

Budgeting and Controlling – Part 1 New Legal Obligation for Corporations

The Insolvency Law Amending Statute (Insolvenzrechtsänderungsgesetz, IRAEG) in 1997 has brought about a range of novelties and changes in the fight against insolvencies in the Austrian legal situation. One of these changes was the introduction of the Law for the Reorganization of Enterprises (Unternehmensreorganisationsgesetz, URG).

The accompanying amendments in the Stock Corporation Law and the Law on Limited Liability Companies have not been recognized in its full application and thus, have been hardly implemented. This amending statute refers to regulations concerning the content design of accounting which was expanded by a considerable aspect – the aspect of future. The new regulations must be understood as an obligation for compiling a budget forecast.

The regulations are identical in § 82 of the Stock Corporation Law and § 22 article 1 of the Law on Limited Liability Companies and expand the obligations of the executive board or the managing directors resp to ensure: “... that accounting and internal control systems meet the requirements of the enterprise.” These new regulations are applied on

all corporations: Public Limited Companies (UK)/Stock Corporations (US), Private Limited Companies (UK)/Closed Corporations (US) and Limited Partnerships with Limited Companies as General Partner.

How should this demand for an appropriate accounting and internal control system for all corporations be understood? If you look at § 81 of the Stock Corporation Law and § 28a of the Law on Limited Liability Companies you can clearly see what the requirements are. They define exactly in what way the managing directors or CEOs resp have to report to the supervisory board. The managing directors' duties include reporting on the future development of the company's situation, in terms of assets, financial state and earnings situation with a forecast once a year and at least quarterly, concerning course of business and situation of the company compared to forecast and future development. Furthermore, immediate reporting action is to be taken when particular circumstances occur.

The required forecast is defined as budgeted balance sheet, planned profit and loss account and planned cash flow state-

ment. They are understood as the elements of Integrated Profit and Finance Planning: profit plan (planned profit and loss account), finance plan (planned cash flow statement) and budgeted balance sheet.

The required report on the course of the business and future development has to be created at least quarterly and extends the duties of the management by another substantial aspect – systematic controlling, which is now obligatory for the management. It must contain a budget at the beginning of the business year consisting of profit plan, finance plan and budgeted balance sheet, business reports during the year (at least quarterly if not monthly) and comparison of actual data with originally budgeted data (plan/actual comparison) as well as a revised forecast based on these data, again consisting of profit plan, finance plan and budgeted balance sheet. All planned budgets, comparisons of planned/actual data and forecasts must be based on clearly documented and evident planning fundamentals and connections.

The new regulations demand what should go without saying for any

entrepreneur: occupation with the future of the enterprise – in the framework of concrete written-down and adopted budgets, consequent comparisons of planned/actual data and currently revised forecasts to be able to appraise the current situation and the further development of profit and liquidity of the company and to respond quickly to any deviation from the plan.

The next articles of the series Budgeting and Controlling will cover establishing a complete budget of an enterprise and the procedure in the framework of budget compilation.

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