



## CORPORATE

NOVEMBER 2014

# ADMINISTRATIVE DISSOLUTION FOR FAILURE TO REGISTER THE ANNUAL ACCOUNTS

*Decree-Law 250/2012 of 23 November set forth the failure to register the annual accounts for two consecutive years as an independent ground for the beginning of an administrative dissolution procedure.*

On 29 March 2006, Decree-Law 74-A/2006 implemented the Legal Framework for Dissolution and Liquidation of Commercial Entities (“*Regime Jurídico dos Procedimentos Administrativos de Dissolução e de Liquidação de Entidades Comerciais*” or “*RJDLEC*”). The aim of this legislation was to facilitate administrative dissolution and liquidation of commercial entities upon verification of certain objective indicators that the company in question was no longer active.

The rationale behind this legislation was to avoid each of these cases (estimated to number tens of thousands at the time) leading to judicial proceedings; rather empowering the Commercial Registry Offices to dissolve and liquidate commercial entities, once certain requirements had been met.

The above framework was subsequently amended by Decree-Law 250/2012, of 23 November, which set forth the failure to register the annual accounts (that companies must comply with by submitting the so-called “*IES*”, i.e the “*Simplified Business Information*” or in Portuguese “*Informação Empresarial Simplificada*”), for two consecutive years as an independent ground for the beginning of an administrative dissolution procedure.

This amendment was intended to cover situations in which companies submitted the IES (thus complying with their tax obligation), but did not declare the approval of the annual accounts or pay the mandatory registration fee, therefore, not actually complying with the registration of the annual accounts.

Even though the said framework has been in place since 1 December 2012, until recently the administrative dissolution and liquidation proceedings initiated by the Commercial Registry Offices on the basis of the failure to register of the annual accounts for two consecutive years were very uncommon.

*Recent times have, however, seen a significant increase in the numbers of these procedures and the Commercial Registry Offices are dealing more effectively with companies that have not registered their annual accounts in the last two years by enforcing their dissolution and liquidation.*

Recent times have, however, seen a significant increase in the numbers of these procedures and the Commercial Registry Offices are dealing more effectively with companies that have not registered their annual accounts in the last two years by enforcing their dissolution and liquidation.

This procedure begins with a document specifying the circumstances that determine the beginning of the procedure and publication of an announcement on the official site for online publications of acts performed by companies and other entities ([www.publicacoes.mj.pt](http://www.publicacoes.mj.pt)). The purpose of this announcement is to notify the company – and the shareholders, or respective successors, and a manager or director of the company – that administrative dissolution proceedings have been started.

This publication is accompanied by the other legally applicable notifications made at the same time to creditors of the commercial entity. Such creditors may be surprised by the beginning of administrative dissolution and liquidation proceedings, which establish a

period of 10 days to inform the Commercial Registry Office of the credits and any other rights they may have over the company in question, as well as any assets and rights which they are aware the company has. These notifications may cause the company to suffer serious losses as they could lead to potential clients being fearful of doing new business with them and to their existing commercial partners being apprehensive about maintaining commercial relationships with them.

It is, therefore, advisable for companies which failed to register its annual accounts for two consecutive years to regularize this situation before the competent authorities without further delay. In case administrative dissolution proceedings are started, it is necessary to promptly reply to the notification from the Commercial Registry Office. Should the Commercial Registry Office decide to dissolve the company, the company may judicially challenge such decision, with suspensive effect, before the Commercial Registry Office where such proceeding was handled.

*It is, therefore, advisable for companies which failed to register its annual accounts for two consecutive years to regularize this situation before the competent authorities without further delay.*

This Informative Note is intended for general distribution to clients and colleagues and the information contained herein is provided as a general and abstract overview. It should not be used as a basis on which to make decisions and professional legal advice should be sought for specific cases. The contents of this Informative Note may not be reproduced, in whole or in part, without the express consent of the author. If you should require further information on this topic, please contact **Carolina Meireles** ([carolina.meireles@plmj.pt](mailto:carolina.meireles@plmj.pt)) or **Manuel Sequeira** ([manuel.sequeira@plmj.pt](mailto:manuel.sequeira@plmj.pt)).

 Portuguese Law Firm of the Year  
*Chambers European Excellence Awards, 2009, 2012, 2014*

 Iberian Law Firm of the Year  
*The Lawyer European Awards, 2012*

 Top 50-Most Innovative Law Firms in Continental Europe  
*Financial Times – Innovative Lawyers Awards, 2011-2014*