§1802. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2019, c. 328, §1 (NEW).]

1. Benefit corporation. "Benefit corporation" means a corporation:

A. That has elected to become subject to this chapter pursuant to section 1804; and [PL 2019, c. 328, §1 (NEW).]

B. The status of which as a benefit corporation has not been terminated. [PL 2019, c. 328, §1 (NEW).]

[PL 2019, c. 328, §1 (NEW).]

2. Benefit director. "Benefit director" means the director designated as the benefit director of a benefit corporation under section 1822.

[PL 2019, c. 328, §1 (NEW).]

3. Benefit enforcement proceeding. "Benefit enforcement proceeding" means a claim or action or proceeding for:

A. Failure of a benefit corporation to pursue or create general public benefit or a specific public benefit purpose set forth in its articles; or [PL 2019, c. 328, §1 (NEW).]

B. Violation of any obligation, duty or standard of conduct under this chapter. [PL 2019, c. 328, §1 (NEW).]

[PL 2019, c. 328, §1 (NEW).]

4. Benefit officer. "Benefit officer" means the individual designated as the benefit officer of a benefit corporation under section 1824.

[PL 2019, c. 328, §1 (NEW).]

5. General public benefit. "General public benefit" means a material positive impact on society and the environment, taken as a whole, assessed against a 3rd-party standard, from the business and operations of a benefit corporation.

[PL 2019, c. 328, §1 (NEW).]

6. Independent. "Independent" means having no material relationship with a benefit corporation or a subsidiary of the benefit corporation, except that serving as benefit director or benefit officer does not make an individual not independent. A material relationship between an individual and a benefit corporation or any of its subsidiaries is presumed to exist if any of the following applies:

A. The individual is, or has been within the last 3 years, an employee other than a benefit officer of the benefit corporation or a subsidiary; [PL 2019, c. 328, §1 (NEW).]

B. An immediate family member of the individual is, or has been within the last 3 years, an executive officer other than a benefit officer of the benefit corporation or a subsidiary; and [PL 2019, c. 328, §1 (NEW).]

C. There is beneficial or record ownership of 5% or more of the outstanding shares of the benefit corporation, calculated as if all outstanding rights to acquire equity interests in the benefit corporation had been exercised, by:

(1) The individual; or

(2) An entity:

(a) Of which the individual is a director, an officer or a manager; or

(b) In which the individual owns beneficially or of record 5% or more of the outstanding equity interests, calculated as if all outstanding rights to acquire equity interests in the entity had been exercised. [PL 2019, c. 328, §1 (NEW).]

[PL 2019, c. 328, §1 (NEW).]

7. Minimum status vote. "Minimum status vote" means:

A. In the case of a corporation, in addition to any other required approval or vote, a vote to approve a corporate action:

(1) In which the shareholders of every class or series are entitled to vote as a separate voting group on the corporate action regardless of a limitation stated in the articles of incorporation or bylaws on the voting rights of any class or series; and

(2) That requires the affirmative vote of the shareholders of each class or series entitled to cast at least 2/3 of the votes that all shareholders of the class or series are entitled to cast on the action; and [PL 2019, c. 328, §1 (NEW).]

B. In the case of a domestic entity other than a corporation, in addition to any other required approval, vote or consent, a vote to approve a corporate action:

(1) In which the holders of every class or series of equity interest in the entity that are entitled to receive a distribution of any kind from the entity are entitled to vote on or consent to the action regardless of any otherwise applicable limitation on the voting or consent rights of any class or series; and

(2) That requires the affirmative vote or consent of the holders described in subparagraph (1) entitled to cast at least 2/3 of the votes or consents that all of those holders are entitled to cast on the action. [PL 2019, c. 328, §1 (NEW).]

[PL 2019, c. 328, §1 (NEW).]

8. Specific public benefit. "Specific public benefit" means any particular benefit to society or the environment, including without limitation:

A. The provision of low-income or underserved individuals or communities with beneficial products or services; [PL 2019, c. 328, §1 (NEW).]

B. The promotion of economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business; [PL 2019, c. 328, §1 (NEW).]

C. The protection or restoration of the environment; [PL 2019, c. 328, §1 (NEW).]

D. The improvement of human health; [PL 2019, c. 328, §1 (NEW).]

E. The promotion of the arts, sciences or advancement of knowledge; and [PL 2019, c. 328, §1 (NEW).]

F. The increase of the flow of capital to entities that endeavor to benefit society or the environment. [PL 2019, c. 328, §1 (NEW).]

[PL 2019, c. 328, §1 (NEW).]

9. Subsidiary. "Subsidiary" means, in relation to a person, an entity in which the person owns beneficially or of record 50% or more of the outstanding equity interests, calculated as if all outstanding rights to acquire equity interests in the entity had been exercised.

[PL 2019, c. 328, §1 (NEW).]

10. Third-party standard. "Third-party standard" means a recognized standard for defining, reporting and assessing corporate social and environmental performance that:

A. Assesses the effects of the business and its operations upon the interests listed in section 1821, subsection 1; [PL 2019, c. 328, §1 (NEW).]

B. Is developed by an entity that:

(1) Is not controlled by the benefit corporation;

(2) Has access to necessary expertise to assess overall corporate social and environmental performance; and

(3) Uses a balanced, multi-stakeholder approach to develop the standard, including a reasonable public comment period; and [PL 2019, c. 328, §1 (NEW).]

C. Provides for transparency by making the following information publicly available:

(1) The criteria considered when measuring the overall social and environmental performance of a business and the relative weightings, if any, of those criteria;

(2) The identity of the directors, officers, material owners and governing body of the entity that developed and controls revisions to the standard;

(3) The process by which revisions to the standard and changes to the membership of the governing body are made; and

(4) An accounting of the revenue and sources of financial support for the entity, with sufficient detail to disclose any relationships that could reasonably be considered to present a potential conflict of interest. [PL 2019, c. 328, §1 (NEW).]

[PL 2019, c. 328, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 328, §1 (NEW).

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