



Budget law 2021 (law no. 178 of December 30, 2020) – Temporary provisions on the reduction of share capital

📅 11/01/2021 📖 CORPORATE AND COMMERCIAL

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Budget law 2021 intervened on Article 6 of the Decree Law no. 23 of April 8, 2020 by extending the scope of the temporal application of the exceptions provided for therein regarding losses of share capital to an extent greater than one third.

In fact, it is now expressly provided that:

- The rules of the Italian civil code relating to the reduction of share capital due to losses (Articles 2446, second and third paragraphs, 2447, 2482 *bis*, fourth, fifth and sixth paragraphs and 2482 *ter*) and those relating to the dissolution of companies due to losses (Articles 2484, no. 4, and 2545 *duodecies*) are disapplied for the losses that emerged in the course of financial year ending as at December 31st, 2020, effective from 1 January 2021.
In particular:
 - It has been specified that the deadline by which the shareholders' meeting must provide for the loss is postponed to the fifth subsequent financial year (starting from the financial year during which the loss emerged);
 - In the event of a reduction of the corporate capital by more than one third and below the minimum legal thresholds, the directors must call the meeting without delay but at the meeting at hand the shareholders, as an alternative to the immediate increase of the capital to the legal minimum, may therefore resolve to postpone any decision thereon to the end of the fifth subsequent financial year.
- consequently, up to the date of the shareholders' meeting of the fifth subsequent financial year, the cause of dissolution of the company due to



reduction or loss of the share capital below the legal minimum (pursuant to articles 2484 paragraph 1 number 4), and 2545 duodecies cc) shall not apply;

- it is expressly provided that the losses in question must be clearly indicated in the explanatory note to the financial statements specifying, in specific tables, their origin as well as the movements that occurred during the financial year.

It should be noted that the new provisions of law are already subject matter of different interpretative approaches with regard (among other things) to the nature of the losses (necessarily covid or not) as well as to the existence or otherwise of an obligation to call the shareholders' meeting even in the event that the losses of more than 1/3 are not such as to determine the reduction of the share capital below the legal minimum limit.



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