

ANALYSIS



Company law

The 28th Corporate Regime: the EU Inc.

The Proposal for a Regulation of the European Parliament and of the Council on the 28th Regime Corporate Legal Framework — ‘EU Inc.’, dated 18 March 2026, introduces a new form of European private limited company. Originally envisaged for start-ups and scale-ups, it has been decided to allow its adoption by all companies. There is no minimum share capital requirement; shares may have no nominal value and may carry multiple voting rights, among other features.

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1. The European Commission has published the Proposal for a Regulation of the European Parliament and of the Council on the 28th Regime Corporate Legal Framework — ‘EU Inc.’ [2026/0074 (COD)]. As with most recent company law proposals, the immediate impetus for this initiative stems from the so-called *Letta Report* of 17 April 2024, and *Draghi Report* of 9 September of the same year. The first explicitly refers to a European Code of Business Law (“28th regime”), going beyond company law, which would allow SMEs to finally tap into the full potential of the European Single Market. The second, along the same lines, given an inability to establish a special regime for innovative companies, proposes a voluntary 28th company rule-book harmonising legislation concerning corporate law and insolvency, as well as a few key aspects of labour law and taxation. The January 2025 Communication from the Commission “A Competitiveness Compass for the EU” also calls for a dedicated EU start-up and scale-up strategy. In a resolution of 20 January 2026, the European Parliament had urged the Commission to submit a proposal in the first quarter of 2026 that would include a single — voluntary — regime for companies limited by shares throughout the Union. The Commission fulfilled this mandate and published the text of the proposal on the 28th corporate regime on 18 March.

The text contains eighty-seven recitals and one hundred and nine articles, grouped into twelve chapters devoted, respectively, to the following aspects:

- a) general provisions;
- b) EU central interface, formation and filing;

- c) accessibility and cross-border use of EU Inc. information;
- d) cross-border branches;
- e) company bodies;
- f) digital register, shares and share transfers;
- g) financing (including capital reduction);
- h) employee stock option plan;
- i) closure;
- j) insolvency proceedings (only for start-ups);
- k) prohibition on Member States from discriminating between the EU Inc. and other domestic companies limited by shares, except for justified reasons;
- l) final provisions.

The proposal’s passage will entail changes to the wording of the text; therefore, we will now focus only on the aspects we consider most important from the first six chapters of the proposed European regulation. Due to space constraints, we are therefore unable to discuss stock option schemes, the lengthy closure process, start-ups’ insolvency proceedings, and the final two chapters.

2. The starting point for the proposal is the existence of twenty-seven distinct legal systems governing companies limited by shares (or private limited companies) in the European Union. As stated in the introductory recitals, to promote competitiveness in Europe, it is necessary to simplify

legislation and reduce fragmentation by approximating national laws, in particular through the introduction of a new private limited company form with a set of harmonized rules covering the entire life cycle of the company, including liquidation and insolvency procedures. It is believed

The EU Inc. has no minimum share capital; shares may or may not have a par value

that harmonized rules are also necessary to enable companies to attract private investment through common “fast”, “digital” and “cost-effective” procedures that would also offer more flexible exit options to liquidate the investment in high-growth companies, which were the initial target of the proposal — along with *start-ups* — but which, in the Commission’s text, has been extended to any type of company limited by shares.

A new corporate form (EU Inc.) is thus created, with no minimum share capital requirement, which must be incorporated into the domestic laws of the Member States, since the company may be incorporated in any country of the Union. The regulation governs the creation of an EU Inc. company *ex nihilo*, but also provides for the possibility of existing companies converting into EU Inc. companies or adopting this new corporate form as a result of a merger, a division, or a cross-border conversion.

3. While this is an important step toward the true integration of the European market

and cross-border corporate financing, one of the main drawbacks of this initiative is precisely that it will not necessarily achieve the intended harmonization regarding the EU Inc. company: Article 4 of the proposal sets out the system of applicable rules, which refers, first and foremost, to the EU Inc. Regulation and the company’s articles of association drafted in accordance with it. Matters not covered by the Regulation or the articles of association will be governed by the company law of the State in which the EU Inc. has its registered office; in the event of gaps in

the Regulation or the company’s articles of association, the relevant national legal form, the provisions of which apply to EU Inc. companies, must be designated. Consequently, and given the more than likely differences in the regulatory treatment of matters not provided for in the European regulation or the articles of association, it will not be possible in any case to apply a single legal regime to this EU Inc.: we will once again be faced with twenty-seven different national regulations applicable to situations not provided for in either the regulation or the company’s articles of association.

A second objection is that the proposal respects national law regarding employee participation (Art. 12). Here, the differences may be even greater in the “28th regime” between company laws that permit employee co-management within the company (the paradigmatic case being Germany) and those that do not.

4. Following these clarifications, we briefly analyse the most notable issues in the first six chapters of the proposal:

- a) First, for the EU Inc., the principle of digitalisation of corporate and registration procedures set out in the text applies (Art. 10). As an exception, in the event of potential identity alterations or capacity issues, domestic law may require the physical presence of the shareholders before an administrative, judicial, or notarial authority in order to resolve any doubts that may have arisen at the time of incorporation or thereafter.

The annex to the proposal sets out the minimum content of the articles of association, which will undoubtedly be improved during the legislative passage. Furthermore, the Commission is expected to approve a set of model articles of association for the EU Inc. Article 14 makes the legality of the formal requirements regarding the articles of association, as well as other matters — including the shareholders' legal capacity, the existence of shares without nominal value, or, if not, the requirement that all shares have the same nominal value —, subject to preventive control.

- b) Two simultaneous formation procedures are provided for; both are initiated by the submission of an application for incorporation by those initially responsible for the administration of the company. In the case of the fast-track procedure, the application is processed through the “central interface,” and, if the second procedure is chosen, through the “national business registries”.

The proposal assigns to the Commission the task of establishing the

EU Central Interface as part of the electronic access point to the Business Registers Interconnection System (BRIS) referred to in the Codified Company Law Directive (Directive (EU) 2017/1132). If the directors of the EU Inc. choose to submit the documentation (application for registration accompanied by the model articles of association and the rest of the documentation provided for in the proposed regulation) with this interface, national law must provide for a maximum period of forty-eight hours for the examination of the documentation (Art. 16) as well as a maximum cost of one hundred euros or equivalent sum in the currency applicable in the Member State of registration for the fast-track formation of the company.

The second method of forming the company is through national business registries, via a fully online procedure in which the specified documentation must be filed.

- c) Regarding corporate bodies, whose legal regime broadly follows that established in European company law, of note, in addition to the requirement to have a board of directors with one or more directors who are natural persons where at least one is resident in the Union, is the proposed regime for directors' liability. The duties of care and loyalty — and a reformulated *business judgment rule* — are included, but the director's liability for any loss or damage to the company as a result of an act upon a lawful resolution of the general meeting is excluded, unlike what is established in Article 236(2) of the Companies Act.

On the other hand, while there is a general obligation to inform the company of any conflicts of interest in which directors may find themselves, the specific rules governing this will be set out in the articles of association; the same applies to related-party transactions.

The articles of association may provide for the elimination of the general meeting and its replacement with the passage of resolutions in writing, or the possibility, by unanimous consent of the shareholders, to expressly agree to a simple count of written votes. Amendments to the articles of association shall be adopted by a qualified majority of two-thirds of the votes cast, unless the articles of association provide otherwise.

- d) A shareholder is recognized as having the right to petition the courts for 'withdrawal' (exit) from the company in cases where the shareholder considers that the company's affairs are being or have been conducted in a manner oppressive to him or her. The court shall determine the fair value of the shares, as well as the period within which the corresponding share price is to be paid to the outgoing shareholder, together with interests accrued.
- e) Chapter VI, dedicated to shares and their transferability, is perhaps — along with the following chapter on financing — one of the most innovative (without any negative connotations in the adjective) when compared to Spanish law.

Bearer shares are expressly prohibited. Regarding the form of shares, both electronic, paperless ownership records and the use of systems based on distributed ledger technology are permitted. With respect to shares that take the form of book entries, the constitutive nature of the registration is expressly stated, and the presumption of legitimate ownership is established for the person listed as such in the register of 'shares' (shareholders). Article 54 details the content of this digital register and the information that must appear on digital share certificates.

The articles of association may provide for multiple classes of shares with nonidentical rights and obligations attached to them. Article 55 cites as examples of these preferences in the distribution of profits or liquidation proceeds, veto rights, multiple voting rights, or the exclusion of voting rights. Later on, the possibility that a share does not carry a vote is provided for only in relation to certain matters dealt with by the general meeting.

The general principle is the free transferability of shares, although the inclusion of clauses in the articles of association restricting transferability is permitted (Art. 58).

The transfer of shares is concluded by a simple agreement between the parties, recorded in writing and bearing the advanced electronic signatures of both parties in accordance with Regulation (EU) No. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identifi-

cation and trust services for electronic transactions in the internal market. Furthermore, such a transfer must be recorded in the digital register kept by the company, which may reject it (it is presumed, in the absence of a specific provision) for non-compliance with European regulations or the articles of association.

Chapter VII, titled “Financing”, provides the greatest flexibility in determining the value of a share: the general principle is that shares have no par value, meaning that shares do not represent a fraction of the company’s

The new corporate form provides for the application of national law in the alternative: fragmentation returns

capital, unless otherwise provided in the articles of association (Art. 61). If the founders or shareholders agree to assign a par value, all shares must have the same nominal value, and it is not possible for the company to have both shares with and without a nominal value. Article 76 expressly recognizes the possibility of issuing shares redeemable by the EU. Inc.

As noted, the company is not required to have a minimum amount of capital or ‘legal’ (statutory) reserves. Only if the company chooses to issue shares with a par value — which must be fully paid up — does the principle of

full subscription of the share capital apply. In that case, assets must be provided as collateral for the capital. Article 65 establishes minimum requirements for in-kind consideration (an independent expert report, which may be waived by express provision in the articles of association following approval by the general meeting; an expert report is also required for capital reduction transactions, although Article 78 allows for exceptions to this requirement).

In the case of a share issue, the possibility of authorised capital and fully-online subscription is provided for. Article 68 provides for the issuance of convertible instruments, warrants or other instruments entitling to new shares. In any case, pre-emption rights may be excluded by the general meeting. The proposal also includes, without further detail, the rules regarding capital increases from reserves and the distribution of dividends.

With regard to transactions involving the company’s own shares, company shares shall not be subscribed for by the company itself: such shares would be deemed subscribed for by the founders or, in the case of an issuance of new shares, by all directors, who would be jointly and severally liable for the consideration for the shares. Exceptions to this prohibition are permitted.

5. We will have to wait for the adoption of these regulations on the EU Inc. to assess

the success of this initiative. The example of the *Societas Europaea* — a fragmented transposition and barely four thousand companies established in two decades — should prompt reflection on the need for a single, unified regulation of the EU Inc. insofar as possible. The issue

of employee participation in corporate governance (which previously led to the blocking of the fifth directive regarding corporate bodies) is likely to be the main obstacle to the establishment of a unified regime for this new type of private limited company.