IRREDEEMABLE REPORTING AND DISCLOSURE ERRORS — THE EXPERIENCE OF AN ACCOUNTING SERVICE PROVIDER

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Published company accounts are one of the sources of information that market participants – interested in a company – can use to find out more about it. It therefore goes without saying why it is of major importance that published accounts give a true and fair view of the company. However, there may be errors detected after publication which may distort the true picture to a greater or lesser extent.

publication of financial statements; accounting error; disclosure error; correction of financial statements; correction of financial; reports; passivation of financial statements; incorrect financial statements

Let's see what mistakes can occur?

1) An **accounting error** is when the accounting – and therefore the financial statements – do not or not fully comply with the requirements of the Accounting Act.
2) In the case of a **disclosure error**, the financial statements comply with the legal requirements, but there is an administrative error in the publication process that results in the publication of data that is not or not fully accepted by the owners.

A different procedure applies to the correction of the above errors.

In this article, we deal with disclosure errors because, in our experience, many companies are unaware of the limited remedies available in some cases, but understandably do not want to face the inconvenience and potential legal consequences of an incorrect report in their business relationships.

What can and cannot be redeemed?

In 2013, the Regulation on the electronic publication of accounts[(1)] introduced that, at the request of the company, the published accounts and their annexes cannot be exchanged on the website of the Business Information Service, except in the following two cases:

1) The published accounts do not correspond to those approved by the owners: in this case, the accounts can be exchanged once within one year, by requesting the incorrectly published accounts to be published again.
2) If the audit report has been withdrawn by the authority[(2)], the replacement is possible without time limit and the request must be accompanied by the decision on the withdrawal.

Practice shows that there are other situations in real life where the provision of more credible information could justify the replacement of a report or an annex, but this is not currently possible.

You wonder why? We do not have a solid, clear answer to this question. On the one hand, we assume that the potential for error, as described below, does not pose business risks to users of the reporting database information that would cause significant harm to their interests.

On the other hand, from the user side, it is also understandable that correcting discrepancies that are administrative rather than carrying significant business risks, possibly after several years, would distort transparency and may not add any meaningful value to users' business decisions.

Presumably, the above is a factor in the fact that the legislation does not provide for the possibility of redemption. Thus, a business acting in good faith and in compliance with the law cannot do anything about it, even if it has to „live with" the „loss of prestige" caused by the disclosure error.

Examples of cases that are „not redeemable" today

Example 1

When uploading the annual accounts of a new client, it turns out that in a previous year's balance sheet, the Other receivables data has „slipped" and is shown in the wrong receivables row. The balance is not considered significant within the asset group.

Assess and resolve the failed state:

Fortunately, the risk of error is reduced by the fact that the Supplementary Notes indicates which claim item is involved. However, as described above, the error could have been corrected within 1 year. In other words, the company would have had the option to passivate the erroneous report and publish the good one if the error was discovered within one year.

However, the question may be raised whether such an error would make it appropriate to passivate the entire report, and what message would that send to the users of the database?

Example 2

For the submission of the report, the client sent the signed shareholder's resolution and the unsigned version for publication, but only after publication did it become known that it had been withdrawn and a new resolution was signed, in which the dividend payment was amended by 0.2%.

Assess and resolve the failed state:

When accounting for the dividend payment, the amount according to the new decision will be booked in the following year, so there will be no accounting error in the published accounts, but it is of course also an important factor in protecting the interests of users that the amount of the dividend has not changed significantly from the original amount.

A question is, how much would the users' risk in their business decisions have been increased if the final dividend had been significantly different from the original one?

These examples and our experience to date suggest that, although Act on Rules of Taxation provides for statutory penalties for failure to disclose material information or for misstatements in published financial statements, and the Accounting Act also provides for penalties for failure to comply with the filing requirements, the business risk to users of the reporting database from these uncorrectable disclosure errors is not significant, so probably potential legal consequences will not be applied.

Here too, the general advice is: caution before everything!

Given the limited scope for redemption, the only thing that can prevent a business from finding itself in an uncorrectable situation is prudence on the part of the submitter. This approach is ‚supported' by the Regulation itself by placing the responsibility on the submitter to ensure that the uploaded and accepted accounts are consistent.

(1) (Joint Ministerial Decree 11/2009 (IV. 28.) IRM-MeHVM-PM

(2) Auditors' Public Oversight Committee

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