

Table of Contents

List of Contributors.....	XI
Chapter I. Introduction.....	1
Section 1. General Overview on Romanian Company Law	1
Section 2. Historical Evolution of Romanian Company Law.....	5
Section 3. Company Types under Romanian Company Law	8
Section 4. Appendix: Statistics on Romanian Companies.....	12
Bibliography (Chapter I).....	13
Chapter II. Stock corporation: foundation and financing.....	16
Section 1. Incorporation.....	16
§1. Constitution of the joint stock company	16
1. Articles of incorporation	16
2. Simultaneous constitution vs. constitution by public subscription/offering.....	20
3. Legal status of transactions commenced during the process of constitution.....	22
§2. Formalities	23
1. Registration	23
2. Authorization and disclosure.....	25
§3. Nullity of the company and other sanctions, remedies	27
1. Consequences of irregularities found before registration	27
2. Consequences of irregularities found after registration.....	27
3. Consequences of irregularities concerning disclosure.....	29
Section 2. Legal Capital and Shares	30
§1. Contributions	30
1. General remarks	30
2. Types of contributions.....	30
3. Responsibility of the members concerning their contributions	32
§2. Share capital.....	33
1. Legal nature, relationship with the patrimony	33
2. Purpose and functions	34
3. Legal status of the assets contributed by the shareholders	35
4. Special requirements for joint-stock companies.....	35
§3. Shares.....	36
1. Features	36
2. Types of shares.....	37
3. Issue.....	38
4. Rights and obligations of the shareholders.....	39

5. Transmission	41
6. Acquisition by the company of its own shares	42
Section 3. Bonds	45
§1. Legal nature	45
§2. Conditions for the issue of bonds	45
§3. Transmission.....	46
§4. Bondholders' meeting.....	46
§5. Payment of the bonds.....	48
Bibliography (Chapter II)	48
Chapter III. Stock corporations: corporate governance.....	51
Section 1. Board Structures in the Joint-Stock Company	51
§1. The two board structures of the joint-stock company – the single and the dual board	51
§2. One tier and two tier structures.....	53
1. Number of members, selection criteria.....	53
2. Composition of the board	55
3. Involvement of the employees in the company's management.....	57
§3. Board committee.....	57
§4. Board functions. Powers and duties of board members.....	58
1. Board functions	58
2. Directors' general duties	61
§5. Conflicts of interest.....	61
1. Special duties.....	61
2. Related-party transactions	63
§6. Appointment and dismissal of the members of the board structures	64
§7. Directors' remuneration.....	69
§8. Liability of directors and annulment of the decisions of the board of directors.....	70
1. Liability action	70
2. Annulment of the decisions of the board of directors.....	72
Section 2. The Position of the Shareholders	72
§1. The shareholders' general meeting. Powers and duties	72
§2. Calling of meetings and the shareholders' right to receive information.....	74
§3. Voting	76
§4. Quorum and majorities	78
§5. Special minority rights.....	79
§6. Remedies concerning the general meetings of shareholders' resolutions.....	80
1. Action for annulment of the resolutions of the general meetings of shareholders	80
2. Liability claim against shareholders for resolutions adopted with their vote.....	84
Bibliography (Chapter III).....	85

Chapter IV. Stock corporations: internal and external controls.....	88
Section 1. Introduction.....	88
§1. Internal controls performed by the management bodies – overview of the one-tier/two-tier systems	88
§2. Internal controls performed by censors/internal auditors: distinctions	89
§3. Types of audit	91
§4. Annual financial statements of a joint-stock company and other common provisions for censors and auditors	92
Section 2. The Censors	93
§1. Appointment and removal	93
§2. Powers and duties	94
§3. Liability and nature of control	94
Section 3. The Auditors	95
§1. Appointment and removal	95
§2. Powers and duties	96
§3. Liability	98
Section 4. Special Duties in case of Pre-insolvency of the Company	98
Bibliography (Chapter IV).....	102
Chapter V. Limited liability companies: foundation and financing.....	103
Section 1. Foundation of a Limited Liability Company	103
§1. General principles. The limited liability company in Romanian law. The single member limited liability company	103
§2. The limited liability company contract. The memorandum of association (articles of incorporation)	107
§3. Procedures and formalities of incorporation.....	113
§4. Capital (equity) contributions. Valuation procedures	118
§5. Limited liability companies established by beginner entrepreneurs	120
Section 2. Financing of a Limited Liability Company.....	122
§1. Generalities	122
§2. Capital increase.....	122
§3. Loans	123
Bibliography (Chapter V).....	125
Chapter VI. Limited liability companies: corporate governance and controls	126
Section 1. Corporate Governance of the Limited Liability Companies.....	126
§1. Structure and organisation	126
§2. Powers and duties of the directors	127
§3. Remedies available to members.....	129
§4. Dismissal of directors	130
§5. Liability action.....	131
§6. Exclusion from the company	133
1. The exclusion procedure.....	134
2. The exclusion effects.....	135

3. Exclusion of members who hold the office of director	136
§7. Withdrawal from the company	137
1. Cases, methods and procedure	137
2. Effects of withdrawal	138
§8. Transfer of membership units	139
Section 2. The Position of the Company's Members	141
§1. Scope of the members' meeting.....	141
§2. Calling of meetings and the members' right to receive information	142
§3. Voting methods.....	143
§4. Voting agreements	145
§5. The control body.....	146
Bibliography (Chapter VI).....	147
Chapter VII. Groups of companies.....	149
Section 1. Concept and Regulation.....	149
§1. The lack of a coherent set of general national rules regarding groups of companies.....	149
§2. Notion and terminology	149
1. Special provisions regarding groups of companies	150
2. Painting the (vague) general picture for groups of companies under Romanian law	154
§3. Legal doctrine	155
Section 2. Corporate Group Transparency.....	156
§1. Formation of the corporate group	156
§2. Intra-group transactions	157
Section 3. The Organisation and Functioning of the Corporate Group	159
§1. The lack of legal personality.....	159
§2. The autonomy of group assets and the autonomy of the assets of every company within the group.....	160
§3. The group's interest and the interest of the member companies.....	161
§4. The legal autonomy of the group and the juridical autonomy of the member companies.....	164
§5. The legal status of intra-group contracts.....	165
1. Prohibited acts.....	165
2. Acts subject to prior authorization	166
3. Permitted acts	168
§6. Cash pooling	168
§7. Conflict of interests between the director or a shareholder and a member company of the group	170
§8. The protection of minority shareholders.....	170
Section 4. Liability within the Group	171
§1. The dominant company's liability for a member company's debt towards a third party, as regulated in the A.C.	171

§2. The dominant company's liability for a member company's debt towards a third party under the R.C.C.	171
§3. Liability for the member of the group subject to insolvency proceedings.....	172
§4. Liability for environmental damages.....	173
§5. Solidarity of the group companies under the tax legislation.....	173
§6. The director's liability towards the member companies.....	174
Section 5. Insolvency of the Group Members	174
Bibliography (Chapter VII)	176
Chapter VIII. Extraordinary corporate transactions. Liquidation and winding up	178
Section 1. Mergers and Demergers.....	178
§1. Common introductory remarks.....	178
§2. Mergers – concept and categories.....	179
§3. Demergers – concept and categories.....	180
§4. Legal requirements and steps of merger and demerger operations.....	181
1. Legal requirements for (de)mergers	181
2. Steps of (de)mergers.....	182
§5. The legal effects of mergers and demergers	187
§6. Nullity of the merger or demerger operations.....	188
§7. Cross-border mergers.....	189
Section 2. Leveraged Buyouts	190
Section 3. Transformation of Companies	192
Section 4. Winding up and Liquidation of Companies.....	193
§1. Introduction.....	193
§2. The winding up of the company	193
§3. Modalities of company winding up	196
§4. Special rules for the winding up of stock corporations and limited liability companies	197
1. Winding up of stock corporations	198
2. Winding up of limited liability companies	199
§5. Legal effects of winding up	199
§6. Company liquidation – concept and general rules.....	200
§7. The appointment of the receivers.....	202
§8. Powers and duties of the receivers.....	203
§9. Liquidation of the assets and liabilities of the company.....	205
1. Liquidation of the company's assets	206
2. Liquidation of the company's liabilities.....	206
§10. Rights of the shareholders.....	207
§11. The balance sheet of liquidation and completion of the liquidation procedure.....	207
Bibliography (Chapter VIII)	210
General bibliography.....	213