

# NJORD Estonia: 3 reminders regarding corporate housekeeping

Warm weather and the time for summer vacations has arrived. The annual report should be submitted before going on a holiday, as for most companies the submission deadline is June 30. Failure to submit the annual report may lead to a fine or even deleting the company from the commercial register.

## **1. Extend the terms of office of the governing body members**

Since the shareholders must approve the company's annual report once a year, the deadlines of the terms of office of the members of the management and supervisory board and the auditors should be reviewed, as they are not automatically extended. The terms of office can be extended by the same resolution that approves the annual report. In case of a private limited company, the members of the management board may be appointed for an unspecified term. It should be noted though, that if the company has a supervisory board, the supervisory board shall elect the members of the management board and the relevant resolution must be drawn up separately.

In case there is no management board, i.e. if the term of office of the management board has expired more than two years ago, the registry department (commercial registry) may apply compulsory dissolution of the company. In a situation with no existing management board, the company is, in principle, unable to function, because company representation falls under the competence of the management board. If there is no management board, the registrar shall appoint a deadline for the election of the management board members. In case the election of the management board members fails within the time limit, the registrar may initiate the compulsory dissolution of the company. It must also be observed that the number of the company's management board members be in compliance with the articles of association. Otherwise, the registrar may also issue a warning for initiating a compulsory dissolution.

## **2. Check that the minimum net asset requirement is fulfilled**

Secondly, the company should check that the company's net assets are in a positive status, so that the company owns more assets than obligations. The net assets are negative when the losses have accumulated and there are not enough cumulative reserves or profit to cover the minus. If the private limited company's net assets amount to less than half of the share capital or less than EUR 2500, the shareholders meeting has to be called, where the reduction or increasing of the share capital shall be decided so that the net assets would amount to half of the share capital at least or EUR 2500 minimum. In case none of these arrangements work out, other measures must be taken to reach a positive capital. The net assets of the public limited company must amount to EUR 25 000 at least.

## **3. Failure to submit the annual report may result in the deletion of the company**

The annual report must be submitted within six months after the end of the financial year. As in general, the financial year for many companies is the calendar year, then the term for the submission of the annual report shall be the last day in June. The management board compiles the annual report and the shareholders shall approve it. It must be noted that if there is an existing auditor or there is an auditing requirement, the sworn auditor's report must be enclosed with the report. If the private limited company has a supervisory board, the report of the supervisory board shall be appended to the annual report.

In case of a failure to submit the annual report to the commercial registry in time, the registrar shall issue a warning and shall obligate the company to submit the report within a specified term, which shall be at least six months or ask for a justified good reason which hinders the company from submitting the report. In case there is still a failure to submit the annual report, the registrar may publish a relevant notice in the publication Official Announcements (Ametlikud Teadaanded). If even after the publication of the mentioned notice the company fails to submit the annual report within six months, the registrar has the right to impose a fine on the company or delete the company from the register. Deleting from the register without a liquidation proceeding may be carried out in case the creditors have not submitted claims against the company. In practice, there are situations, when non-operational companies fail to submit the annual reports in full knowledge so that the registrar would use the right to delete the company from the register.

&nbsp;



**MARLEEN ARUS**

OFFICE ASSISTANT

(+372) 66 76 640

MARLEEN.ARUS@NJORDLAW.EE