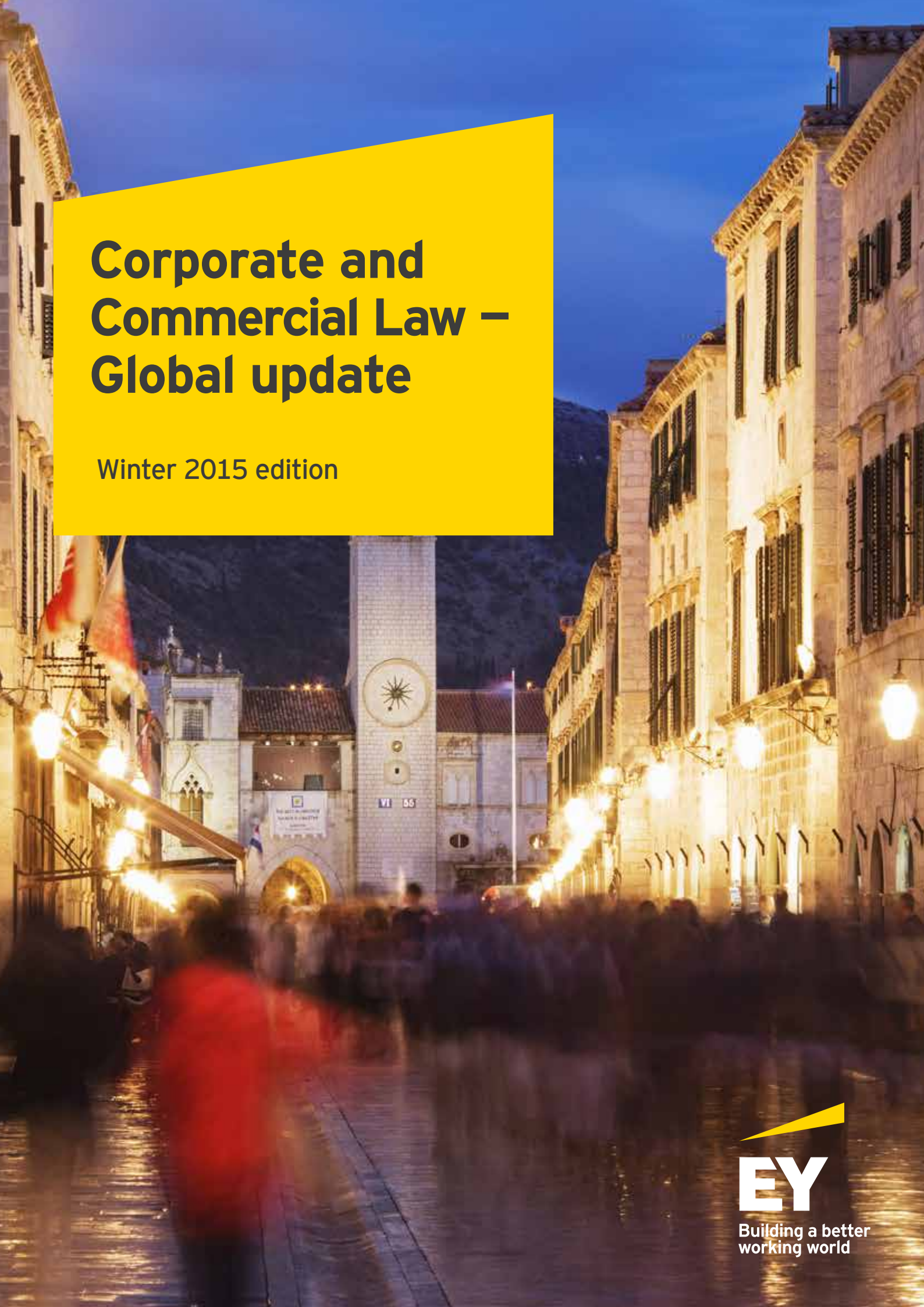
Corporate and Commercial Law – Global update

Winter 2015 edition



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In this issue ...

Albania 1
- Update on Albania's law to combat late payments

Belgium 2
- Capital decrease in Belgium: implications of early repayment

Brazil 3
- Annual shareholders meetings are mandatory in Brazil

China 4
- Chinese five-year plan includes internet finance for the first time

Columbia 5
- Colombia proposes new rules for companies

Finland 6
- Finland – energy audits are coming

France 7
- New law seeks to boost economic growth and activity in France

Germany 8
- Avoiding antitrust fines under German corporate law

Italy 9
- Italy – legal aspects of the Patent Box regime

Luxembourg 10
- Amendments to Luxembourg company law

Mexico 11
- A new investment vehicle in Mexico, FIBRA E

Netherlands 12
- Prejudgment attachment of property in the Netherlands

This quarterly publication highlights a range of international corporate law matters and covers recent law developments in specific countries.

New Zealand 13

- New Zealand company law amendments

Norway 14

- Objective liability for corporate penalties in Norway

Poland 15

- New restructuring law in Poland

Portugal 16

- Portuguese crowdfunding legal regime

Russia 17

- Civil code amendments in Russia

Serbia 18

- New rules for payment transactions in Serbia

Slovakia 19

- Disclosure obligations in Slovak public procurement tenders

Spain 20

- The latest changes in Spanish corporate law

Switzerland 21

- New company transparency legislation in Switzerland will reinforce efforts to prevent money laundering

UK 22

- Domestic mergers becoming more popular in the UK

Ukraine 23

- E-commerce 'legalized' in Ukraine

Albania

Update on Albania's law to combat late payments

Albanian companies and public authorities involved in the supply of goods and services have recently started to enjoy the benefits of a law enacted in June 2014 that applies to late payments under commercial and contractual obligations.

Law No. 48/2014 is meant to reduce late payments in commercial transactions and simplify the legal procedures necessary for fast debt collection. The law also sets clear rules for calculating interest on late payments.

Unpaid obligations arising from commercial transactions constitute an enforceable title under Article 510 of the Civil Procedure Code. Such titles are executed by the bailiff's officer under a court order issued through a summary hearing. That process is shorter than the merit trial used previously, provided that the creditor has delivered the goods or services and the debtor does not object to the debt.

The companies and other parties involved in commercial transactions are advised to pay close attention in defining clear terms of payment and delivery of goods and services to avoid late payment interest and to collect debts in due course.

Belgium

Capital decrease in Belgium: implications of early repayment

When an extraordinary general shareholders' meeting of a private or public limited liability company (BVBA or NV) or a partnership limited by shares (Comm. VA) decides to reduce the company's capital by repaying shareholders, the payout should be delayed until two months after the decision is published in the *Belgian Official Gazette*.

The waiting period allows the company's creditors to demand a guarantee from the company.

The management of the company can still consider repaying the shareholders before that time has passed. Until a recent development, this move was likely to generate a tax issue because early repayment could be seen as a dividend from a tax standpoint, according to Article 18 of the Belgian Income Tax Code.

A parliamentary question was raised on 28 April 2015 about the interpretation of Article 18. The Minister of Finance replied on 12 June 2015 that the two-month waiting period set forth in Articles 317 (BVBA) and 613 (NV/Comm. VA) of the Belgian Code of Companies is irrelevant to the application of Article 18. As a consequence, management can consider an early repayment to shareholders pursuant to a capital reduction.

Nevertheless, management should always take into account the probability of the directors' liability, for instance, if the company is not creditworthy. Shareholders can also be ordered to return payments if they are needed to satisfy creditors.

Brazil

Annual shareholders meetings are mandatory in Brazil

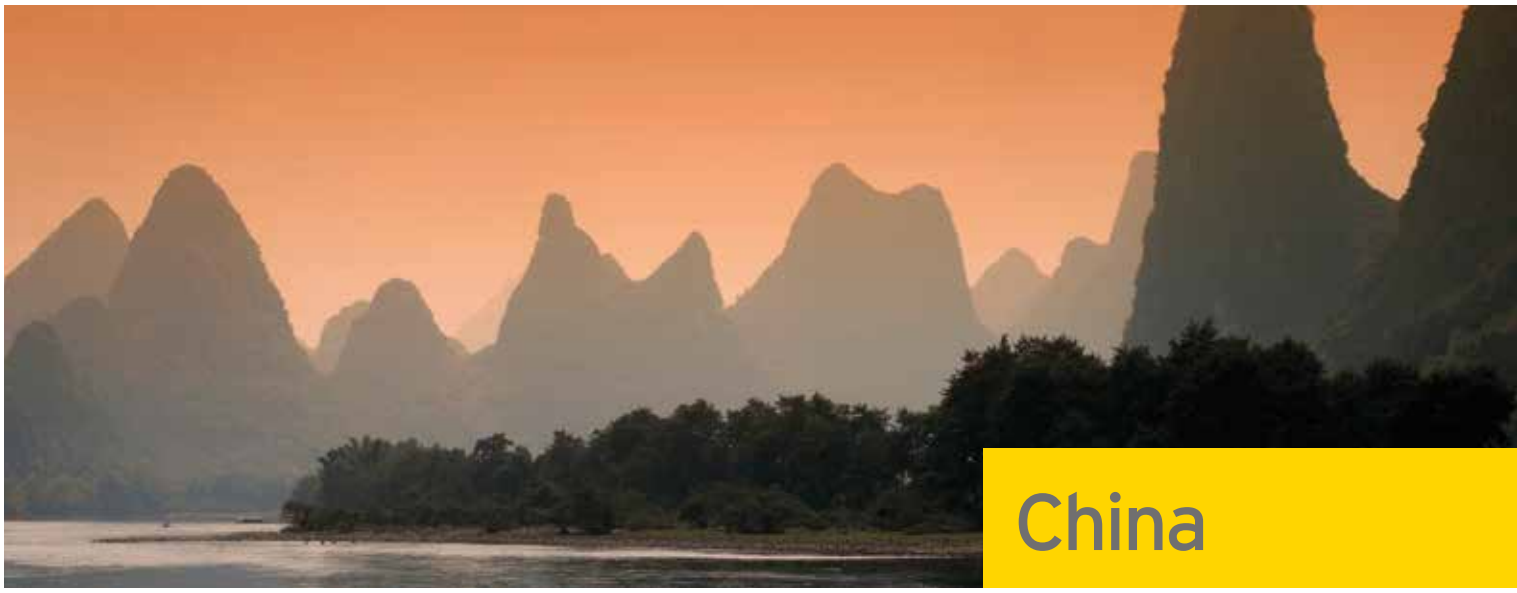
Under Brazilian corporate law, shareholders must meet within four months after the fiscal year ends to review management accounts, discuss and vote on financial statements, decide on the allocation of year-end results, and appoint administrators.

With limited liability companies, decisions made in shareholders meetings are formalized in minutes that must be registered with the Board of Trade. Before the annual meeting, shareholders must receive the company's management accounts, financial statements and economic results.

With corporations, decisions must be made in an ordinary shareholders meeting. The company must publish its financial statements at least five days before the meeting.

Until recently, Brazilian practitioners and authors had debated the need for large limited liability companies to publish their financial statements in newspapers before holding annual meetings. (A "large" company is defined as having assets higher than BRL240m (US$64m) or revenue higher than BRL300m (US$77m).) The reason for the debate was that the legislation does not expressly refer to publishing financial statements, only to preparing and auditing them.

The São Paulo Board of Trade closed the debate with a decision on 25 March 2015. It confirmed that large companies, regardless of their corporate form, must prove that they published their financial statements before they can file the statements and the meeting minutes approving them.



China

Chinese five-year plan includes internet finance for the first time

On 29 October 2015, internet finance was included in the 13th five-year plan for the economic and social development of China. For many analysts and operators in this sector, this introduction consecrates internet finance as a thriving market, but it also means the time has come to regulate this sector after periods of excessive growth enjoyed far too long by internet banking operators.

What does it mean?

Internet finance has enjoyed thriving growth in the last decade, with an increase in both operators and clients. However, without an optimized legal framework, the market has hit its limit, and concerns have arisen because its uncontrolled development has led to opacity and higher risk. Its inclusion in the five-year plan means internet finance is a market mature enough to be supervised by the government, with tailored guidelines and regulations.

Are stricter regulations on the way?

If future internet finance legislation follows the actual trend, regulations and guidelines will set up an optimized legal framework that will not strangle growth. The result is unlikely to be stricter supervision but, rather, general regulation of consumer rights, as well as overall guidelines.

Columbia

Colombia proposes new rules for companies

Twenty years after the last structural reform to the companies' regime (Law 222, 1995), the Colombian Government introduced a bill to update legislation and to improve the operation of a recently created legal entity, the simplified stock company (sociedad por acciones simplificada, or SAS), which has rapidly become the legal vehicle of choice for many types of businesses.

The main reform involves extending certain benefits exclusive to an SAS to other legal entities (e.g., SA and Ltda.). That includes allowing them to have undetermined corporate purpose and indefinite duration and to amend bylaws by private document, giving them more flexibility and updating rules in place since 1971.

The reform also supersedes the directors' liability regime by introducing principles such as the duty to act for the benefit of the company and using "business criteria" instead of the "good businessman" principle.

Also new is the "oppression of the minority partners" regime, which details actions that minority partners can take if their rights are violated.

Finally, the reform seeks to dissuade companies from violating laws on corporate and accounting matters by increasing the penalties that can be imposed by the Superintendency of Corporations.

The changes will speed up the creation of companies, aid business operations and stimulate foreign investment.

Finland

Finland – energy audits are coming

It has been three years since the passing of Directive 2012/27/EU on energy efficiency, and the first mandatory energy audits are approaching in Finland.

The directive has been implemented in Finland mainly through the Act on Energy Efficiency (Act 1429/2014). Under the act, so-called large enterprises must conduct energy audits at least every four years. The deadline for the first audit is 5 December 2015.

The definition of a large enterprise in the act mirrors the definition of an SME (small and medium-size enterprise) in the Energy Efficiency Directive (EED) and parallels Commission Recommendation 2003/361/EC on the definition of micro, small and medium-sized enterprises. A large enterprise (a non-SME) employs at least 250 people or has an annual turnover of €50 million or more and an annual balance sheet total of €43 million or more.

While this definition appears straightforward, its interpretation may vary. For example, the Finnish Energy Authority (FEA) recently said it considers the definition to take into account the *combined* numbers of a company or a group registered in Finland and its subsidiaries in Finland *and* abroad. This interpretation and others may change when authorities and courts begin to apply the act. However, as it stands, a company that is rather small in Finland may have to conduct an energy audit on its operations there.

France

New law seeks to boost economic growth and activity in France

Enacted on 6 August 2015, the law referred to as Loi Macron introduced a number of new provisions.

Among them is an exception to the banking monopoly that enables public and private limited liability companies, whose accounts are certified by a statutory auditor, to grant short-term loans (up to two years) to small or medium-sized entities with which the lending company maintains economic relationships. The terms and conditions of the loans are subject to additional provisions to be set by a yet-to-be-issued decree. Such related-parties agreements require authorization by the board and/or approval by the shareholders of each company. The loan amount must be disclosed in the annual management report and be certified by the statutory auditor at the level of the lending company.

The new law also reduces the minimum number of shareholders in public limited liability companies (sociétés anonymes) from seven to two, which should end or limit the use of loan of shares.

Finally, the obligation to inform employees about the sale of a company was amended to exclude in-kind contributions (of either the ongoing business concern or the majority of the shares of a limited liability company) from the scope of information to be provided to employees.

A breach of this obligation is now subject to a civil fine of up to 2% of the total transaction and can no longer result in cancellation of the contemplated transaction. For more about the original obligation law, which took effect on 31 July 2014, see the comments in our previous winter edition.

Germany

Avoiding antitrust fines under German corporate law

Since mid-2014, reports have circulated that a company accused of participating in a cartel can avoid fines through several corporate reorganizations.

If a company is found to have violated the ban on cartels, the German Antitrust Office can fine the company as a legal entity. Even though German antitrust law is gradually being aligned with the European provisions, German enforcement authorities still cannot fine the group parent as a jointly and severally liable party. Under German law, such joint liability is possible only if the parent company itself has breached its group supervisory responsibilities.

In the absence of pertinent legal provisions, some have questioned whether a group is responsible for a fine even if the legal entity that was fined no longer exists. This was possible under very specific circumstances.

A 2013 amendment to the law was intended to close this loophole. With universal succession in the form of a merger or partial universal succession in the form of a split-up in accordance with Section 123(1) of the German Reorganization Act, the fine can be imposed on the legal successor or successors.

Because no other provisions were added, liability in singular succession (asset deals) is still not regulated. An application of the 2013 provisions by interpreting the standard is presumably not permissible on account of article 103(2) of German Basic Law. So, despite legislative efforts, it still appears that, in certain circumstances, companies may continue to be able to avoid the risk of liability for fines by undertaking particular reorganization measures.

Italy

Legal aspects of the Patent Box regime in Italy

A preferential tax regime for income related to intellectual property (IP) – the so-called Patent Box – has been introduced in Italy by Article 1, §37-45 of Law No. 190, dated 23 December 2014, and amended by Article 5 of Law Decree No. 3, dated 24 January 2015.

Only certain categories of intangibles are subject to this regime. In some instances, the identification of the relevant IP is straightforward, namely software protected by copyright, patents (granted and to be granted), and trademarks (completed and ongoing).

However, the identification of the relevant IP can be more complex, such as designs and models and company's secret information, as well as technical or business know-how, including commercial or scientific information that can be protected as secret.

To qualify as "secret," the information must:

- Not be generally known or readily ascertainable through appropriate means by experts or other people operating in that business sector
- Have economic value
- Be subject to reasonable efforts to maintain its secrecy

Moreover, according to Italian case law, non-patented inventions can be protected as business secrets.

Client lists might also be considered intangibles falling within the category of the secret (commercial) information eligible for the Patent Box, provided that such client lists are not merely "mailing lists" with basic information. In this respect, in order to be considered an intellectual property right, they shall include sophisticated information elaborated by the company.

Luxembourg

Amendments to Luxembourg company law

The draft Bill 5730 amending the Luxembourg law of 10 August 1915 on commercial companies is being discussed in Parliament and could be adopted by the end of the year.

As it stands, the draft bill sets a written legal background for operations that are already well-established in the marketplace.

Here is a short summary of the main provisions.

Regarding private limited liability companies (SARL):

- Maximum number of shareholders raised from 40 to 100
- Possibility to issue redeemable shares
- Possibility to have an authorized share capital
- Possibility to implement interim dividend (same rules as in an SA)

Regarding public companies limited by shares (SA):

- Possibility to issue shares at below par value
- Abolition of the limitation to 50% for nonvoting shares

Common to all types of companies:

- Possibility to issue tracking shares
- Possibility to issue shares of unequal nominal value
- New regime on issuing bonds and convertible securities

The draft bill also introduces a new form of company: the SAS, the simplified public limited company, or société par actions simplifiée, as now exists in France. The legal regime for the SAS will be based on the rules for the SA, except for the organization of its corporate governance, which can be freely determined under its articles of association.

Mexico

A new investment vehicle in Mexico, FIBRA E

Following the opening of Mexico's energy sector in late 2013, the FIBRA E was introduced in September 2015 as a new investment vehicle – a Mexican trust – that will issue certificates on the stock exchange under a tax regime that reduces levels of taxation and therefore allows for greater distributions. The FIBRA E will allow private and public participants to monetize assets characterized by having stable and predictable cash flows while promoting the growth and development of the energy and infrastructure sectors in Mexico.

The FIBRA E resembles the U.S. Master Limited Partnerships, with a few distinguishing characteristics with respect to its tax and corporate governance framework.

The essence of the FIBRA E is to invest (at least 70% of the trust's estate) in shares of Mexican companies that obtain at least 90% of their taxable income from very specific sources: activities related to hydrocarbons (mostly midstream); generation, transmission and distribution of electricity; long-term infrastructure investment projects; and administration of other FIBRA E trusts.

The trust will be able to issue different series of certificates; ordinary and subordinated. The latter confer full voting rights and the right to receive a larger portion of the cash flow of the FIBRA E, subordinated to the payment of preferred distributions to the holders of ordinary certificates.

Regarding the Corporate Governance of the FIBRA E, the applicable regulations provide for a robust structure in the following respects:

- Rights of the unit-holders meeting
- Minority rights of unit-holders
- Composition and attributions of the Technical Committee and ancillary committees, such as the Conflicts Committee
- Internal controls
- Different series of certificates and distributions
- Attributions and obligations of the manager of the FIBRA E

Netherlands

Prejudgment attachment of property in the Netherlands

Under Dutch law, it is possible to levy a prejudgment attachment of property for a claim against a debtor. This requires prior permission from the court. Since the prejudgment attachment only affects the legal relationship between the debtor and the creditor, the debtor is still entitled – even though this is punishable by law – to transfer legal title to the property to a third party. After such transfer, the creditor loses its right of execution in relation to the property as the new owner of said property is protected. The consequence of the foregoing was that if a debtor was liquidated and the property that was pledged as security was transferred, the creditor lost its right in relation to the property.

In a recent Dutch Supreme Court case creditors had levied a prejudgment attachment of a bankrupt company's shares in its subsidiary. The trustee in the company's bankruptcy then sold the shares to a third party, after which the company was dissolved.

The Supreme Court ruled on 13 November 2015 that if a debtor, against whom a prejudgment attachment is levied, sells the relevant property and subsequently ceases to exist, the creditor then has a sustainable claim against the new owner of legal title to the property. The creditor will need to obtain a declaratory decision from the court that confirms its entitlement prior to exercising its rights unless the new owners voluntarily agree.

This recent ruling departs from the established rule that a prejudgment attachment exclusively affects the legal relationship between the creditor and debtor, creating an exception if the debtor has ceased to exist. The Supreme Court has thus offered a solution in cases with a prejudgment attachment where a debtor sells property in a bid to outrun its creditors. Following this ruling, creditors will still be able to capitalize on the prejudgment attachment.

Although the ruling filled a gap in Dutch law, it leaves a loophole. If the third party in turn sells the relevant property to a fourth party, the creditor will have to obtain another declaratory decision to confirm a sustainable claim against the fourth party.

New Zealand

New Zealand company law amendments

Company law requirements have been tightened to safeguard New Zealand's reputation as a trusted place to do business. Several changes initiated under the Companies Amendment Act 2014 took effect on 1 May 2015.

The major change is that all companies in New Zealand must now have either a New Zealand resident director or a director who is a resident of an "enforcement country" and who is a director of a company registered in that country.

Enforcement country has been defined as a nation that recognizes and enforces New Zealand judgments that impose criminal fines under its regulatory regime. Australia is currently the only prescribed enforcement country.

Subject to fines not exceeding NZ$10,000, the new requirements mandate that:

- Directors must provide their date and place of birth (and the state if they are a director of a company registered in an enforcement country). This information is not available to the public.
- Details about the ultimate holding company must be provided: the name, country of registration, registration number or code, and registered office.

All companies incorporated before 1 May 2015 had to comply with these requirements by 28 October 2015. The registrar has grounds to remove non-complying companies from the register of companies. Companies can object to the removal. Once removal is complete, any undistributed property will vest in the Crown.

Norway

Objective liability for corporate penalties in Norway

Under a new penal code that took effect on 1 October 2015, a corporate penalty can be imposed even if no one acted with intent or negligence.

Under the former code, a penalty could be imposed only if a person serving on a company's behalf acted with intent of negligence – known as subjective guilt. The traditional requirement for guilt was slightly modified in that it was not necessary to prove subjective guilt on the part of identified people within the undertaking, and anonymous and cumulative errors were therefore punishable. It was not necessary to prove that the management of the company had acted with intent or negligence.

With the change, liability for corporate penalties is now fully objective. The preparatory works for the new code do state that corporate penalties should not be imposed if the offense is the result of an unavoidable accident or force majeure. Furthermore, the degree of negligence will be a factor in assessing the level of the punishment. Penalties can include fines, the loss of the right to carry on business, a prohibition from doing business in certain forms and confiscation.

Poland

New restructuring law in Poland

On 1 January 2016, the Polish Act on Bankruptcy and Reorganization will be replaced by two separate acts: the Bankruptcy Law and the Restructuring Law. The change is not just about form – it aims to distinguish restructuring from the stigmatizing bankruptcy proceedings. The main purpose of the new provisions is to give a second chance to companies facing insolvency and to provide their management boards with effective tools to overcome the crisis. This is a substantial change because, until now, satisfying the creditors' rights had priority over the company's continued existence.

Here are some advantages of the new regulations:

- **Speed.** A number of instruments are meant to accelerate restructurings, such as short deadlines for the creditors and the court, or the decision-making process for active creditors.
- **Reinforcement of the role of an entrepreneur during the reorganization.** The law provides for making out-of-court arrangements with creditors and for retaining the entrepreneur's own management of all its assets during reorganization.
- **New principles of appointment and compensation of supervisors in the restructuring proceedings.** Debtors and creditors will play a significant role in appointing a supervisor of the company being restructured. Supervisors will be compensated based on the effectiveness of their work – an effort to ensure that the process goes well.

Portugal

Portuguese crowdfunding legal regime

Portugal has established a legal framework for crowdfunding under Law 102/2015 of 24 August 2015, which partially took effect on 1 October 2015. This alternative financing mechanism allows entities, their activities and their projects to raise money from investors after registering with online platforms. All legal entities can have crowdfunding platforms. They must comply with the obligations laid down in the crowdfunding regime and with the duties of conduct directed at platform holders.

The law identifies four types of crowdfunding:

- Crowdfunding by means of donation, in which the financed entity receives a donation with or without nonpecuniary consideration
- Crowdfunding by means of compensation, in which the financed entity must render a product or service as a consideration for the financing
- Loan-based crowdfunding, in which the loans bear interest in favor of the lenders
- Equity-based crowdfunding, which enables investors to acquire shares in the company

With loan-based and equity-based crowdfunding, the managing bodies of the platforms must register with the Portuguese Securities Market Commission, which has supervisory powers for these activities. The loan-based and equity-based crowdfunding regimes cannot take effect until the commission issues a regulation, which is expected by the end of 2015.

Russia

Civil code amendments in Russia

Significant civil code amendments took effect on 1 June 2015 (some of which were mentioned in our summer edition). In general, the updated code now regulates many matters that had been in widespread practice without special regulation.

New contract types

- A **framework agreement** defines the general terms of the parties' relations that may be detailed later in separate contracts or orders.
- A **subscriber contract** allows the subscriber to demand performance in exchange for periodic payments, which are due even if the subscriber does not demand performance.
- An **agreement on the procedure for conducting negotiations** may detail the allowed forms of good-faith negotiations, provide for the allocation of negotiation costs and establish fines for violating procedures. In practice, this is sometimes part of a memorandum of understanding or a letter of intent.

New transaction instruments

- Injunction: apart from claiming damages, the creditor can also seek to stop certain actions.
- Astreinte: at the creditor's request, a court can require the debtor to pay extra compensation to the creditor if the debtor fails to act according to the court decision.
- Breakup fee: a provision requires payment of a specified amount for a unilateral change or withdrawal from an obligation, even if such a move is legally permissible.

By introducing these instruments, the legislature demonstrates a trend toward greater compatibility of Russian civil law with international practice. Russian lawmakers are addressing frequent complaints by the business community that the choice of a foreign law contrary to Russian law was driven by the absence of certain instruments in local law.

Serbia

New rules for payment transactions in Serbia

A new law governing the payment transactions of legal entities, entrepreneurs and natural persons who are not engaged in business activity has been in place since 1 October 2015 (*Official Gazette of the RoS*, No. 68/2015). The law makes it obligatory for legal entities and entrepreneurs to perform transactions using their bank accounts but makes it optional for natural persons.

Under the law:

- Legal entities and entrepreneurs (except holders of e-money) are obliged to open an account with a bank or the Serbian Treasury Department. They must keep their funds in such accounts and perform payment transactions through them.
- If legal entities and entrepreneurs (except for exchange offices) receive dinars in cash, they must deposit such funds in their bank account within seven working days.
- Legal entities and entrepreneurs are prohibited from settling mutual financial obligations through assignment of claim or debt, through offsetting and through other regulated ways if their bank accounts are blocked because of forced collection.
- A breach of obligations imposed by the law will result in fines of 10,000 (€85) to 2 million dinars (€16.500).

A decree detailing the provisions of the law has not been enacted, making application of the law difficult. This is expected to happen soon.

Slovakia

Disclosure obligations in Slovak public procurement tenders

An amendment to the Act on Public Procurement that took effect on 3 November 2015 introduced important changes to the requirement that tenderers disclose their ownership structure to participate in public procurement tenders.

Under the amendment, the Slovak Public Procurement Authority will operate a register of final beneficiaries containing data identifying the individual shareholders of participants in tenders.

A company is likely to be excluded from public procurement tenders if it cannot produce evidence that it has no individual shareholders who meet the criteria for final beneficiaries or if it cannot disclose data on its individual shareholders as final beneficiaries.

If the tenderer's shareholder structure includes final beneficiaries, they must be registered. The obligation to register also applies to subcontractors with a certain defined share of the fulfillment of the contract for certain types of tenders.

The Public Procurement Authority can impose a fine of up to €1 million on the tenderer, together with a possible three-year ban on participation in public procurement processes, for noncompliance with the register obligations.

Spain

The latest changes in Spanish corporate law

Spanish corporate law has been amended through measures such as the Corporate Financing Act of 27 April 2015 and case law, introducing important changes for companies.

- One of the traditional prohibitions against limited liability companies (*sociedad limitada*, or SL) issuing and guaranteeing bonds has been removed, allowing them to issue bonds with certain restrictions. Moreover, the limit on the amount of debt issuances for public liability companies (*sociedad anónima*, or SA) has also been removed. These changes open new methods of financing (e.g., crowdfunding) apart from banks and the traditional profit participating loan.
- A new binding resolution from the General Directorate of Registries and Notaries affects the compensation of managing directors and directors with executive functions. Remuneration for their executive functions does not have to be included in the bylaws of the company, but it does have to be stated in a separate agreement approved by the board of directors. Additionally, the total amount must be approved by the general shareholders meeting.
- The general prescription period in Spain – which had been one of the longest in the world – has been reduced to five years from 15 years. Effective 7 October 2015, the general prescription period to bring action is five years, subject to an important transitional regime.

Switzerland

New company transparency legislation in Switzerland will reinforce efforts to prevent money laundering

On 1 July 2015, new company law provisions took effect in Switzerland that are designed to ensure greater transparency by legal entities, their shareholders and beneficial owners.

The regulations apply to private joint-stock companies, to limited liability companies and, with regard to keeping a register of members, to cooperatives, but not to shares in the form of book-entry securities, in accordance with the Federal Act on Intermediated Securities.

The changes follow recommendations from the international Financial Action Task Force on Money Laundering to prevent the misuse of bearer shares. Anyone acquiring bearer shares must disclose their identity to the company within one month and furnish proof that they are in possession of the shares.

Also, a company's articles of association can no longer provide for a higher quorum for the conversion of bearer shares to registered shares than required by law. Also it is mandatory to report the name of the beneficial owner when the acquisition of registered or bearer shares results in a holding that makes up at least 25% of the share capital or voting rights of a company. The purchaser is similarly required to report within one month. Failure to comply will result in suspension or even forfeiture of certain shareholders' rights. Shareholders who already held bearer shares before the law took effect have been granted six months to comply.

Companies are required to maintain a register containing certain details on the bearer shareholders and beneficial owners. It is not public but must be accessible at any time to the company's local representatives.

UK

Domestic mergers becoming more popular in the UK

Cross-border mergers, with the concept of a transfer by operation of law, became part of UK legislation in 2007 when the UK enacted the European Directive on Cross-Border Mergers.

However, domestic mergers have always proved more difficult to undertake. Historically, a domestic merger had to follow Part 26 of the UK Companies Act, commonly known as a UK Scheme of Arrangement (a "Scheme"). The difficulty is that UK courts do not generally recognize the concept of universal succession or transfer by operation of law. The UK courts can order that the business of the transferring company is moved to the surviving company and that the transferring company is dissolved without going into liquidation. But if a particular asset has a restriction, it will not transfer.

UK courts have recently begun to recognize flaws in the law, and a few intragroup domestic mergers have been undertaken using a Scheme. The courts will approve such a transfer when there is a compelling reason, such as availing oneself of the ability to have the court order the transfer of the assets and liabilities to the surviving entity and the dissolution without liquidation of the transferring entity in a domestic rather than cross-border situation.

However, the onus is on the parties to demonstrate that the assets will transfer as part of the Scheme and that they have no restrictions. It may be advisable to transfer restricted assets before effecting the Scheme.

This may be seen as a major development in UK corporate law, but it is unclear how popular these transactions will become, especially since the transferring company's assets require due diligence.

Ukraine

E-commerce 'legalized' in Ukraine

The long-awaited Law on Electronic Commerce took effect on 30 September 2015 and was developed with EU Directive 2000/31, dealing with electronic commerce, in mind. Even though the law merely recognizes and regulates relations already on the market rather than bringing about any novelties, it remains important.

It introduces legal grounds for deals concluded in electronic form, which generally now have the same legal force as those made in writing. The law applies to all commercial deals, with a few exceptions, but may apply to private deals (i.e., when the seller is not a business entity or a private entrepreneur).

The law defines a number of widely used concepts, including electronic commerce, electronic message, electronic signature (in addition to the existing electronic digital signature), intermediary service provider, remote trade and web store.

It also provides for a wide choice of methods for signing electronic agreements and making payments. Also it clearly distinguishes the responsibilities of the parties as well as the provider of intermediary service (e.g., Internet service providers) and ensures that consumer protection rules are respected.

The law is expected to aid the business of online sellers, from the marketing of their products to the protection of their rights in court disputes.

The law is new, so any possible weakness and issues with its practical implementation has not surfaced.

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[1] Mainland China and Hong Kong
[2] Including the Democratic Republic of Congo
[3] Including Camroon, Central African Republic, Chad, Guinea Conakry
[4] Including Benin, Burkina Faso and Niger
[5] Including Mali

Notes

Notes

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