

_ The cancelation of the injunction which authorized the non-disclosure of the minimum, average and maximum remuneration of publicly-held company's managers

Brazilian Federal Court of the 2nd Region ("TRF2") decided, by unanimous vote, that publicly-held companies must disclose the minimum, average and maximum remuneration of their managers, pursuant to the Normative Ruling No. 480/2009 issued by the Brazilian Securities and Exchange Commission ("ICVM 480").

In this judgment, TRF2 analyzed an appeal filed by the Brazilian Securities and Exchange Commission ("CVM") against the Brazilian Institute of Finance Executives of Rio de Janeiro ("IBEF / RJ") challenging the order which allowed publicly-held companies associated with IBEF / RJ not to disclosure of the minimum, average and maximum remuneration of their managers.

TRF2 declared that ICVM 480 is in accordance with the regulatory power granted to CVM, and that there is no conflict between the referred normative ruling and the current legislation to be redeemed. In addition, TRF2 has decided that there is no violation of the privacy rights foreseen by the Brazilian Constitution, since ICVM 480 does not require the disclosure of information under an individualized and specific manner, but rather the minimum, average and maximum remuneration.

FOR THIS REASON, THE INJUNCTION WHICH ALLOWED THE NON-DISCLOSURE OF INFORMATION REGARDING THE MINIMUM, AVERAGE AND MAXIMUM REMUNERATION WAS REVERSED.

_ Brazilian Federal Senate approves a bill of law with new parameters for the disregard of legal entity

On April 24th, 2018, Brazilian Senate approved the Bill of Law No. 69 dated as of 2014 ("PL 69/2014"), which aims to change the rules regarding the disregard of legal entity. If approved by the Chamber of Deputies and endorsed by the Brazilian President, PL 69/2014 will amend provisions of the Brazilian Civil Code, Brazilian Civil Proceedings Code, Brazilian Labor Legislation and Brazilian Consumer Protection Code.

BY MEANS OF THE DISREGARD OF LEGAL ENTITY, IT IS POSSIBLE THAT, UNDER CERTAIN CIRCUMSTANCES, THE CREDITORS OF A COMPANY ACCESS THE ASSETS OF ITS PARTNERS TO SOLVE THEIR CREDITS AGAINST THE COMPANY ITSELF. IN THIS CASE, THE SEPARATION BETWEEN THE PARTNERS ASSETS AND THE COMPANY LIABILITY IS OVERCOME.

Currently, the general rule of the disregard of legal entity institute is that the creditor must prove the abuse of the legal entity by exposing acts of (i) fraud, such as the improper confusion between its own assets and their shareholders' assets; and / or (ii) distortion of the legal entity purposes. The Consumer and Environmental Legislation provides that it is also possible to apply the disregard of legal entity when the legal entity is obstacle to the reimbursement of damages caused to consumers or the quality of the environment, as the case may be.

Recent legal changes have sought to enhance the legal certainty in the application of the disregard doctrine, mainly defining, more clearly, the requirements for the disregard of legal entity, the partners whose assets can be reached and the time at which such partners

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may present their defense in the judicial proceedings. Relevant examples are (i) the enforcement of the new Brazilian Civil Proceedings Code on 2015, which provides the judicial proceedings with specific rules to determine whether there are grounds for disregarding the legal entity of a company, when requested by any creditor; and (ii) the provision that the rules set on the new Brazilian Civil Proceedings Code about the disregard of legal entity are applicable to Labor Law, as a result of the amendment of the Brazilian Labor Legislation on 2017.

The current wording of PL 69/2014 follows this tendency while it establishes as a general rule that: (i) the disregard of legal entity effects shall not reach the private assets of shareholders not engaged in the act of abuse of the legal entity; (ii) when the disregard doctrine is enforced regardless of the abuse of legal entity, the assets of partners who have only invested in

the company, with no influence over its management, will not be affected; (iii) the assets belonging to the company's shareholders or managers which have been acquired before they joined the company or any other company belonging to the same economic group, as well as the assets acquired in replacement of those, shall not be subject to any restriction, and (iv) judges powers were limited, as it will be forbidden for them to declare the disregard of a legal entity of a company without any previous request of an interested counterparty.

THE ADJUSTMENTS MADE BY THE BRAZILIAN SENATE IN THE PL 69/2014 HAVE ALREADY BEEN SUBMITTED TO THE APPROVAL OF THE CHAMBER OF DEPUTIES' COMMITTEES. IF APPROVED, IT WILL BE SUBMITTED TO THE BRAZILIAN PRESIDENT FOR ITS FINAL ENDORSEMENT AND DEFINITE ENFORCEMENT.

MORE INFORMATION CAN BE ACCESSED IN PORTUGUESE AT:

<http://www.camara.gov.br/proposicoesWeb/fichadetramitacao?idProposicao=394313>