Corporate Law newsletter

Outstanding regulation developments

Urgent Measures. Royal Decree-Law 2/2026 of 3 February, adopting urgent measures to address situations of social vulnerability, in tax matters and relating to the resources of regional funding systems. Full Text.

Tax information. Order HAC/132/2026 of 24 February, approving the list of securities traded on trading venues, with their average trading value for the fourth quarter of 2025, for the purposes of the 2025 Wealth Tax return and the annual information return on securities, insurance and income. Full text.

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Other outstanding regulation developments

Gas, oil and condensates. Resolution of 2 February 2026 of the Directorate-General for Energy Policy and Mines, approving the reference prices for calculating the value of gas, oil and condensate extraction for the year 2025. Full text.

National Statistical Plan. Royal Decree 55/2026 of 3 February, approving the 2026 Annual Programme of the 2025-2028 National Statistical Plan. Full text.

Financial measures. Resolution of 5 February 2026 of the General Secretariat of the Treasury and International Finance, updating Annex 1 included in the Resolution of 4 July 2017 of the General Secretariat of the Treasury and Financial Policy, defining the principle of financial prudence applicable to borrowing and derivative operations of the autonomous communities and local authorities. Full text.

Foreign exchange market. Resolution of 9 February 2026 of the Bank of Spain, publishing the euro exchange rates for 9 February 2026, as published by the European Central Bank, which shall be deemed official exchange rates in accordance with the provisions of Article 36 of Law 46/1998 of 17 December on the Introduction of the Euro. Full text.

Electricity. Resolution of 9 February 2026 of the Directorate-General for Energy Policy and Mines, establishing the amount outstanding as at 31 December 2025 of the collection rights assigned to the Electricity System Deficit Securitisation Fund. Full text.

Urgent measures. Royal Decree-Law 4/2026 of 10 February, guaranteeing equitable access to goods and services in emergency situations. Full text.

Foundations. Regulations. Royal Decree 125/2026 of 18 February, amending the Regulations on foundations under state jurisdiction, approved by Royal Decree 1337/2005 of 11 November, in relation to the Higher Council of Foundations. Full Text.

Organisation. Royal Decree 128/2026, of 18 February, amending Royal Decree 262/2019, of 12 April, establishing the structure of the Regional Ministries of the Ministry of Agriculture, Fisheries and Food abroad and regulating their organisation, functions and staffing. Full Text.

Gas sector. Order TED/126/2026, of 19 February, correcting errors in Order TED/1210/2025, of 28 October, establishing the end date for the transitional remuneration of the organised gas market operator. Full text.

Tobacco. Prices. Resolution of 20 February 2026, of the Presidency of the Tobacco Market Commission, publishing the retail prices of certain tobacco products in Tobacco and Stamp Outlets within the Monopoly area. Full text.

Energy efficiency. Order TED/133/2026 of 25 February, establishing energy-saving obligations, compliance through energy-saving certificates, and the minimum contribution to the National Energy Efficiency Fund for the year 2026. Full text.

Remarkable resolutions

Resolution of 20 October 2025 (BOE 18 February 2026) Notarial authentication of auditor's signature regarding capital increase and reserves. [Full Text.]

The DGSJFP has dismissed the appeal lodged against the negative ruling of the 9th Madrid Commercial Registrar, who suspended the registration of a deed of incorporation for a limited liability company on the grounds that its corporate purpose included the activity "other activities ancillary to financial services, except insurance and pension funds" (CNAE 66.19), without further specification or express reference to a ground for exclusion under securities market regulations. The Registrar considered that this activity, formulated in generic terms, could fall within those reserved for investment services firms under Law 6/2023, which would require compliance with specific requirements that had not been demonstrated. The appellant notary argued that the identification of the corporate purpose by means of a CNAE code approved by regulation cannot be considered generic or indeterminate, invoking the established doctrine of the Directorate-General regarding the registrability of activities codified under Law 14/2013 and Order JUS/1840/2015. The Directorate-General has pointed out that it is the statutory definition of the corporate purpose that determines the applicability of special legal regimes and that, where a generic activity encompasses acts subject to legal reservation, an express exclusion is necessary to ensure the lawfulness and feasibility of the corporate purpose. It concludes that the activity in question falls directly within the scope of investment services firms and requires express justification of the existence of a ground for exclusion under Article 123 of Law 6/2023. Consequently, it confirms the registration classification and dismisses the appeal.

Resolution of 29 October 2025 (BOE 26 February 2026) Filing of accounts and defects in the declaration of beneficial ownership. [Full Text.]

The DGSJFP has upheld the appeal lodged against the decision of the Land Registrar, who had refused to register one of the properties delivered as a dividend in kind in accordance with the decision of the sole shareholder of a public limited company. The deed formalised the agreement to distribute an interim dividend based on a financial statement as at 31 December 2024, paid through the allocation of four properties. Three were registered, but the registrar refused to register the fourth. The appellant argued that the interim dividend had been validly agreed in accordance with the Companies Act and that payment in kind was entirely legitimate as it had been expressly decided by the sole shareholder. The Directorate-General recalls its established doctrine, in accordance with Article 277 of the LSC, according to which the board of directors or, where applicable, the general meeting may agree to the distribution of dividends prior to the preparation and approval of the accounts, provided that there are financial statements to justify it. Furthermore, the Directorate-General clarifies that it is not necessary to assign an individual valuation to each property allocated, as this is not a case of a capital increase involving non-monetary contributions but rather a transfer in kind to satisfy a previously accrued dividend claim. Consequently, it considers the refusal to register the remaining property to be unjustified, revokes the classification and upholds the appeal in its entirety.

Relevant case law

Supreme Court (Civil Chamber) of 10 February 2026. Trademark infringement. Full text.

The Supreme Court has ruled on an extraordinary appeal on procedural grounds and a cassation appeal in a trademark infringement dispute, in which both the existence of an infringement of the exclusive trademark right and the extent of the appropriate compensation were at issue. In the lower courts, infringement of the distinctive sign had been found and injunctions had been granted, but the award of damages under Article 43.5 of the Trade Marks Act was refused due to insufficient evidence to quantify them or establish a basis for calculation. In examining the appeal, the Chamber analysed the interpretation of Articles 43.2 and 43.5 of Law 17/2001 on Trade Marks, as well as Article 219 of the Civil Procedure Act, in relation to the possibility of deferring the determination of damages until the enforcement of the judgment or even to a subsequent proceeding. The Court recalled its case law on the so-called ‘hypothetical royalty’ as a valid criterion for quantification and on the compensatory and restitutory function of compensation for trademark infringement, which may also encompass the infringer’s unjust enrichment. It also emphasised that the requirement for precision in the judgment does not preclude, in accordance with a flexible interpretation of Article 219 of the Civil Procedure Act, the deferral of the quantification where there are sufficient grounds for doing so. Consequently, it upheld the appeals in part and ruled that compensation based on 1% of turnover may be subject to subsequent quantification, thereby reinforcing its doctrine on the effective protection of the trademark owner and the effectiveness of the compensation system in the field of industrial property.

Supreme Court (Civil Chamber) of 10 February 2026. Pledge of registered shares not in printed form. Full Text.

The Supreme Court has ruled on an appeal in a dispute concerning the creation and validity of a pledge over registered shares not incorporated into printed certificates. In the lower courts, the validity of the pledge and the requirements necessary for its enforceability against third parties had been analysed, in particular where the shares are not embodied in physical certificates but are represented by entries or recorded in the register of registered shares. In examining the appeal, the High Court addressed the legal regime governing the pledge of shares as set out in the Companies Act and in civil law provisions on security interests, emphasising the need to comply with the formal requirements for creation and publicity appropriate to the form of representation of the shares. The Chamber emphasised that, in the case of unprinted registered shares, the validity of the pledge requires its proper recording in the register of registered shares, as a prerequisite for its enforceability and for the recognition of the pledgee’s rights against the company and against third parties. It also noted that the purpose of these requirements is to ensure legal certainty in transactions and to avoid situations of uncertainty regarding ownership and the encumbrances on the shares. Consequently, the Court upheld the approach taken at first instance and ruled that, without such registration, the pledge cannot fully take effect against the company or third parties, thereby clarifying the scope of the formal requirements and reinforcing the doctrine regarding the creation and publicity of security interests in unprinted registered shares.

Review of Interest. The future Register of Shareholders.

The draft Organic Law on Public Integrity, approved by the Council of Ministers on 17 February 2026 under an urgent procedure in accordance with Article 27.1.b) of the Government Act, forms part of the National Anti-Corruption Plan. The text incorporates 84 measures amending 6 organic laws and 12 ordinary laws, and is currently in the public consultation phase. Among the amendments relating to commercial matters, the reform of the regime governing the Register of Members of limited liability companies, currently regulated by Articles 104 et seq. of the Companies Act, is particularly noteworthy.

The draft bill introduces a new system that combines the creation of a special section in the Commercial Register for the registration of shares with the strengthening of the Register of Members itself, which is given public status and placed under the control of the Commercial Registers. Ownership of shares, the creation of rights in rem or encumbrances thereon, and situations involving sole ownership must be registered in the special section of the Commercial Register, with constitutive effect: until registration, the acquirer may not exercise shareholder rights vis-à-vis the company or third parties.

In addition, the Register of Members will cease to be a mere internal document and must be kept in electronic format, including the identification of beneficial owners. The Register must be filed annually with the Commercial Registry, coinciding with the filing of the annual accounts, under the responsibility of the directors, reflecting all transfers, encumbrances and amendments during the financial year.

As regards access to information, public administrations, competent authorities, the company, members and holders of rights in rem or charges shall have free access, whilst third parties with a legitimate interest may access current data, limited to essential information. Inter vivos transfers and the creation of charges may be formalised by means of a private electronic document bearing an officially recognised qualified signature, with signatures from non-certified private platforms being excluded. For the entry in the Register to be valid, the transfer or encumbrance must have been previously registered in the special section of the Commercial Register.

The current text does not fully specify who is responsible for the annual update, nor does it establish a specific penalty regime, nor does it regulate whether annual frequency will be sufficient for companies with a high volume of transfers, although this will be developed in regulations. Transitional provisions are envisaged for the adaptation of existing companies and the creation of special sections in the Commercial Register.

The preliminary draft proposes a structural transformation of the regime governing shares in limited liability companies, moving from an internal register to a model of external registration with constitutive effect, accompanied by the obligation to update and file the Register of Members annually in electronic format.

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