

### Issue 02/08

To keep you up-to-date with the latest economic and financial developments, this bulletin provides information that may affect the operation of your business in Albania.

#### **WARNING: Albanian Commercial Company Law to pierce corporate veil**

Albanian Law on Commercial Companies no. 9901, dated as of April 14, 2008 which will enter in force in few days has adopted a very unique approach toward the limitation of liability of shareholders.

Directors and members of Board of Directors of joint stock companies, and directors of other companies shall be held liable and respond with their own property.

The new Law was in fact prepared few years ago with foreign assistance but was not endorsed by the Albanian Government till this year.

Article 16 of the Law provides that:

*Shareholders, directors and Board of Directors' members of a Company, if acting as qualified in any of the following three cases, shall be held liable individually and jointly and shall guarantee with their personal property for all liabilities of the Company:*

1. *If they abuse with the company's form for illegal purposes;*

2. *If they deal with the property of the Company to their own benefit;*

3. *If they fail, once they become or should have become aware of the lack of funds, to ensure that the Company accordingly to the type of activity has sufficient funds to fulfill obligations towards third parties.*

In this moment it is impossible to predict how the article will be interpreted by the courts. Apparently no sub-legal act is anticipated to set any criteria for the implementation of the Law. However, it is expected that a commentary of the Law prepared by the foreign consultants involved in the law drafting process will be soon published.

Further, the draft on tax procedures law which is in the way of being approved by the Parliament, also tackles the basic principle of limitation of liability by referring to the above mentioned article 16 with regard to tax dues.

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