



## **THE ROLE OF INDEPENDENT MEMBERS OF THE SUPERVISORY BOARD IN BUSINESS COMPANIES WITH STATE PARTICIPATION**

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<b>Received:</b> 24 <sup>th</sup> June 2023 <b>Accepted:</b> 24 <sup>th</sup> July 2023 <b>Published:</b> 25 <sup>th</sup> August 2023	This article discusses the issues of competitive selection of independent members of the Supervisory Board, its role and importance, expansion of its functions and tasks, the procedure for organizing and conducting competitive selection of independent members of the Supervisory Board

**Keywords:** Supervisory board (SB), unitary enterprise (UE), state unitary enterprise (SUE), independent members of the supervisory board (NCNS), competition commission (CC), joint-stock company (JSC), limited liability company (LLC).

Recently, large-scale political and socio-economic reforms have been created in our country aimed at further strengthening the rights and legal freedoms of business entities and increasing the share of the private sector in the national economy.

Thus, in order to further improve the management system of joint-stock companies based on international best practices in the field of corporate governance and improve the work of the supervisory board, the election of independent members of the supervisory board on a competitive basis will give an additional impetus to the development of business entities with state participation.

In 2023, the number of business entities with state participation is 2179, including JSC - 232, LLC - 1249 and SUE - 698.

Of the total number of JSCs, supervisory boards have been established in 224 companies, and 117 people are independent members of the supervisory board.

The procedure for the competitive selection of independent members of the supervisory board was developed in accordance with the Law of the Republic of Uzbekistan "On Joint Stock Companies and Protection of Shareholders' Rights", as well as the Law of the Republic of Uzbekistan-LRU No. 814 "On Amendments to Certain Legislative Acts" [1].

The Agency for Management of State Assets of the Republic of Uzbekistan adopted Order No. 19 dated January 27, 2023 "On determining the procedure for the competitive selection of independent members of the supervisory board in enterprises with state participation" [2].

If their shares are included in the exchange quotation list of the stock exchange and companies with a state share of more than 50 percent in the authorized fund (authorized capital), then at least one independent member must be included in the supervisory board of the company.

The involvement of experts in the role of an independent member of the supervisory board of the company is carried out with Article 76' of the Law of the Republic of Uzbekistan "On joint-stock companies and protection of the rights of shareholders" [3].

Specialists who are citizens of the Republic of Uzbekistan and also other countries can be invited to the competition.

In our opinion, applicants for independent members of the Supervisory Board must meet the following qualification requirements:

- have a higher education in the relevant specialty (the priority is given to candidates who hold a qualification certificate and a "Corporate Manager" certificate issued by the Higher School of Business and Entrepreneurship under the Ministry of Economy and Finance of the Republic of Uzbekistan);
- work experience of at least 5 years;
- skills in the development and implementation of sectoral and organizational policies;
- the ability to build business relationships and negotiate with financial institutions, organizations, consultants and potential investors;
- knowledge of corporate governance principles;



- possessing professional skills in personnel management, financial planning, audit, risk management, corporate governance and internal audit;
- understanding of the relevant legislation, regulations on investment and innovation.

In accordance with the Law "On Joint Stock Companies and Protection of Shareholders' Rights", an independent member of the Supervisory Board cannot be:

- a person who has worked in the company and (or) affiliated persons of the company over the past three years;
- a shareholder (directly and (or) through affiliates) owning five or more percent of the company's voting shares;
- a party that has civil law relations with an important client and (or) a major supplier of the company and (or) an affiliate of the company. Thus, persons with whom there is a valid contract in the amount of more than two thousand basic settlement values are recognized as an important client and a major supplier;
- an employee of an audit organization who has provided audit services to the company and (or) affiliated persons of the company over the past three years;
- a person who has been a member of the supervisory board of the company for six consecutive years;
- a person who owns any agreements with the company and (or) its affiliates, except for agreements related to ensuring the fulfillment of the tasks and functions of the supervisory board;
- a person who is in close relationship and quality (parents, brothers, sisters, sons, daughters, spouses, including parents, brothers, sisters and children of spouses) with a person who is, or has been, for the past three years, a member of the bodies management and internal control of the company and (or) affiliated persons of the company;
- a party that is an employee of government bodies or a state enterprise;
- a person who does not meet the requirements established by the charter of the company or documents adopted by decisions of the general meeting of shareholders;
- in the event of a change in its compliance with the requirements established by the fourth and fifth paragraphs of this procedure, an independent member of the supervisory board of the company must notify the company and the supervisory board about this within two working days.

- independent members of the supervisory board of the company, together with other members of the supervisory board, have equal rights and obligations

established with the Law of the Republic of Uzbekistan "On Joint Stock Companies and Protection of Shareholders' Rights" and other legislative norms and rules.

The holding of a competition for the position of an independent member of the Supervisory Board is published in periodicals (distributed in the relevant territory of the administrative-territorial unit), and is also posted on the Internet resource in the state and Russian languages within five working days from the date of the decision to hold the competition.

The competition must consist of the following stages:

- qualification assessment of candidates who confirmed their participation in the competition;
- interviewing candidates and selecting an independent member of the supervisory board using audio-video recording;
- Summing up the results of the competition.

Based on the results of the assessment, the competition commission selects candidates who meet the requirements, to whom an invitation for an interview is sent, indicating the date, time and place of the interview.

When conducting an interview with the participants of the competition, the commission checks the knowledge of the relevant laws and regulatory legal acts of the Republic of Uzbekistan that regulate relations in the field of activity of the company. Decisions of the commission are taken by a simple majority of votes of the total number of members of the commission.

The introduction of independent members of the Supervisory Board increases the efficiency of management, favorably affects the image of companies and makes a significant contribution to the increase in shareholder value.

Independent members of the Supervisory Board are called upon to make a significant contribution to the discussion and decision-making on such issues as the development of a company development strategy, assessment of the compliance of the activities of the executive bodies with the chosen strategy, resolution of corporate conflicts with the participation of shareholders, as well as other important issues, the solution of which may affect the interests of shareholders. Thus, the presence of independent members in the Supervisory Board makes it possible to form an objective opinion on the issues discussed, which, ultimately, helps to strengthen investor confidence in the company.

At the same time, the study of this issue shows that there are some proposals for improving the work of independent members of the Supervisory Board:



firstly, for the effective management of business entities, it is recommended to rationally combine interests in the use of state representatives and independent members of the supervisory board;

secondly, increasing the responsibility of independent members performing various functions in the supervisory boards (boards of directors) leads to an increase in the efficiency of their activities;

thirdly, the institution of representatives of the state and independent members of the supervisory board is obliged to ensure the balance of the state will and the interests of society in the management of business companies with a share of the state.

#### **REFERENCES:**

1. Law of the Republic of Uzbekistan-Z RU No. 814 "On Amendments to Certain Legislative Acts" <https://lex.uz/docs/2382411#2383532>
2. Order of the Agency for State Assets dated January 27, 2023 No. 19 "On determining the procedure for the competitive selection of independent members of the supervisory board in enterprises with state participation" <https://lex.uz/uz/docs/6362304>
3. Law of the Republic of Uzbekistan "On Joint Stock Companies and Protection of the Rights of Shareholders" <https://lex.uz/docs/2382411#2383532>