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Latvia: Compulsory liquidation of empty and high-risk companies on the rise

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Liquidation of companies has been at high tide in Latvia for the last two years. The tally for 2018 reached approx. 21,000 entities, thus setting an all-time record, while the statistics available for 2019 show that more than 18,000 companies have been liquidated in the first seven months alone.

One of the main reasons for the recent surge in liquidation of businesses is the increased activity of the tax administration and the Latvian Register of Enterprises winding up empty companies that have ceased trading (or have never traded since their formation) or companies which have violated certain obligations towards the state.

The tax administration is empowered to issue a decision on the compulsory liquidation of a company if the company has failed to submit annual or other financial reports or if its economic activity was suspended and the company has failed to rectify deficiencies at the tax administration's request. Furthermore, the Register of Enterprises, which is the institution in charge of maintaining the Commercial Register and other registers, may also issue a decision, where the company has not had directors with valid rights to represent it for more than three months or where the company cannot be reached at its legal address. In June 2019, the Register of Enterprises was also given powers to commence liquidation of a company in case the company has failed to provide information on its beneficiary owners. As a matter of policy, the Register of Enterprises has been encouraged to use these powers.

The increase in activity mentioned should be perceived in the light of the recent report on Latvia produced by the monitoring body of the Council of Europe tasked with the evaluation of anti-money laundering and counter-terrorism financing (AML/CTF) measures, known as MONEYVAL. According to the report published in 2018, several weaknesses were identified in the field of AML/CTF in Latvia that needed to be rectified by the end of 2019. Until then, Latvia has been placed under the so-called "enhanced follow-up" procedures. As a result, a comprehensive plan aimed at rectifying the deficiencies was adopted by the Latvian Cabinet of Ministers in October 2018.

One of the weaknesses identified in the MONEYVAL report was the existence of high-risk companies that had not disclosed their beneficiary owners. The plan aims to address this deficiency by excluding such businesses from the Commercial Register. Furthermore, the plan notes that non-active businesses are frequently used in criminal activity and thus pose risks. As such, the exclusion of those businesses from the Commercial Register is desirable. ■

> "NON-ACTIVE BUSINESSES ARE FREQUENTLY USED IN CRIMINAL ACTIVITY AND THUS POSE RISKS"