository). The company assigning maintenance and safekeeping of the register to a registrar is relieved of liability for its maintenance and safekeeping. In the shareholder register, they indicate information on each registered person, quantity and category (type) of shares registered in the name of each registered person, other information provided for by legislative acts of the Republic of Armenia. A person registered in the shareholder register should be liable for timely notification of the register holder on changes in its data. In case of failure to submit information on changes in the data, the company and the registrar are not liable for loss caused by it.*

1.4 What rights do shareholders and/or the public have to inspect a company’s register of shareholders?

**According to the Rule 112.1 b-10 of the Consolidated Rules regulating securities market, the following persons are entitled to get themselves familiar with the register:**

**1. Issuer, who is eligible for obtaining data of the register upon its request within 3 days.**

**2. Shareholder. Holder of the register of joint stock company upon request of a shareholder shall be liable for verification of the latter’s right to shares by issuing extract from the register of the joint stock company. Such extract is not deemed a security. List of persons, eligible for participation in general shareholder meeting, is submitted by the company for familiarization upon request of persons included in the list and owing at least 10 % of voting shares.**

3. *Securities Commission or any other governmental agency.*

Identify the relevant section(s) of the normative act(s) governing this issue

1. Articles 53, 70 of the Law of the Republic of Armenia “On Joint Stock Companies”. – Extract from the shareholder register of joint stock company, Right to participate in the meeting.
2. Chapter 11 of the Law of the Republic of Armenia “On Securities Market Regulation”. – Central Depository.
3. Consolidated Rules regulating securities market. – Rules 112. 1 b-10, 26, 28, 29.

Describe any issues or problems arising in practice in connection with this matter

*According to annual program of the SC for 2002, the fact that a shaped centralized maintenance of shareholder register has not yet been shaped in Armenia is pointed out among other problems.*

1.5 Are shares freely transferable in open versus closed joint stock companies? What are the restrictions?

*Joint stock company is entitled to perform open subscription for shares issued by it or securities convertible in shares of the company and carry out their free open sale in accordance with requirements of the Law of the Republic of Armenia “On Joint Stock Companies” and other legislative acts of the Republic of Armenia. Open joint stock company is entitled to perform closed*

***subscription for shares issued by it or securities convertible in the shares. Number of shareholders of an open joint stock company is unlimited.***

*The company share of which are distributed only among its founders or other predefined persons is recognized as closed joint stock company. Such company is not eligible for open subscription for shares, issued by it or other securities or otherwise offer them for acquisition for unlimited number of person.*

*Number of shareholders of a closed joint stock company should not exceed 49. Shareholders of a closed joint stock company enjoy pre-emptive rights to purchase shares sold by other shareholders of same company. Charter of a closed joint stock company may provide for the pre-emptive right to purchase shares sold by shareholders by the company if shareholders have waived their pre-emptive right to purchase the shares. In case where shareholders of the company and/or the company do not exercise their pre-emptive rights to purchase of all shares offered for sale or a price was not agreed, the share may be sold to a third party. Period during which the pre-emptive right to purchase is exercisable may not be less than 30 days and longer than 60 days from the offer day.*

Identify the relevant section(s) of the normative act(s) governing this issue

Article 8, 46 of the Law of the Republic of Armenia “On Joint Stock Companies” – Types of companies, Methods of allocation of company’s shares and other securities by the company.

Describe any issues or problems arising in practice in connection with this matter

*Problems arising from the issue in question are in the first place stipulated by undeveloped securities market for open joint stock companies, and unadjusted mechanisms of alienation of shares and realization of pre-emptive rights within the framework of applicable law – for closed joint stock companies.*

#### **1.6 What are the requirements for authorising and issuing new capital?**

In accordance with the Law of the Republic of Armenia “On Securities Market Regulation”, authorization and registration apply to issuance of securities including shares, which have been offered publicly, i.e. to more than 100 persons. The Securities Commission of the Republic of Armenia is the agency registering issue of securities. For this purpose, the declaration of registration of securities should be submitted to the Commission. The declaration should include main data of the issuance circular, issuance costs and expenses on allocation; resolutions and agreements of the issuer for 3 recent years which have any relation whatsoever to the issuance and written consent of affiliated persons to disclose information concerning their activities (operations). Speaking about the issuance circular, it should be noted that it should include data as follows: the issuer’s data, issuer-affiliated persons, its management system, persons participating in issuer’s management, information on considerable securities cross-holders, information about already allocated securities of the issuer and securities subject to allocation etc.

Identify the relevant section(s) of the normative act(s) governing this issue

*Chapters II, III of the Law of the Republic of Armenia “On Securities Market Regulation” –Sale of securities, Registration of securities of accountable issuers.*

Describe any issues or problems arising in practice in connection with this matter

*Problem of issuance of additional shares lies in legal restriction of share allocation at a price lower than nominal, which in conditions of when market value is lower than nominal price, which occurs all the time, makes a new issuance practically unrealizable.*

**1.7 What pre-emptive rights to the purchase of company shares do shareholders enjoy, if any?**

*Shareholders of the company have pre-emptive rights to purchase new shares in a quantity proportional to the quantity of shares owned by them is so prescribed by the charter of the joint stock company. In case of allocation of shares and securities convertible in shares of the company, shareholders do not have pre-emptive rights to purchase shares of the company at terms and conditions of open subscription. However, if payment for shares is made in cash, the charter of the joint stock company may provide for possibility to exercise this pre-emptive right. Such relevant resolution is to be approved by the general shareholder meeting by simple majority of votes present at the meeting. Resolution on non-exercise of the pre-emptive right may not stay in effect for more than one year. Shareholders of the company should be notified on possibility to exercise their pre-emptive rights at least 30 days prior to share allocation. The notice should contain the information on:*

- *Quantity and price of so allocated shares;*
- *Procedures of identification of quantity of shares purchased by shareholders according to their pre-emptive right, order and term of realization of this right.*

*Shareholders of the company, from their part, should notify the company on their consent by written claim in order to avoid losing this right and secure its realization in full or in part. The claim should specify:*

- *Name of the shareholder (full name in case of individual) and postal address;*
- *Quantity of purchased shares;*
- *Payment-certifying document.*

Identify the relevant section(s) of the normative act(s) governing this issue

*Articles 47, 48 of the Law of the Republic of Armenia “On Joint Stock Companies” – Ensuring shareholder rights at allocation of shares and securities convertible in shares, Procedures of exercise of pre-emptive right to purchase of shares and securities convertible in shares.*

Describe any issues or problems arising in practice in connection with this matter

Exercise of the pre-emptive right is limited due to lack of practice in additional allocations of shares. It is worth mentioning that in case of application of provisions stipulating the aforementioned right procedures of its exercise are violated.

**2. Dividends**

*Basic shareholder rights include the right to share in the profits of the corporation.*

**2.1 How are dividends of the company set and distributed?**

*Dividends are due from net profit of Joint Stock Company. The company shall be eligible to approve resolution on payment of dividends from allocated shares one a year. The company shall be liable for payment of dividends declared for shares of each category payable in cash or in cases provided for by the charter of the company – in other property. Dividends from preference stock can be paid from especially reserved funds of the company. The company may also pay annual and interim dividends (on quarterly or half-year basis). Resolution on interim dividends may not exceed 50 % per annum or previous year.*

*List of persons eligible for annual dividends is prepared on the date of preparation of list of persons eligible for participation in the general shareholder meeting.*

Identify the relevant section(s) of the normative act(s) governing this issue

Articles 49, 50 of the Law of the Republic of Armenia “On Joint Stock Companies” – Procedures of payment of dividends by the company, Limitations for dividend payment.

Describe any issues or problems arising in practice in connection with this matter

*Due to financial restrictions experienced by companies, companies do not approve resolution on dividend payment and, therefore, the dividends are not paid. Basic approach here is redistribution of financial flows rather than payment of dividends. This is made in a certain form, which allows big shareholders to settle profit in structures outside the joint stock company.*

2.2 Under what circumstances may shareholders be restricted in their ability to share in profits?

*Capability of shareholders to participate in the general shareholder meeting may be limited:*

- *Until full payment of authorized capital of the company;*
- *Until repurchase of all shares which should be bought out in accordance with law;*
- *If the company is insolvent (bankrupt) in accordance with characteristics provided for in law of the Republic of Armenia on the day of approval of such resolution;*
- *If on the day of approval of such resolution, value of net assets of the company is less than the amount of its authorized capital and reserve fund, and exceed of value of allocated preference stock over their nominal value will become lower than the amount of the authorized capital and reserve fund in result of approval of such resolution.*

Identify the relevant section(s) of the normative act(s) governing this issue

Article 50 of the Law of the Republic of Armenia “On Joint Stock Companies” – Limitation of dividend payment.

Describe any issues or problems arising in practice in connection with this matter

2.3 Can shareholders vote at general meetings on distribution of profits?

*Yes, they can since the general shareholder meeting approves resolution on payment of annual dividends.*

Identify the relevant section(s) of the normative act(s) governing this issue

*Article 50 of the Law of the Republic of Armenia “On Joint Stock Companies” – Powers and authority of general shareholder meeting.*

Describe any issues or problems arising in practice in connection with this matter

*As we have mentioned, due to restrictions of financial nature experienced by companies, they do not approve resolution on dividend payment and, therefore, the dividends are not paid.*

2.4 What specific recourse do shareholders have in case of delays or refusal to pay dividends?

If the company decided on dividend payment and the management of the company delay or refuse to pay dividends, shareholders are entitled to appeal to the SC, which in accordance with Consolidate Rules regulating securities market is entitled to impose sanctions.

2.5 Is the company allowed to purchase its own shares? Under what conditions?

*Legislation of the Republic of Armenia provide for 2 ways by which company's shares may be placed on balance accounts of the company: purchase and buy-out (repurchase) of shares.*

***Purchase:** The company is eligible for purchase of its allocated shares subject to relevant resolution of the general shareholder meeting on decrease of the authorized capital of the company by means of purchase of a part of allocated shares for reduction of their total number if the charter of the company provides for this. The company is not eligible for approval resolution on decrease of the authorized capital of the company by means of purchase of a part of allocated shares for reduction of their total number if nominal value of shares remaining in circulation becomes lower than the minimal permissible level of the authorized capital prescribed by legislation of Armenia. The company, if its charter provides this for, is eligible for purchasing its shares subject to relevant resolution of the board. The board of the company is not eligible to decide on purchase of the company's shares, if nominal value of the company's shares in circulation will amount to less than 90 % of the authorized capital. Resolution on purchase of shares should prescribe categories of purchased shares, quantity of shares, purchase price, form and term of payment as well as a period of time within which the purchase of shares is due. If the charter of the company specify otherwise, payment for purchased shares is made in cash. Period of time, within which the purchase of shares is carried out should not be less than 30 days, The company is not eligible for effecting purchase of allocated shares until the authorized capital of the company is paid in full; if at the time of the purchase the company fall within characteristics of insolvency; if at the time of the purchase value of net assets of the company is lower than the amount of the authorized capital, reserve fund and excess over nominal value of allocated preference shares or will become lower should the purchase be effected.*

***Buy-out (repurchase):** Shareholders-owners of voting shares are entitled to request repurchase by the company of all or a part of shares owned by them in cases as follows: approval of resolution on reorganization of the company or undertaking a major transaction or suspension of effect of the pre-emptive right in case where they have voted against approval of the resolution or did not participated in voting; resolution on introduction of changes or amendments in the charter of the company or approval of revised charter of the company limiting their rights if they have voted against approval of such resolution or did not vote. List of shareholders eligible for demanding repurchase of shares owned by them should be prepared on the day of preparation of list of persons eligible for participation in the general shareholder meeting, agenda of which includes issues where appropriate voting may entail arising the right to demand repurchase shares. Share buy-out by the company is carried out at a market price. The company is liable for informing the shareholders on availability of their right to demand repurchase by the company of shares owned by them, a price and procedures of the repurchase. Written request of a shareholder to repurchase shares owned by him is send to the company and should contain residence address (place of location) of the shareholders and quantity of shares repurchase of which he demands. Requests of shareholders concerning repurchase by the company of shares owned by them should be submitted top the company at least 45 days following the day of approval of relevant resolution. Upon expiration of the aforementioned period of time, the company should be liable for repurchase of the shares within 30 days. Total amount of funds assigned by the company for repurchase of shares may not exceed 10 % of value of net assets of the company as on the date of relevant resolution, which have entailed origination of the right to demand repurchase by the company of shares owned by shareholders.*

2.6 If a company purchases its own shares (treasury shares), who, if anyone, may exercise voting rights with respect to these shares?

**Purchase.** Shares purchased under relevant resolution of the general shareholder meeting shall be cancelled at their purchase. Shares purchased under relevant resolution of the board of the company do not provide voting right; they also are not counted in at polling votes, no dividends are accrued on them. Such shares should be realized for one year since the date of their purchase. Otherwise, the general shareholder meeting should approve resolution on decrease of the authorized capital of the company by means of cancellation of the shares.

**Repurchase.** Shares repurchased by the company in case of its reorganization are cancelled at their repurchase. Shares repurchased by the company in other cases shall be used at discretion of the company. Such shares do not provide voting rights; they are not counted in at polling, dividends are not accrued on them. Such shares should be realized for one year since the date of their purchase. Otherwise, the general shareholder meeting should approve resolution on decrease of the authorized capital of the company by means of cancellation of the shares.

Identify the relevant section(s) of the normative act(s) governing this issue

Articles 54, 55, 57, 58, 59 of the Law of the Republic of Armenia “On Joint Stock Companies” – Purchase of allocated shares by the company.

Limitations on purchase of allocated shares by the company; Repurchase of shares by the company on request of shareholders; Procedures of exercise of shareholder rights to demand repurchase by the company of shares owned by them; Identification of market value of property.

Describe any issues or problems arising in practice in connection with this matter

Shareholders are not adequately aware of their right to demand repurchase in cases of approval of relevant resolution, which makes the company to keep them uniformed and not to undertake further steps provided for in applicable law.

### **3. Major corporate changes and shareholder meetings**

*Shareholders have the right to participate in decisions concerning fundamental corporate changes and should have the opportunity to participate effectively and vote in shareholder meetings.*

#### **3.1 How often do shareholder meetings have to be held?**

*Once a year the company must hold the general shareholder annual meeting (regardless of holding other meetings). Annual general shareholder meeting is convened within six months following expiration of financial year. Extraordinary meeting is held under relevant resolution of the board of directors and on their own initiative as well as upon request of the auditing commission, external auditor, shareholder (shareholders) holding on the date of the request at least 10 % of the company’s shares voting on all issues relating to powers of the general shareholder meeting. Board of directors should be entitled to approve resolution on convocation of extraordinary meeting on its own initiative (without requests from other parties) and independently word formulate of the agenda. Resolution of the board of directors on convocation of extraordinary meeting is normally approved by majority of votes of its members present at the meeting or participating in absentee ballot. Mechanism of approval of appropriate resolution on given issue should be specified in the charter.*

Identify the relevant section(s) of the normative act(s) governing this issue

Article 55, 74 of the Law of the Republic of Armenia “On Joint Stock Companies” - General shareholder meeting. Extraordinary general shareholder meeting.

Describe any issues or problems arising in practice in connection with this matter  
General shareholder meetings are convened mainly with procedural distortions.

### 3.2 What is the process and timeline for notification of shareholders?

*Shareholders are entitled to participate in the meeting and the company shall be liable for their timely notification. The company is liable for informing shareholders on holding all general shareholder meetings – annual and extraordinary. Notice on the general shareholder meeting can be made as follows:*

- *By publication of appropriate announcement in printing mass media;*
- *Registered notice to shareholders sent by post;*
- *Combination of the above.*

*Persons eligible for participation in the meeting with deliberative vote should be also notified on the meeting. Form of notification on the general shareholder meeting including means, printing media in which the notification should be published, and procedures of the publication must be determined at a previous the general shareholder meeting or in the charter and may not be modified prior to the next meeting or amendment of the charter. Unless the charter prescribes a definite form of notification, notification should be carried out by means of dispatch of registered letters. Personal notifications are prepared in accordance with data of the shareholder register and, there fore, list of shareholders eligible for participation in the general shareholder meeting should be prepared before the date of their notification on the meeting. At postal dispatch, notifications should be sent to addresses, specified in the register. Shareholders should advise of changes in their addresses in timely manner since the company is not liable for failure to notify a shareholder in case when such change in address has not been communicated to the company. Members of the auditing commission and a person, performing audit of the company, in case where there is the auditor's conclusion, should be also notified by written notice on convocation of the meeting. If a nominal shareholder has been registered in the shareholder register, such shareholder should be notified on the meeting and he is liable for communication of this information to his customers in accordance with terms and conditions specified in his agreements with the customers. Timelines for notifying shareholders on convocation of the meeting shall be prescribed by the charter of the company. However, the company with the number of shareholders more than 50 should notify them at least 15 days prior to the day of the meeting.*

Identify the relevant section(s) of the normative act(s) governing this issue

Article 71 of the Law of the Republic of Armenia “On Joint Stock Companies”. – Notice of convocation of general shareholder meeting.

Describe any issues or problems arising in practice in connection with this matter

Notification of shareholders is performed with either procedural inaccuracies or shareholders are not notified at all and the meeting is held in a “hush-hush” manner among shareholders owning controlling interest.

### 3.3 How are foreign shareholders treated regarding notification and participation?

Notification of foreign shareholders is carried out in the same manner as provided for domestic shareholders.

Identify the relevant section(s) of the normative act(s) governing this issue

Article 71 of the Law of the Republic of Armenia “On Joint Stock Companies”. – *Notice of convocation of general shareholder meeting.*

Describe any issues or problems arising in practice in connection with this matter

3.4 What advance notification must shareholders receive of the agenda of shareholder meetings?

The notice should contain information as follows:

- Name of the company and place of its location;
- Date, time and place of the general shareholder meeting;
- Data of preparation of list of shareholders eligible for participation in the meeting;
- Issues included in the agenda of the general shareholder meeting;
- Procedures of familiarization with relevant information and materials.

During preparation of the general shareholder meeting, list of materials and information should include: annual reports of the company, conclusion of the auditing commission or an auditor on approval of results of financial and economic operations of the company, draft changes and amendments to the charter of the company or draft revised charter.

At holding the general shareholder meeting in the form of absentee voting and holding the general shareholder meeting of the company with the number of shareholders owning 50 and more voting shares, voting ballots should be send or delivered for subscription by shareholders specified on the list of persons eligible for participation in the general shareholder meeting at a time specified by the charter of the company.

Identify the relevant section(s) of the normative act(s) governing this issue

Articles 71, 79 of the Law of the Republic of Armenia “On Joint Stock Companies”. – *Notice of convocation of general shareholder meeting, Voting ballot*

Describe any issues or problems arising in practice in connection with this matter

It is the notification procedure that is violated most often.

3.5 What are the restrictions regarding the location of the general meeting?

*Preparation of the general shareholder meeting including approval of place of the meeting, its agenda belongs to exceptional powers of the board of the company. In case of absence of the board, its functions are distributed among the general shareholder meeting and the executive body, i.e. in this case functions of the board are discharged by the general shareholder meeting except for issued related to conduct of the general shareholder meeting and approval of its agenda. No other limitations exist.*

Identify the relevant section(s) of the normative act(s) governing this issue

**Article 83, 84 of the Law of the Republic of Armenia “On Joint Stock Companies” – Board of directors, Powers of the board**

Describe any issues or problems arising in practice in connection with this matter

**3.6 Are there any restrictions on the participation of shareholders in the general meetings of shareholders? Of representatives of shareholders that are legal entities? Of proxies?**

*The right to participate in the general shareholder meeting is exercised by a shareholder personally or by proxy. Shareholder is eligible to replace his proxy at the general shareholder meeting at any time or participate therein personally. In case of transfer of share after the date of preparation of the list of persons eligible for participation in the general shareholder meeting and prior to the date of the general shareholder meeting, a person included in this list should issue a letter of attorney to the purchaser in accordance with instructions of the purchaser. In case of a share of the company is in cross-holding of several persons, the voting right at the general shareholder meeting is exercised by one of the participants of the cross-holding or their common proxy.*

Identify the relevant section(s) of the normative act(s) governing this issue

Article 76 of the Law of the Republic of Armenia “On Joint Stock Companies” – Procedures of shareholder’s participation in the general shareholder meeting.

Describe any issues or problems arising in practice in connection with this matter

*Among other problems related to the issue in question, we should note participation in the general shareholder meeting of shareholders’ proxies without letters of attorney or submission of improperly issued letters.*

**3.7 Are shareholders able to add items to the agenda? What is the procedure?**

**Agenda of the meeting announced in advance may not be changed or amended. General shareholder meeting is not entitled to consider issues not included in the agenda of the general shareholder meeting or change the agenda. The right to put forward proposals concerning the issues on agenda belongs to:**

- *Shareholders owning by a certain number of shares stipulated by law;*
- *Auditing commission;*
- *Auditor of the company;*
- *The board is eligible for inclusion of issues in the agenda on its own initiative.*

*The Law of the Republic of Armenia “On Joint Stock Companies” defines “separation of rights” to the above initiators. Shareholders, auditing commission and auditor are not entitled to initiate certain issues, which belong to powers of the general shareholder meeting. General shareholder meeting, both annual and extraordinary, can consider issues solely on proposal if the board. These issues include:*

- *Approval of resolutions on reorganization of the company proposed by the board;*
- *Approval of resolutions on liquidation of the company proposed by the board;*
- *Approval of an annual report, accounting balance sheets, profit and loss accounts, profit distribution submitted by the board;*
- *Approval of member composition of accounting commission;*
- *Approval of resolutions on announced annual dividends recommended by the board, approval of their amount, for of payment by shares of each category;*

- *Determination of the date of payment of annual dividends according to recommendations of the board;*
- *Approval of resolutions in accordance with recommendations of the board concerning non-payment of dividends by shares of certain categories or on partial payment of dividends for preference shares amount of which (dividend) is prescribed by the charter;*
- *Establishment of an amount of remuneration and compensation due to members of the auditing commission in accordance with recommendation of the board;*
- *Approval of resolution on major transaction in accordance with recommendation of the board.*

*The board at its meetings considers these issues and approves relevant preliminary decisions. Thereupon, the board on its own initiative includes them in the agenda of the annual general shareholder meeting or initiates convocation of extraordinary meeting. There is one more group of issues stipulated by law, which can be included in the agenda of the meeting in accordance with initiative of the board. It should be pointed out that such regulation of the Law is of non-mandatory nature, i.e. the charter may provide for other procedures according to which proposal of such issues is prerogative of shareholders, auditing commission and an auditor. These issues include:*

- *Approval of resolutions on non-exercise of shareholders pre-emptive right to purchase the company's shares or other securities convertible in shares;*
- *Specifying of a form of communication of relevant materials to shareholders;*
- *Approval of resolution on split of allocated shares;*
- *Approval of resolution on consolidation of allocated shares;*
- *Approval transactions provided by article 67 of the Law;*
- *Entering major transactions provided by the Law;*
- *Purchase and repurchase (buy-out) of shares allocated the company in cases specified by the Law;*
- *Setting up of daughter companies, participation in daughter and dependent companies;*
- *Setting up branches and representation offices of the company.*

*The Law introduces regulations concerning formation of the agenda of annual general shareholder meeting, viz.:*

- *Circle of shareholders, the company's bodies and officials entitled to propose issues for the agenda;*
- *Maximal numbers of issues per one proposal;*
- *Timelines for submission of proposals;*
- *Form of submission of proposals;*
- *Timelines for consideration by the board of directors of submitted proposals and dispatch of motivated refusals.*

*Therefore, a shareholder or a group of shareholders owning 2 % of voting shares are entitled to submit no more than two proposals on the agenda of annual general shareholder meeting and propose nominees to members of elected bodies of the company within 30 days following the day of expiration of fiscal year or within a longer period of time prescribed by the charter of the company.*

*It should be noted that a number of nominees proposed by each shareholder or group of shareholders might not exceed the number of members of a body as it is specified by the charter of the company. It is required to prepare written application addressed to the board of directors with exact formulation of proposed issues and register it in accordance with set procedures*

*The board of the company should consider submitted proposals and approve resolution on their inclusion or turning them down within 15 days. Proposal of shareholder should be declined if:*

- *Timelines for its submission were not observed;*
- *Shareholder does not own a number of shares required for exercise of this right;*
- *Issue proposed for inclusion in the agenda does not belong to powers of the general shareholder meeting in accordance with the Law and the charter of the company;*
- *The proposal contains incomplete information required by the Law, or all necessary documents are not attached thereto (letters of attorney, in case when the proposal is subscribed by a proxy);*
- *Proposal is inconsistent with requirements of legislation.*

*Resolution of the board on rejection of proposal and/or nominee is submitted to the shareholder during three days from the date of the resolution.*

*Shareholder is entitled to appeal the resolution in court as prescribed by the law. Proposals concerning the charter are not accepted.*

*After shareholders have been informed on holding general shareholder meeting, the agenda of the meeting may not be changed. Accordingly, procedures of approval of the agenda at the general shareholder meeting should not be available since the general shareholder meeting is not entitled to resolve the issues not included in the agenda of the general shareholder meeting or change the agenda.*

Identify the relevant section(s) of the normative act(s) governing this issue

Articles 72, 74 of the Law of the Republic of Armenia “On Joint Stock Companies” – Proposals to the agenda of general shareholder meeting, Extraordinary general shareholder meeting.

Describe any issues or problems arising in practice in connection with this matter

3.8 Are all shareholders able to vote at general meetings? What are the majorities required for the following issues?

*Voting at the general shareholder meeting is effected by the principle “one voting share - one vote” except for cumulative voting (article 78 of the Law of the Republic of Armenia “On Joint Stock Companies”. – Voting at general shareholder meeting)*

3.8.1 – on appointment and removal of directors?

*Such resolution of the general shareholder meeting should be approved by majority of votes of shareholders-owners of voting shares of the company participating in the meeting.*

Identify the relevant section(s) of the normative act(s) governing this issue

Articles 67, 68 of the Law of the Republic of Armenia “On Joint Stock Companies” – Powers of meeting, Resolutions of meeting.

Describe any issues or problems arising in practice in connection with this matter

**Boards are not re-elected at general shareholder meeting as required by the law, “pocket” boards are formed consisting of director, chief accountant and certain other managers of a company.**

3.8.2 –on appointment and removal of external auditors?

*This resolution of the general shareholder meeting is approved by majority of votes of shareholders owning voting shares of the company participating in the meeting.*

Identify the relevant section(s) of the normative act(s) governing this issue

**Articles 66, 68 of the Law of the Republic of Armenia “On Joint Stock Companies” – Powers of meeting, Resolution of meeting.**

Describe any issues or problems arising in practice in connection with this matter

*Audits of financial and economic operations of the company have a formal nature, as a rule. Sometimes, auditors face direct resistance to their work.*

3.8.3 –on issuing share capital?

*This resolution of the general shareholder meeting is approved by majority of votes of shareholders owning voting shares of the company participating in the meeting.*

Identify the relevant section(s) of the normative act(s) governing this issue

**Articles 35, 67, 68 of the Law of the Republic of Armenia “On Joint Stock Companies” – Increase of authorized capital, Powers of meeting, Resolution of meeting.**

Describe any issues or problems arising in practice in connection with this matter

*Issuance of shares is performed for washing out stake of minority shareholders.*

3.8.4 –on the issuance of additional shares?

*This resolution of the general shareholder meeting is approved by majority of votes of shareholders owning voting shares of the company participating in the meeting.*

Identify the relevant section(s) of the normative act(s) governing this issue

**Articles 35, 67, 68 of the Law of the Republic of Armenia “On Joint Stock Companies”. – Increase of authorized capital, Powers of meeting, Resolution of meeting.**

Describe any issues or problems arising in practice in connection with this matter

*Issuance of shares is performed for washing out stake of specific shareholders.*

3.8.5 –on major corporate transactions (i.e. acquisitions, disposal, mergers, takeovers, etc.)

*This resolution of the general shareholder meeting is approved by majority of three fourths votes of shareholders owning voting shares of the company participating in the general shareholder meeting in accordance with proposal of the board of the company.*

Identify the relevant section(s) of the normative act(s) governing this issue

**Articles 61, 67, 68 of the Law of the Republic of Armenia “On Joint Stock Companies” – Procedures of approval of major transaction, Powers of meeting, Resolution of meeting.**

Describe any issues or problems arising in practice in connection with this matter  
*Major transactions are carried out without observance of relevant requirements of law.*

3.8.6 –on transactions with related parties?

This resolution of the general shareholder meeting is approved by majority of votes of shareholders owning voting shares of the company participating in the meeting.

Identify the relevant section(s) of the normative act(s) governing this issue

**Articles 64, 67, 68 of the Law of the Republic of Armenia “On Joint Stock Companies”. – Procedures of approval of transaction which includes interest , Powers of meeting, Resolution of meeting.**

Describe any issues or problems arising in practice in connection with this matter  
*These transactions are carried out without observance of relevant requirements of the law.*

3.8.7 – on changes to company business, strategy or objectives?

This resolution of the general shareholder meeting is approved by majority of votes of shareholders owning voting shares of the company participating in the meeting.

Identify the relevant section(s) of the normative act(s) governing this issue

*Articles 67, 68 of the Law of the Republic of Armenia “On Joint Stock Companies” –Powers of meeting, Resolution of meeting.*

Describe any issues or problems arising in practice in connection with this matter

3.8.8 –on amendments to the statutes, articles or similar documents governing the company?

*This resolution of the general shareholder meeting is approved by majority of votes of shareholders owning voting shares of the company participating in the meeting.*

Identify the relevant section(s) of the normative act(s) governing this issue

*Articles 67, 68 of the Law of the Republic of Armenia “On Joint Stock Companies” – Powers of meeting, Resolution of meeting.*

Describe any issues or problems arising in practice in connection with this matter  
*Such documents often do not exist in Armenia.*

3.8.9 –on any other relevant issue requiring a majority of votes?

*Election of members of the auditing commission (auditor) of the company and early termination of their office.*

*Election of members of counting commission and early termination of their office.*

*Split and consolidation of shares.*

*Purchase by the company of allocated shares.*

*Approval of resolution on participation in holding companies etc.*

3.9 Are shareholders permitted to vote other than in person? By what means (by proxy, absentee, postal vote, Approval of resolution by telephone or electronically)?

Shareholders may vote in absentee through their proxies. Besides, in cases of holding absentee or combined form of the general shareholder meeting when resolution of the general shareholder meeting does not require holding the meeting in present of shareholders for discussion of issues on the agenda and approval of resolutions on issues to be voted, it can be done by means voting in absentee, i.e. shareholders deliver their voting ballots by mail. However, this latter method does not work in cases of annual general shareholder meeting since such meeting considers issues related to approval of annual reports, annual accounting reports including statement of loss and profit of the company and profit distribution together with issues of dividend payment and issues concerning losses of the company in accordance with results of financial year.

Identify the relevant section(s) of the normative act(s) governing this issue

*Articles 69, 76 of the Law of the Republic of Armenia “On Joint Stock Companies” – General shareholder meeting in absentee, Procedures of shareholder participation in the meeting.*

Describe any issues or problems arising in practice in connection with this matter

3.10 Do meeting notices clearly explain the procedures for voting? and appointment of proxies?

*Procedures of voting are indirectly described only in voting ballot that is an indivisible element of notification of issued by the company with number of shareholders owning voting shares of 500 and more. Thus, in voting ballot, the following information should be indicated:*

- *Full firm name of the company and place of its location;*
- *Form of the general shareholder meeting (meeting or voting in absentee);*
- *Date, place and time of the general shareholder meeting;*
- *Formulations of each issue on the agenda and order of their discussion;*
- *Methods of voting on each issue in formulations “pro” and “contra” and “abstained”;*
- *Indication of the necessity for shareholder to sign the ballot;*
- *Explanation of order of filling out the ballot.*

*The last two paragraphs may be taken for explanation of procedures of voting. Notification does not contain explanations on appointment of proxies.*

Identify the relevant section(s) of the normative act(s) governing this issue

**Article 79 of the Law of the Republic of Armenia “On Joint Stock Companies” – Voting ballots**

Describe any issues or problems arising in practice in connection with this matter

Among major problems occurring in practice in relation to this issue we should mention that notification often does not include voting ballot and in result shareholders remain not only unaware of voting procedures but the voting is accomplished by rising hands.

3.11 Are shareholders able to convene extraordinary meetings? Under what conditions?

**Extraordinary general shareholder meeting may be held upon request of shareholders (shareholder) owning at least 10 per cent of voting shares as on the date of the request. Convocation of extraordinary general shareholder meeting upon request of shareholders (shareholder) owning at least 10 per cent of voting shares of the company is responsibility of the board. In this case, the extraordinary general shareholder meeting should be held within 45 days from the date of submission of the request of convocation of the general extraordinary shareholder meeting. The request on convocation of the general extraordinary shareholder meeting may contain formulations of resolution on the issues and proposals concerning a form of conduct of the meeting. The board is not entitled to change formulations of the issues on the agenda, formulation of resolutions on the issues or change proposed form of conduct of the extraordinary general shareholder meeting. The request should specify names of shareholders (shareholder) requesting convocation of the meeting and quantity, category (type) of shares owned by them. Within five days following the day of submission of the request, a resolution on convocation of the extraordinary general shareholder meeting or refusal of convocation should be approved. Such resolution may be approved in case if: procedures of submission of the request on convocation of the general extraordinary shareholder meeting were not observed; shareholders (shareholder) requesting convocation of the general extraordinary shareholder meeting are not owners of required quantity of voting shares; none of the issues proposed for the agenda relates to powers of the general shareholder meeting. Resolution of the board on convocation of the general shareholder meeting or reasonable refusal of the convocation should be delivered to the shareholders not later than in three days after the day of the resolution. This resolution may be appealed in court. Shareholders who request such convocation may also convene general extraordinary shareholder meeting.**

Identify the relevant section(s) of the normative act(s) governing this issue

*Article 74 of the Law of the Republic of Armenia “On Joint Stock Companies” – General extraordinary shareholder meeting.*

Describe any issues or problems arising in practice in connection with this matter

3.12 What is the effect of shareholder resolutions on the company?

Identify the relevant section(s) of the normative act(s) governing this issue

Describe any issues or problems arising in practice in connection with this matter

#### 4. Equitable treatment

***The corporate governance framework should ensure the equitable treatment of all shareholders, including minority and foreign shareholders.***

4.1 Does the corporate governance framework provide for different classes of shareholders (i.e. with varying voting rights or other special rights)? How are the existing classes defined?

*System of corporate governance envisages various classes of shareholders identifiable by type and class of the shares as well as by extent of their concentration. According to the Law of the Republic of Armenia “On Joint Stock Companies”, a company allocates common shares and is eligible for allocation of one or several types of preference shares with nominal values not exceeding 25 % of the authorized capital of the company. Shareholders owning common shares of the company may participate in the general shareholder meeting in accordance with the Law and charter of the company with voting right on all issues related to powers of the meeting as well as they have the right to dividend payment and, in case of liquidation of the company, the right to a part of its property. Shareholders owning preference shares of the company may not participate in the general shareholder meeting on common grounds, unless the Law specifies otherwise. Preference shares of the company of same class provide for shareholders owning them equal scope of rights and have the same nominal value. According to law, the following classes of preference shares exist:*

- *Shares with fixed dividend;*
- *Shares varied dividend;*
- *Cumulative shares;*
- *Convertible shares;*
- *Other types of preference shares if provided for by the charter.*

*At the same time, the charter of the company may specify a possible quantity, aggregate nominal value of certain types (classes) of shares owned by one shareholder and limitations concerning maximal number of votes per one shareholder. These limitations should be applicable to all shareholders of one type (class) equally and may not be applicable to individual shareholders or groups of shareholders.*

*Speaking of concentration of shares, the Law determines certain rights of shareholders owning:*

- *At least 1 % of allocated common shares of the company: they are entitled to claim in court against a member of the board, individual executive body, a member of collective executive body and equally to managing organization or manager claiming compensation of damage caused to the company;*
- *At least 2 % of voting shares of the company: they are entitled to propose issues for the agenda of annual general shareholder meeting and propose their nominees to the board and auditing commission;*
- *At least 5 % of voting shares of the company: they are entitled to be included in membership of liquidation commission of the company or appoint their representative; have access for familiarization with list of persons eligible for participation in the general shareholder meeting; request convocation of extraordinary general shareholder meeting; to be included as members of the board or appoint their representative thereto without election; demand from the auditing commission to perform audits of financial and economic operations of the company.*

Identify the relevant section(s) of the normative act(s) governing this issue

**Article 32, 37, 38 of the Law of the Republic of Armenia “On Joint Stock Companies” – Shares of the company; Rights and liabilities of shareholders owning common shares; Rights and liabilities of shareholders owning preference shares**  
**Article 27, 70, 72, 74, 85, 91, 92 of the Law of the Republic of Armenia “On Joint Stock Companies” – Liquidation of the company; Right to participate in the meeting; Proposal to the agenda of annual general shareholder meeting; Extraordinary general shareholder meeting; Elections of the board; Auditing commission; Auditor of the company.**

Describe any issues or problems arising in practice in connection with this matter

4.2 Within a class, do shareholders have the same voting rights?

*Shareholders of one class enjoy same voting rights. At the same time, the charter of the company may specify possible quantity, aggregate nominal value of definite types (classes) of shares owned by one shareholder as well as limitations on maximal number of votes per one shareholder. These limitations should be applicable to all shareholders of one type (class) equally and may not be applicable to only certain shareholders or shareholders' groups. Such limitations are approved by  $\frac{3}{4}$  majority of votes of holder of allocated shares.*

Identify the relevant section(s) of the normative act(s) governing this issue

Article 32, 37, 38 of the Law of the Republic of Armenia “On Joint Stock Companies” – Shares of the company; Rights and liabilities of shareholders owning common shares; Rights and liabilities of shareholders owning preference shares

Describe any issues or problems arising in practice in connection with this matter

4.3 Are shareholders informed about their voting rights? Before they purchase?

*Public allocation of shares envisages registration of issuance circular, which should include information including specification of rights attributable to the shares.*

Identify the relevant section(s) of the normative act(s) governing this issue

Articles 4, 10 of the Law of the Republic of Armenia “On Joint Stock Companies” – Terms and definitions, Information on issuance circular.

Describe any issues or problems arising in practice in connection with this matter

4.4 Are changes in voting rights required to be subject to shareholder vote in general meeting? Under what conditions?

*They are required. As we mentioned before, the charter of the company may define possible quantity, aggregate nominal value of definite types (classes) of shares owned by one shareholder as well as limitations on maximal number of votes per one shareholder. These limitations should be applicable to all shareholders of one type (class) equally and may not be applicable to only certain shareholders or shareholders' groups. Such limitations are approved by  $\frac{3}{4}$  majority of votes of holder of allocated shares.*

Identify the relevant section(s) of the normative act(s) governing this issue

**Article 32 of the Law of the Republic of Armenia “On Joint Stock Companies” – Shares of the company**

Describe any issues or problems arising in practice in connection with this matter

4.5 Are beneficial owners of shares able to exercise their voting rights, even if shares are held by custodians, nominees? What rights to information and notice do beneficial owners have?

Identify the relevant section(s) of the normative act(s) governing this issue

Describe any issues or problems arising in practice in connection with this matter

4.6 How many joint stock companies have floated securities on foreign capital markets? How do the holders of these securities exercise their corporate governance rights?

*Raising funds through securities floating on foreign capital markets is not a common practice.*

4.7 What are the restrictions provided by the legal or regulatory framework over who can become a shareholder? For example, do foreign shareholders have a limit access to ‘strategic’ companies?

**According to the Law of the Republic of Armenia “On Joint Stock Companies” (article 11), among founders of a company, there may be individuals and/or entities decided on establishment of the company. Governmental agencies and bodies of local self-administration may not act as shareholders of a joint stock company. Foreign persons may establish a joint stock company or be shareholders on equal grounds and rights with individuals and entities of Armenia.**

Describe any issues or problems arising in practice in connection with this matter

4.8 Are there special provisions in the legal or regulatory framework relating to certain categories of shareholders (such as employees, foreigners, and the state)? Please describe these provisions.

*Employees of the company, in accordance with procedures provided for in the charter of the company may be eligible for employee shares, which may be common shares and preference shares. Employee shares are allocated among employees of the company at account of the fund for transformation of enterprise into joint stock company. Employee stock should not exceed 25 % of the authorized fund. Employee shares are securities allocated on preference basis with limited time of circulation (maximum 3 years). In case of termination of labor relations with an employee, except for cases of retirement, the company has pre-emptive right to buy-out such shares from the employee at market price but not lower than the nominal.*

Identify the relevant section(s) of the normative act(s) governing this issue

**Article 41 of the Law of the Republic of Armenia “On Joint Stock Companies” – Employee shares**

Describe any issues or problems arising in practice in connection with this matter

*This type of securities is not accepted in Armenian joint stock companies.*

4.9 Does the company have discretion over who can become a shareholder? Please specify.

Is this specified by the company law or other related laws?

Describe any issues or problems arising in practice in connection with this matter

## **5. The State as a shareholder**

5.1 Are the functions of the state as a regulator and the state as a shareholder clearly distinguished?

*The state is involved in the process of corporate governance both as regulator and shareholder. In this connection, we may specify two major methods of effecting operations of economic entities. First, it is state regulation which is accomplished by establishing “rules of the game” and regulatory framework of market economy and by applying indirect methods of economic management of operations of enterprises (regardless of their ownership form). Second method is governmental entrepreneurship, i.e. direct involvement of the state in corporate governance of enterprises (joint stock companies).*

*According to the Civil Code of the Republic of Armenia (article 129), governmental agencies (ministries, departments) are eligible to acquire on behalf of the state property and non-property rights and liabilities and act as parties in lawsuits within the limits of their authorities. The state and communities may be shareholders on common grounds with individuals and entities. Governmental agencies and bodies of local self-administration may not be shareholders of a joint stock company, which to certain extent assumes separation of functions of regulator and owner. The state and communities are not liable for liabilities of the company, while the company is not liable for liabilities of the state.*

Identify the relevant section(s) of the normative act(s) governing this issue

Article 129 of the Civil Code of the Republic of Armenia – Procedures of participation of the Republic of Armenia and communities in relations regulated by civil law and other legislative acts. Articles 11, 3 of the Law of the Republic of Armenia “On Joint Stock Companies” – Founders of the company, liabilities of the company and other persons.

Describe any issues or problems arising in practice in connection with this matter

5.2 Who has authority to exercise the state’s right as a shareholder (government ministry, privatisation agency, other)?

*In joint stock companies, where the state acts as a shareholder (regardless of quantity of the state-owned shares) authority in exercise of the state’s right as a shareholder belongs to branch governmental agencies (ministries, departments). The right to dispose of the shares of the company under privatization (i.e. the companies covered by relevant resolution of the Government of the Republic of Armenia concerning their privatization or preparation to privatization) is conveyed to the Ministry of State Property Management of the Republic of Armenia, unless certain resolutions of the Government of the Republic of Armenia specify otherwise. The overall procedures of assigning rights to disposal of state stakes in joint stock companies are as follows:*

- *Acceleration of privatization process, in particular the process of submission of required documents and information for preparation of the company to privatization;*
- *Streamlining activities in governance of joint stock companies under privatization by concentration of rights to dispose of shares of privatized enterprises with one governmental agency;*
- *Increase of effectiveness of privatization.*

Identify the relevant section(s) of the normative act(s) governing this issue

*Article 129 of the Civil Code of the Republic of Armenia – Procedures of participation of the Republic of Armenia and communities in relations regulated by civil law and other legislative acts, Resolution • the Republic of Armenia 747 of the Government of the Republic of Armenia as of December 13, 1999 (paragraph 9b).*

Describe any issues or problems arising in practice in connection with this matter

Problems arising in practice in connection with the issue in question within the process of privatization relate chiefly to lack of co-ordination and delays against fixed dates and timelines. Thus, for example, in accordance with the Law “On Privatization of State-Owned Property” after expiration of time within which shares of privatized joint stock company should have not been sold under public subscription, the government within 60 days should approve new resolution on sale of the shares of the same enterprise by method of open subscription for the shares. If the second attempt proves to be unsuccessful, the government within 60 days should approve new resolution on sale of the shares of the same enterprise by another method. Only after third unsuccessful attempt to privatize the enterprise, the government is entitled to approve its liquidation. In practice, 60-day term for approval of resolution on privatization is not observed in vast majority of cases by reason of lack of co-ordination between branch ministries being shareholders of the joint stock company on the one hand, and privatization agency being seller of the state shares, on the other hand.

### 5.3 Does the state maintain a publicly available register listing the stakes of the state in joint stock companies?

Maintenance of the register of a company, in which the state participates, is performed on common grounds.

Identify the relevant section(s) of the normative act(s) governing this issue

*Articles 51-53 of the Law of the Republic of Armenia “On Joint Stock Companies” – The company’s shareholder register, Entering records in the company’s register; Extracts from the company’s shareholder register*

Describe any issues or problems arising in practice in connection with this matter

### 5.4 Has the state become a minority shareholder, as part of a process of privatising formerly state owned enterprises?

*Since 1995, in 63 privatized enterprises the state preserved a definite share package (in any case not less than 50 %). In majority of the cases, in agricultural sector service enterprises, for example, the state-owned share package equaled to 34 % of total quantity of shares of each company. In some cases, less than 10 %. Almost all those joint stock companies have been included in the current privatization program and by today in almost 12 enterprises minority stakes of the state were privatized.*

### 5.5 Have bankrupt companies been re-nationalised? What was the procedure? Please provide examples.

In the Republic of Armenia there is not practice of re-nationalization of bankrupt companies. According to bankruptcy legislation of the Republic of Armenia, assets of bankrupt companies are sold through auction sales and up to now there has not been a single case where the state bought out those assets.

5.6 Under what circumstances do state representatives have a seat on the board? What qualification must such persons have? Are they civil servants?  
*Representatives of the state are members of the board by appointment or through the procedures of election. Representatives of the state are civil servants.*

Identify the relevant section(s) of the normative act(s) governing this issue  
Articles 12, 85 of the Law of the Republic of Armenia “On Joint Stock Companies”. – Statutory meeting of the company’s shareholders; Election of the board

Describe any issues or problems arising in practice in connection with this matter

5.7 Do state representatives participate in shareholder meetings?  
Representatives of the state participate in general shareholder meetings on common grounds.

Identify the relevant section(s) of the normative act(s) governing this issue  
*Article 70 of the Law of the Republic of Armenia “On Joint Stock Companies”. – Right to participate in meetings*

Describe any issues or problems arising in practice in connection with this matter

5.8 Does the state have the same rights as other shareholders? If not, does it have more rights or fewer? Please specify.

**The state has equal rights with other shareholders. According to size of its share package, it may have special rights.**

5.9 Do state shares have a special status (in regard to voting rights, share in profit, over major strategic company decisions)?

No. The principle “one voting share – one vote” applies equally to the state shares. Special rights of the state, as we already mentioned, are attributable to the size of its share package.

5.10 Does the legal framework provide for Golden shares?

No.

5.11 Does the state have the power to veto decision by the majority of shareholders? Please specify.

The state has this right according to concentration of a specific shares package.

5.12 What are in your opinion the concerns of the state as a shareholder (i.e. strategic, social, financial, public service)?

In our view, the state as a shareholder concerns about the issues mentioned above and in relation to a concrete company.

5.13 Do companies in which the state has a stake benefit from better conditions or privileges not generally enjoyed by, fully privatised companies? For example in terms of subsidies, tax payment? Does this distort competition?

Law does not provide for such privileges, and equal rights are established for operation of enterprises of any ownership type. For instance, tax law requires that law should establish tax privileges and if the Government intends to exempt a certain enterprise, state-owned or private, from taxation, such resolution should be approved by the National Assembly of the Republic. Another example: placement of government works for certain types of rendering medical services can be carried out, according to legislation concerning medicine and medical services, by state and private enterprises. Equal conditions are maintained on the part of the state also in relation to loans and grants. At the same time, international organizations in some cases prefer to deal with private companies.

5.14 Describe any significant concrete examples where the state exerted influence in corporate decision making beyond which its percentage share ownership would normally permit it.

5.15 Describe any significant concrete examples where social or political concerns rather than a desire to maximise the long-term profitability of the company affected the state's behaviour as a shareholder.

## **6. Market integrity**

*Market for corporate control should be allowed to function in an efficient and transparent manner.*

6.1 Does the legal or regulatory framework (e.g., stock exchange listing rules) clearly set out the procedures for mergers, acquisitions and take-overs? Are there rules governing the substantial acquisition of shares?

*Article 3 of the Law of the Republic of Armenia "On Securities Market Regulation" provides for special rules and procedures of share registration not only with the Securities Commission but also with the stock exchange. Merger, acquisition and take-over processes are regulated by the According to Law of the Republic of Armenia "On Joint Stock Companies" (article 7. Daughter and dependent companies; articles 18, 20. 21 – Reorganization, Merger, Acquisition of companies) and According to Law of the Republic of Armenia "On Securities Market Regulation " by requirement of disclosure of information on major acquisitions and submission of declaration of major owners (articles 34, 35, 36 – provisions regulating declaration of major acquisitions).*

Describe any issues or problems arising in practice in connection with this matter.

6.2 Are extraordinary transactions such as mergers and the sale of substantial portions of corporate assets clearly disclosed?

**Such information is disclosed with accountable issuers through registration of the share declaration and submission of periodic reports as well as through declaration of major acquisitions.**

Identify the relevant section(s) of the normative act(s) governing this issue

### **Chapter 3 of the Law of the Republic of Armenia “On Securities Market Regulation” . – Reports, registration, declaration.**

Describe any issues or problems arising in practice in connection with this matter

6.3 Describe anti-takeover devices commonly used to shield management or a group of shareholders from accountability?

Bearing in mind that formation of corporate relations in Armenia are on their initial stage, and the practice of external corporate control has not been widely employed, there are few special mechanisms of protection from external corporate control.

6.4 Are there further restrictions on changes of corporate control such as competition policy, government ownership provisions?

*Law of the Republic of Armenia “On Protection of Economic Competition” may be regarded as an additional limitation of modification of corporate control.*

6.5 Do minority shareholders have the right to sell their shares to the bidder for the same or equivalent price as agreed between the bidder and the controlling shareholder?

Any limitations whatsoever do not exist.

6.6 What are the restrictions to insider trading? Has there been any cases involving insider trading? What actions have been taken?

In accordance with peculiarities of framework of shareholder property in Armenia, a substantial share of operations is performed among insiders thus leading to concentration of shareholder property.

6.7 How does domestic law define an “interested” or “related” party?

*Article 71 of the Law of the Republic of Armenia “On Joint Stock Companies”, interested parties are: the board members, persons discharging functions of individual managing body of the company including managing organization and manager, shareholder of the company who jointly with his affiliated persons has 20 and more % of voting shares of the company, or the above-mentioned persons and persons related to them (spouses, parents, children, sisters and brothers):*

- *Being a party to a deal or participate in deal as intermediaries or representatives;*
- *Own 20 and more per cent of shares of a legal entity being a party, intermediary or a representative in a deal;*
- *Occupy positions in management bodies of a legal entity being a party, intermediary or a representative in a deal.*

6.7.1 Describe the procedures for approving or challenging transactions between the company and a related party

*In a company with a number of shareholders owning more than 500 voting shares, resolution on approval of a major transaction in which there is interest should approved by majority of independent board members not interested in conclusion of the transaction. In a company with a number of shareholders owning up to 500 voting shares, resolution on approval of a major transaction in which there is interest should approved by majority of board members not interested in conclusion of the transaction.*

*Resolution on approval of transaction in conclusion of which there is interest should be approved by the general shareholder meeting by majority vote of all uninterested in the transaction holders of voting shares in cases as follows: if amount of the transaction or price of transaction exceeds 2*

*% of value of assets of the company; if the transaction or several related transactions are allocation of shares equal more than 2 % of earlier allocated voting shares.*

6.7.2 What civil and administrative recourse does a shareholder have to challenge or invalidate a transaction between the company and an interested party?

6.8 Who bears liability for losses caused to the company by harmful or exploitative related party transactions?

**Article 71 of the Law of the Republic of Armenia “On Joint Stock Companies”, interested party shall be accountable to the company for the amount of damage caused by such party to the company. In case where several persons are responsible, they bear joint responsibility.**

## **7. Enforcement and legal redress**

*All shareholders should have the opportunity to obtain effective redress for violation of their rights.*

7.1 Which are the most frequent shareholder right violations?

In joint stock companies in Armenia, there exist interests of both each separate shareholder and groups of shareholders, shareholders and managers, shareholders and persons trying to take control over the company. Complexity of legal relations in the company entails unavoidable conflicts of interests of shareholders, corporate conflicts often resulting in breach of the right to participate in management of the company. Other violations taking place in practice are derivatives of this right. For example, there are violations of procedures of maintenance of register, voting (voting is carried out without voting ballots), right to get familiar with accounting and other documents of the company, which leads to violation of property shareholder rights etc.

7.2 Have companies been sanctioned for shareholder right violation?

*Data is not available.*

7.3 In the past five years how many cases have been pursued? What were the result?

*Data is not available.*

7.4 What are the sanctions provided by the legal framework?

*In cases of violation of shareholder rights, legislation of Armenia provides for fines and penalties.*

Identify the relevant section(s) of the normative act(s) governing this issue

*Article 138 of the Law of the Republic of Armenia “On Securities Market Regulation” - Common administrative accountability, Consolidated Rules regulating securities market, section: administrative accountability.*

Describe any issues or problems arising in practice in connection with this matter

7.5 To which authorities can shareholders appeal in pursuit of redress, especially during changes of corporate control? What are the powers of these authorities? Is there any arbitration procedure?

*Shareholders may appeal to the SC of the Republic of Armenia which according to articles 118, 121 of According to Law of the Republic of Armenia “On securities Market Regulation”. – Functions and objectives of the Commission, Powers of the Commission, - secures protection of investor rights, formation and maintenance of fair prices on the securities market, ensuring conditions of transparency of the market. For the purpose of accomplishment of the aforementioned objectives, the Commission regulates and supervises the securities market. In accomplishment of its functions and objectives, the Commission is an independent governmental agency.*

7.6 What are the procedures for shareholders to seek legal redress? Is this process long? Is this process costly?

According to the Code of Civil Legal Proceedings, protection of shareholder rights in court is accomplished in accordance with filed claim. Economic court should consider the claim within two months from the time when it was filed. State duty envisaged for the case investigation in court is:

- *In courts of I instance (economic court): 400 drama (about \$US 6.9);*
- *In Court of Appeal: 10,000 drama (about \$US 17.3).*

7.7 Are class action lawsuits permitted? Have any class action lawsuits been filed?

Initiation of class action lawsuits is permitted. Data unavailable.

## **8. Shareholder awareness**

8.1 Are shareholders sufficiently informed about their rights?

State of awareness of shareholders of their rights and liabilities is very poor, which may be explained by that shareholders simply do not realize what they own, i.e. in Armenia, there has not yet formed a proper public comprehension of one of basic market institutions – share company.

8.2 To what extent do shareholders attend shareholder meetings and exercise their voting right?

*Shareholders do not actively participate in general shareholder meetings and this can be explained, on the one hand, by procedural distortions and violations at holding general shareholder meeting and, on the other hand, by physical absence of minority shareholders and low level of awareness of shareholders of their rights.*

8.3 Have shareholder associations been created? If so, are they influential?

In Armenia, there exist a shareholder right protection association, however this organization aims itself at definite programs designed to fit requirements of funding through international grants. This organization does not have a real influence on shareholder rights protection processes.

8.4 Do voluntary codes of corporate governance practice encourage shareholders to exercise their rights?

*A corporate governance code has not yet been approved in Armenia, though according to the annual program of the SC approval of the code is scheduled for the year 2002.*

8.5 Do shareholders pool their interests and/or votes (for example to elect board members)?

*Data is unavailable.*

8.6 Are institutional investors active in the corporate governance field? If not, why? Mention some cases.

Institutional investors do not exist in Armenia.

8.7 What are the most frequent shareholder right violations?

See paragraph 7.1 herein.

8.8 What are from your point of view priority measures to improve shareholder rights?

*We should bring applicable law in conformity with actual situation in the economy of Armenia, form a single law-making policy of the state and ensure information and awareness of shareholders of their rights.*