

GOVERNMENT DECREE No. 27/2017
of July 12

**ESTABLISHES THE CRITERIA FOR THE OBLIGATION OF SUPERVISORY BODY
OR EXTERNAL AUDITOR IN COMMERCIAL COMPANIES**

Law 10/2017, of May 17, approving the new Commercial Companies Law, introduced a profound change to the current legal framework, totally revoking Law 4/2004 on Commercial Companies, in order to define a stable legal framework for all special types of commercial companies to be created.

Within the scope of this reform of the commercial companies' legal framework, emerges the simplification of the legal regime, which is reflected in the reduction of legal rates, the elimination of bearer shares, the simplification of the limited liability quota company regime, and the definition of a series of acts and documents.

In this sense, article 71, paragraph 3, of the new Business Companies Law establishes that stock corporations that exceed in number of shareholders, capital stock, book value or revenue volume the limits established by Government decree, should have a board of auditors.

The same legal provision also stipulates that a limited liability quota company that exceeds in number of shareholders, capital stock, book value or volume of revenues the limits established by Government decree should have a single auditor or a board of auditors.

In addition, paragraph 5 of the same article establishes that this Government Decree may also establish criteria under which the company may appoint an external auditor.

These rules aim, on the one hand, to simplify the legal regime of micro and small enterprises, freeing them from the cost inherent to the maintenance of a supervision body and, on the other hand, to make the legal regime more flexible, giving the Government the freedom to permanently update it through a mere regulatory act, according to the development of the private sector of the economy.

Thus,

The Government decrees, under the provisions of article 71 of Law 10/2017, of May 17 (New Commercial Companies Law), to be enforced as a regulation, the following:

Article 1

(Object)

This decree regulates the obligation of existence and composition of the supervisory body or external auditor in commercial companies, under the terms and for the purposes of paragraphs 2 to 5 of article 71 of Law no. 10/2017 of 17 of May (New Commercial Companies Law).

Article 2

(Board of Auditors in Stock Corporations)

1. Stock Corporations that during the fiscal year reach a volume of income equal to or greater than US \$ 5,000,000 (US \$ 5 million) are required to appoint a Board of Auditors and amend its by-laws within 90 days from the date of approval of the accounts where such billing amount is reached.
2. The obligation provided for in the preceding paragraph shall cease if, for three consecutive financial years, the volume of revenue in the approved accounts is less than the amount referred to in the preceding paragraph.

Article 3

(Supervisory Body in Limited Liability Quota Companies)

1. Limited Liability Quota companies that, during the fiscal year, achieve a volume of income equal to or greater than US \$ 2,000,000 (US \$ 2 million) are required to appoint a supervisory body and to amend their by-laws within 90 days from the date of approval of the accounts where such billing amount is reached.
2. The obligation provided for in the preceding paragraph shall cease if, for three consecutive financial years, the volume of revenue in the approved accounts is less than the amount referred to in the preceding paragraph.

Article 4

(External auditor)

1. Limited Liability Quota companies that meet the criteria set forth in paragraph 1 of the preceding article but do not exceed billing volume of US \$ 5,000,000 (five million US dollars) may appoint an external auditor as an alternative to the supervisory body.
2. It is the responsibility of the members to deliberate on the appointment of the auditor in accordance with the previous paragraph.

Article 5

(Entry into force)

This decree shall enter into force on the same date as Law No. 10/2017, of May 17, which approves the New Commercial Companies Law.

Approved by the Council of Ministers on June 27, 2017.

To be published,

The Prime Minister,

Dr. Rui Maria de Araújo

The Minister of State Coordinating Economic Affairs,

Eng. Estanislau Aleixo da Silva