



PROPOSAL FOR THE APPLICATION OF RESULTS FROM COMMERCIAL COMPANIES IN LIGHT OF THE CURRENT HEALTH CRISIS

March 30th, 2020

Royal Decree-Law 8/2020 of March 17th on urgent extraordinary measures to deal with the economic and social impact of COVID-19 (RDL 8/2020) establishes a series of measures to be applied to commercial companies in order to make the governing bodies of these entities more flexible, including new deadlines for the preparation and approval of the financial statements and for the holding of meetings and boards.

With regard to the application of results as one of the elements making up the individual financial statements of commercial companies, which is usually drafted and approved simultaneously with the other elements making up the financial statements, although this is not required under current legislation, the Spanish Association of Registrars and the Spanish National Securities Market Commission have issued a joint communication that includes different alternatives depending on whether or not the accounts have been drafted and whether or not the General Meeting that is to decide on their approval has been called.

1.- Redrafting Annual Accounts

If the board of directors considers it necessary, it shall redraft the annual accounts and modify the application of results included in the report, so that they reflect the last application of results to be submitted to the meeting.

If the meeting were called, it would be necessary to redraft and cancel the meeting for reasons of force majeure (see article 40.6 in fine of RDL 8/2020) applicable to both listed and unlisted companies.

2.- Not Redrafting the Annual Accounts

2.1. Meeting not held

The application of results drafted and contained in the report of the annual accounts may be replaced by an alternative proposal to be submitted to the board, justifying the new context and recent changes in economic and health circumstances, and accompanied by a letter from the auditor stating that the change would not have altered his audit if he had been aware of the new application of results at the time of its signature.

In the case of listed companies, the new application of results and the auditor's report must be made public as complementary information to the annual accounts as soon as they are approved, on the company's website and on the CNMV's website as Other Relevant Information or, if it is required in the specific case, as Privileged Information.

2.2. Meetings called

The board of directors may choose to (i) submit for approval

the application of results contained in the notice of meeting or (ii) propose the deferral of the decision on the application of results contained in the notice of meeting to a subsequent meeting to be held within the legal deadline for holding the ordinary meeting (deadline extended by RDL 8/2020).

This option would also require the same requirements for justification, the auditor's written statement and publicity as indicated in the previous section, and the decision to postpone the meeting must be published no later than the date on which the meeting is convened, as well as additional information, before the new meeting is called for this purpose.

From an accounting perspective, the net accounting result will be taken to cover losses or to the surplus (Results pending application, account 120 of "Remaining" in the General Accounting Plan). For the purposes of the deposit of accounts, the certification of the board of directors must state that the proposal for the application of results has not been approved (see article 378.5 of the Regulation of the Commercial

Registry on the certification of non-adoption of a corporate resolution).



Area: Corporate and Capital Markets

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