



Legal Flash August 2019

Draft Government Ordinance – Underperforming company debts to shareholders to be converted into share capital.

According to a draft government ordinance establishing measures with effects for decapitalised companies and published on the website of the Ministry of Public Finance, a new obligation is to be introduced for underperforming companies.

Therefore, in addition to the current provisions of the Companies Law governing the conduct of shareholders of companies whose net asset value has fallen to less than half that of their subscribed share capital, the draft ordinance introduces the obligation on these companies to increase their share capital by converting any debts to associates or shareholders resulting from loans or other means of financing into stocks or shares. Failure to comply with this obligation constitutes a contravention and will result in a fine ranging from 5% to 10% of the amount corresponding to the value of the unconverted debts. This fine cannot be less than RON 5,000 and is to be borne by the director/legal representative of the company or any other person responsible for the failure to implement the legal procedures required to comply with the new provisions.

In addition, the National Agency for Fiscal Administration (ANAF) is to initiate dissolution actions with respect to all companies featuring for two consecutive years on the Ministry of Public Finance list of companies whose net asset value has fallen to less than half that of their subscribed share capital.

The information contained in the aforementioned list will be transmitted electronically to the National Trade Register Office for recording in the trade register. In the case of companies which, in keeping with Accounting Law no. 82/1991, have opted to use a financial year different from the calendar year, when publishing the list a period corresponding to the date specified in their annual financial reports will be taken into account.

Dissolution will also be pursued in the case of companies that fail to submit their financial reports for two consecutive years within 6 months of the submission date for the annual financial reports corresponding to the second financial year.

Source: Draft ordinance establishing measures with regard to decapitalised companies, published on the website of the Ministry of Public Finance on 14 August 2019.

This newsletter is a service of TPA

Kind regards
Your TPA Team



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