



New measures aiming at simplifying the procedures applicable to corporate restructuring operations and at enhancing reporting obligations.

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Simplification of procedures and enhancement of reporting obligations

Decree-Law No. 185/2009, enacted on 12 August 2009, (i) establishes a set of measures aiming at simplifying the corporate restructuring procedures and (ii) amends the reporting obligations of Portuguese companies, implementing the provisions of Directive No. 2006/46/EC of 14 June 2006, which has established new rules with a view to enhance the comparability of financial information in the European Union and to reinforce the corporate governance policies.

With respect to the simplification measures, we would highlight the following:

- (a) Simplification of the proceedings of merger and spin-off of companies by (i) making available an online draft merger or spin-off project, where the company may also request the registration of such project with the Commercial Registry Office, (ii) establishing that the publication of the call for the shareholders assembly of a company resolving on the merger or spin-off project is automatically promoted by the Commercial Registry Office simultaneously with the publication of the registration of the merger or spin-off project and without charge, (iii) establishing that the creditors may oppose the merger or spin-off by submitting a request before the Court within one month as of the publication of the registration of the merger or spin-off project (thereby eliminating the obligation to publish a special notice to that effect), and (iv) extending the simplified merger by incorporation proceeding to companies holding 90% of the share capital of the company to be incorporated (until now such proceedings would only apply to wholly-owned companies);
- (b) Simplification of the tax exemption proceedings applicable to corporate restructuring operations by establishing a 10-day period for the relevant authority to issue its opinion on the proposed operation (which is considered to be favourable in case the opinion is not issued within the above-mentioned period). Also, the intervention of the Competition Authority and of the Registration and Notary Institute in such proceedings is eliminated;
- (c) The costs of registration of the merger or the spin-off before the Real Estate Registry, the Vehicle Registration and the Ship Registration are included in the costs of registration of the merger or spin-off before the Commercial Registry, ceasing to be an additional cost; and
- (d) Companies may adopt corporate governance models other than those established set out in the Portuguese Companies Code.

As to the reporting obligations, the companies are obligated (i) to report in their annual accounts and consolidated accounts, when applicable, the nature, purpose and financial impact of some off-balance sheet operations and (ii) to make available information on the adopted corporate governance model.

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