GITTI AND PARTNERS

Client Alert 12/2020

DEROGATIONS TO THE ONGOING CONCERN ACCOUNTING PRINCIPLE

Exceptional Measures against changes in evaluation methodologies as set forth in the April 8, 2020 «Liquidity Decree»

Gitti and Partners - Studio Legale Associato

THE SCOPE OF THE SPECIAL PROVISION

- Article 7 of the Law Decree of 8 April 2020, no. 23 (the "**Liquidity Decree**") introduces a temporary derogation for the financial statements for the accounting period open at 31 December 2020 in matter of principle of prudence, aimed at:
  - Sterilizing the effects deriving from the current economic crisis due to the COVID.19 pandemic; and
  - Allowing the enterprises with an expected ongoing business before the COVID-19 crisis to draft their financial statements in continuity with the ordinary accounting principles, without any interruption and/or bias in the representations contained in the financial statements about their financial and economic situation.

THE GENERAL RULE

- In general, pursuant to Article 2423-*bis* of the Italian Civil Code, the valuation of the items included in the financial statements is to be carried out pursuant to an ongoing criteria.
- As clarified by the Italian Accounting Principle no. 11, when (before the start of the liquidation procedure) the ongoing business becomes uncertain, the valuation ongoing criteria still applies but the items included the financial statements have to be evaluated according to the new envisaged timeframe.
- To the contrary, when a cause of liquidation (as of Article 2484 of the Italian Civil Code) occurs, the valuation ongoing criteria does not apply anymore and the said evaluations are to be carried out on the basis of a (even) tighter timeframe.

THE CONTENT OF THE SPECIAL PROVISION

- Pursuant to Article 7 of the Liquidity Decree, In drafting the financial statements concerning the accounting period open at 31 December 2020, the ongoing criteria to be adopted for the valuation of the relevant items (as of Article 2423-*bis* of the Italian Civil Code) still apply if the business was deemed as ongoing in the financial statements for the accounting period closed before 23 February 2020.

  I.e., in case of calendar accounting period, the financial statements for 2020 can adopt the ongoing criteria if the financial statements for 2019 represented an ongoing business).

- The explanatory notes must specifically point out the valuation criteria, even through reference to the previous financial statements.

- The same provisions as per above apply also to financial statements concerning the accounting period open at 31 December 2019 and not yet approved at the date of 9 April 2020 (Article 106 of Presidential Decree 17 March 2020, no. 18, has postponed to 28 June 2020 the term for the approval of the financial statements – ordinarily expiring on 29 April).

Questions?

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