

## NEW THRESHOLDS FOR THE APPOINTMENT OF AUDITORS IN ITALIAN LIMITED LIABILITY COMPANIES

On February 14, 2019, Legislative Decree no. 14/2019 has officially been published on the Italian Official Gazette, setting forth a comprehensive "*Code of business distress and insolvency*". The Decree will fully enter into force on August 15, 2020, but several of its provisions will immediately apply.

The Decree as a whole mainly focuses on the management of distressed businesses. However, it also affects statutory provisions governing the appointment of statutory auditors and external auditors in limited liability companies, by amending Section 2477 of the Italian Civil Code and strengthening relating requirements. The Decree expands the cases where the appointment of the control body is mandatory, with the goal of promptly addressing distress situations in small enterprises.

### New requirements for the mandatory appointment of the control body

The new version of Section 2477 of the Italian Civil Code, as amended by Legislative Decree no. 14/2019, sets forth new thresholds for the appointment of the control body in limited liability companies. Such appointment is now mandatory in the following cases:

- a) The company is required to draft consolidated financial statements;
- b) The company controls another company which is required to audit its accounts;
- c) At least one of the following thresholds is exceeded for two consecutive financial years:
  - 1. Overall assets: Euro 2 million;
  - 2. Total revenues: Euro 2 million;
  - 3. Average number of employees: 10 people.

The obligation to appoint a control body ceases if, for three consecutive financial years, none of the thresholds mentioned under c) above is exceeded.

### Deadline

Limited liability companies exceeding the above described thresholds shall appoint a control body and shall amend their Articles of Incorporation (if conflicting with the new statutory provisions), within December 16, 2019.

For the purposes of assessing the applicable thresholds, the two previous financial years shall be taken into account.

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### **Previous provision**

According to the previous version of Section 2477 of the Italian Civil Code, the appointment of a control body was mandatory in the following cases:

- a) The company is required to draft consolidated financial statements;
- b) The company controls another company which is required to audit its accounts;
- c) At least two of the following thresholds (set forth in article 2435-bis of the Italian Civil Code) are exceeded for two consecutive financial years:
  - 1. Overall assets: Euro 4.4 million;
  - 2. Total revenues: Euro 8.8 million;
  - 3. Average number of employees: 50 people.

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