



## **Corporate law in Italy – Company Incorporation in Italy**

### **SOCIETÀ PER AZIONI (S.P.A.) IN ITALY** **(Corporation in Italy or Joint Stock Company in Italy)**

by

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The Società per Azioni (S.p.A.) (Joint Stock Company) is the kind of company, ruled by Italian corporate law, which is more similar to the USA corporation.

The incorporation in Italy of Società per Azioni is made by contract or by unilateral deed.

The Memorandum and Articles of Association of an Italian Società per Azioni must be authenticated and signed in front of a public notary.

The capital subscribed for by shareholders must be not less than €120.000; the shares of an Italian Società per Azioni may be without denomination.

Shareholders have to pay at time of incorporation at least 25% of initial subscribed capital; in case of just one shareholder, the entire share capital must be subscribed.

The liability of each shareholder is limited just to shares he subscribed.

In case of just one shareholder (sole shareholder of Italian Joint Stock Company - Società per Azioni unipersonale) his liability is limited to shares subscribed, if:

- entire subscribed share capital has been paid at time of incorporation;
- ownership of all shares has been properly disclosed by filing declaration with Register of Enterprises; if sole shareholder did not file this declaration he will be liable without limitation in case of insolvency of the S.p.A. for obligations of company which arose in period in which shares have belonged to such sole shareholder.

Directors are competent for issuance of debentures.

### **Shares of Italian Società per Azioni – S.p.A.**

The shareholder has the option to get shares issued in registered form or in bearer form, unless otherwise provided by articles of association or by special laws.



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Each share gives the right to one vote.

The issuance of preferred shares entitles holders to get privileges for distribution of company's profits and for reimbursement of capital after dissolution of company. Preferred shares do not entitle holders to get more than one vote. In voting rights preferred shares may not exceed 50% of share capital.

The Italian Società per Azioni can issue shares, even if not preferred, without voting rights or with limited voting rights; anyway, the value of such shares shall not exceed 50% of share capital. In no event, shares will not entitle holders to get more than one vote.

Italian Civil Code provides various range of types of shares attributing different kind of rights as well as financial instruments, other than shares, to be issued in favour of employees of company and attributing certain economic and administrative rights (excluded rights to vote in shareholders' meetings, but, articles of association can provide for specific items).

It is possible the issuance of shares connected with economic profits of specific area falling within corporate business.

The Italian Società per Azioni whose shares are listed in Stock Exchange may issue saving-shares without voting rights; saving-shares may be issued in bearer form.

There are not limitation for foreign subscribers as to become directors, officers or in relation with amount of capital that may be subscribed.

The Italian Società per Azioni has possibility to establish one or more assets to be exclusively destined for specific business. So that, creditors can challenge the separate patrimony within 60 days from registration of relevant resolution with Register of Enterprises. The maximum value of segregate assets can not be higher than 10% of net total assets of corporation.

### **Shareholders' Meeting in Italian Società per Azioni – S.p.A.**

Shareholders' meetings may be "ordinary meeting" or "extraordinary meeting". Articles of association may state that shareholders who want to attend at shareholders' meeting must deposit their shares with company or designated bank, at least five days prior to date of meeting.

The partners of an Italian Società per Azioni may select in the article of association the model of management, so that, those which chose for appointment of supervisory council, "ordinary" meeting has less power and do not deal with approval of annual accounts.



Where the Italian Società per Azioni is without supervisory council, the “ordinary” meetings has no reservation of matters by articles of association, and directors are not entitled to submit matters to shareholders’ meetings, unless expressly authorized by articles of association and without prejudice to their personal liability; in these cases, ordinary meetings must be convened at least once a year within term set forth in articles of association and no later than 120 days from end of fiscal year.

The “extraordinary” meetings do not deal with issuance of debentures, unless otherwise provided by special laws or by articles of association. Extraordinary meetings’ decisions are valid if approved by holders representing more than half of capital stock or such higher majorities as provided in articles of association.

### **Board of Auditors in Italian Società per Azioni – S.p.A.**

The Italian Società per Azioni must have the Board of Auditors (Collegio Sindacale) composed of at least three members (individuals, partnerships or companies); the auditors are chosen from Register of Official Auditors and appointed for period of three years; the duties of auditors include examination of administration of company and of its books, certification of balance sheets, etc.

### **Management of Italian Società per Azioni – S.p.A.**

The Italian Società per Azioni may chose amongst different models of managements:

- management with board of directors or sole director and board of auditors which is charged with examination of companies’ books and certification of balance sheets (by virtue of express provision of articles of association only) and in companies whose shares are not listed on stock exchange;
- other cases where accounting supervision is performed by external auditors registered with appropriate records.

Companies are entitled to chose for:

- management board composed of at least two members and supervisory board (composed of at least three members) which deals with approval of annual accounts, too;
- management board and supervisory board whose members are appointed by management board among its own directors.

### **Italian Società per Azioni – S.p.A. quoted on Stock Exchange**

The Italian Società per Azioni – S.p.A. whose shares are quoted on stock exchanges must file accounts, minutes and other data with Stock Exchange and Securities National Commission which performs controls.



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The minimum share capital for companies operating investment funds (Società di Gestione di Fondi Comuni di Investimento) and of investment companies with floating share capital (SICAV) is €1.000.000.

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