

Incorporation of a separate legal entity in Switzerland

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This Memorandum provides the initial information for entrepreneurs who wish to incorporate a separate legal entity in Switzerland. For business purposes entrepreneurs have the alternative to incorporate a corporation limited by shares ("Aktiengesellschaft", "AG") or to incorporate a corporation with limited liability ("Gesellschaft mit beschränkter Haftung", "GmbH"). The GmbH may be considered as the *transparent* investment vehicle for tax purposes.

Procedure

The procedure of incorporation of a separate legal entity in Switzerland is **simple** and can be made in the following **3 steps**:

1. Pre notarisation

At the beginning you will receive the MME Questionnaire from us. Upon completion of the MME Questionnaire, MME will draft the incorporation documentation and arrange for the opening of a block account for the capital contribution with the banking corporation of your choice.

2. Notarisation

The notarisation of the incorporation act can take place as soon as our notary in charge received your consent in connection with the incorporation documentation and upon receipt of the confirmation of the bank that the capital was paid-in. The notarization can be made on proxy basis without personal appearance of the founders. MME has its own notary team and thus can provide efficiency and flexibility.

3. Post notarisation

After the notarisation MME will send the notarized incorporation documentation to the commercial register. Upon publication of the incorporation in the Swiss Commercial Gazette the incorporation of the company will be completed and the excerpt from the commercial register can be downloaded from the official website of the competent commercial register.

AG – GmbH Comparison

	AG	GmbH
transparency	shareholders not registered in the commercial register	shareholders registered in the commercial register
liability of shareholders	no liability	limited liability
capital minimum	CHF100'000	CHF 20'000
contribution to capital	min CHF 50'000	min CHF 20'000
par value	min CHF 0.01	min CHF 100.00
ancillary obligations for shareholders	not possible	possible
disclosure rights of shareholders	limited	unlimited (if no audit)
approval requirements	articles may not provide shareholder approvals for board resolutions (to be arranged in the shareholder agreement)	articles may provide shareholder approvals
share transfer	no registration in the commercial register	subject to registration in the commercial register
organisation	allocation of strict competences between shareholder and board of directors	no strict allocation of competences between shareholders and directors

FAQ

- Shareholder Agreements and Joint Venture Agreements are customary and compliant with Swiss Corporate and Contract Law. MME can provide templates.
- Later Changes to the corporate documentation (e.g. change of seat, name or purpose, mergers, restructurings according to the Swiss Merger Act, etc.) are possible. Certain changes require notarial deeds and are subject to registration in the commercial register. Please require our price list for any such additional services.
- Organisational Regulations (or: By-Laws) are customary and provide organisational issues on corporate level without the requirement for registration and filing at the commercial register.
- Audit requirement depends for both, AG and GmbH, from the size of the company. Following companies are subject to *ordinary audit*: public listed companies and companies with more than 250 full time employees and companies with assets more than CHF 20 Mio or turnover of more than CHF 40 Mio. Companies with more than 10 full time employees are subject to the conduct of a *limited audit*. No audit requirements exist for companies with less than 10 full time employees.

- Compliance Requirements of the banks may change from time to time. We thus recommend for international investors to clarify this issue before starting with the incorporation process.
- We normally recommend for international investors and clients with complex holding structures to assess potential Tax and VAT consequences before starting with the incorporation procedure.
- Capital Contribution in kind is possible and subject to a report issued by an independent auditor confirming the value of the asset(s) being contributed to the capital.
- Accountancy can be maintained in foreign currency. In general it is recommendable to liaise with the accountant before starting with the incorporation procedure.
- Employees have no rights to participate in the organisation of the legal entity.
- For the members of the board of directors no resident requirements in Switzerland exist (however, one member of the board or a director must have his/her domicile in Switzerland).

1 for all

With its own notary team MME is able to provide all services in relation to the incorporation of a separate legal entity. The costs for a standard incorporation amount to approx. to **CHF 2'500-3'500**. This cost estimates includes the drafting of the documents which you need to incorporate the company and the coordination with the founders, the commercial register and the bank for the opening of the block account. The fee of the commercial register of approx. CHF 350 is not included in this cost estimate.

MME can provide **all other services** you may need in connection with the incorporation of a separate legal entity in Switzerland. This includes **Tax and VAT services**, such as the assessment of substance requirements, the filing of tax rulings, the valuation and assessment of transfer pricing issues and the rendering of general tax compliance services after completion of the incorporation of the company. Our **Compliance Team** may support you with services in the different compliance fields, such as regulatory, financial and trade compliance.

Contact persons

Please contact us, if you need our support.



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The information provided herein is of general nature and does not refer to specific needs of individuals and companies.

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