

NEWSLETTER No. 113

FEBRUARY 2024



São Paulo

Rua Gomes de Carvalho, nº 1507
2º andar – Vila Olímpia
04547-005 – São Paulo – SP
+55 (11) 4210-4010

Rio de Janeiro

Rua Joana Angélica, nº 228
Ipanema
22420-030 – Rio de Janeiro – RJ
+55 (21) 2523-5960

 **moreira
menezes,
martins**
ADVOGADOS

SUMMARY

NEWSLETTER No. 113 | FEBRUARY 2024

**DREI PROMOTE VARIOUS CHANGES IN THE RULES ON
PUBLIC REGISTRATION OF COMPANIES**

3



DREI PROMOTE VARIOUS CHANGES IN THE RULES ON PUBLIC REGISTRATION OF COMPANIES

On January 26th, 2024, the National Department of Business Registry and Integration (DREI) published DREI Normative Instruction 01/2024, which alters various provisions of DREI Normative Instructions 81/2020 (“[DREI NI 81/2020](#)”) and 77/2020 (“[DREI NI 77/2020](#)”), to implement modifications in the general rules and guidelines for public registration of companies and the activities of the various Commercial Registries (“[DREI NI 01/2024](#)”).

Among the changes promoted by DREI NI 01/2024, the following stand out.

Two-column foreign documents

Beforehand, DREI NI 81/2020 established that for legal validity in Brazil, documents issued abroad had to be authenticated by a Brazilian consular authority in the country of origin, and when not written in the Portuguese language, had to be accompanied by a translation into Portuguese performed by a sworn public translator authorized by any Commercial Registry in Brazil (“sworn translation”).

As of the changes resulting from DREI NI 01/2024, foreign documents in two-column format (Portuguese and a foreign language) no longer need sworn translation.

Nevertheless, such documents still need: (i) an apostille or other consular recognition (except for cases of a waiver established in law); and (ii) sworn translation of the foreign rubber stamps and seals on the document.

Electronic signature of documents

DREI NI 81/2020 specified that all Commercial Registries had to accept receipt of documents signed electronically by a third-party system or signature portal.

According to the adjustments of DREI NI 01/2024, it has been established that each state can specify the type of electronic signature that will be accepted by its respective Commercial Registry. In any event, the new rule recommends harmonization of this requirement by the Commercial Registries, and further recommends acceptance of so-called “advanced” electronic signatures (including by means of the portal “gov.br”) and “qualified” electronic signatures.

Besides this, the new provisions on the matter specify that electronic signatures affixed outside the portal of the Commercial Registry will have to be accepted: (i) if it is possible to unequivocally verify their association with the signors (i.e., by validation of the signature), by means of the system of the Commercial Registry; or (ii) if a declaration of authenticity of the electronic signature is presented.

Transformation of business entities

According to the new wording of DREI NI 81/2020 introduced by DREI NI 01/2024, the transformation of a single-party limited liability company whose only partner is a Brazilian legal entity into a corporation without the entry of a new party (individual or legal entity) as shareholder at the moment of transformation, must be in line with article 251 of Law 6,404/1976. Therefore, such transactions must be formalized by means of a public deed, as occurs with the constitution of wholly owned subsidiaries.

Additionally, in cases of transformation of any type of company into a corporation, the respective administrators (officers/directors) must see to the publication of the documents underpinning the transformation in the official gazette of the place of headquarters of the transformed company, as required by article 98 of Law 6,404/1976.

Other corporate transactions

With regard to mergers, DREI NI 01/2024 specifies that there is no prohibition on absorbing companies having negative net equity.

Besides this, it is now specified that the provisions of DREI NI 81/2020 on mergers also apply to reverse mergers (merger of a parent company into a controlled entity), mergers of a wholly owned subsidiaries and mergers by shares.

With regard to companies in general, DREI NI 01/2024 has made it optional to prepare the documents “protocol” and “justification” (or the two combined) when such transactions exclusively involve contractual companies, as long as there is approval of the bases of the transaction by the involved companies. Despite this dispensation, the companies can choose to approve the bases of the transaction in the documents “protocol” and “justification” (or the two combined), as long as the content satisfies articles 224 and 225 of the Law of Corporations.

Representation of partners residing abroad

Another point that should be noted is the possibility of partners who reside abroad (Brazilians or foreigners) to electronically sign the articles of association/bylaws to be registered. According to the DREI, in such cases there is no need to constitute a representative in Brazil, since the partner residing abroad has directly expressed his/her approval.

DREI NI 01/2024 took effect on January 26, 2024.

More information, including the full text of DREI NI 01/2024, can be found at the website of the DREI (www.gov.br/economia/pt-br/assuntos/drei).