

MADRID

Castellana, 216
28046 Madrid
Tel.: (34) 91 582 91 00

BARCELONA

Diagonal, 640 bis
08017 Barcelona
Tel.: (34) 93 415 74 00

BILBAO

Alameda Recalde, 36
48009 Bilbao
Tel.: (34) 94 415 70 15

MALAGA

Marqués de Larios, 3
29015 Málaga
Tel.: (34) 952 12 00 51

VALENCIA

Gran Vía Marqués
del Turia, 49
46005 Valencia
Tel.: (34) 96 351 38 35

VIGO

Colón, 36
36201 Vigo
Tel.: (34) 986 44 33 80

BRUSSELS

Avenue Louise, 267
1050 Bruselas
Tel.: (322) 231 12 20

LONDON

Five Kings House
1 Queen Street Place
EC 4R 1QS Londres
Tel.: +44 (0) 20 7329 5407

LISBON

Avenida da Liberdade, 131
1250-140 Lisboa
Tel.: (351) 213 408 600

CALLING FOR GENERAL SHAREHOLDERS' MEETINGS IN SPANISH COMPANIES

Rosana Hallett Charro

Lawyer Gómez-Acebo & Pombo

Spanish corporate laws have clearly established the possibility ("obligation" in case of listed companies) to create a corporate website, which could be used as a means of information and advertising in the company. At this moment, however, we would just like to comment that, as from very recently approved amendments, such website could indeed be used as a means for publishing a calling for a General Shareholders/Partners' Meeting.

This was initially restricted to limited liability companies (S.L.s) until approval of Royal Decree-law 9/12, of March 16, but is now extended to all stock companies (also S.A.s). However, certain considerations must be taken into account for using this system:

1. Creation of a corporate website for such purposes requires to be duly approved by General Shareholders/Partners' Meeting and this creation shall be noted in the Mercantile Registry sheet of the company and published in the Official Gazette of the Mercantile Registry.
2. Even if a corporate website had already been duly created, the Bylaws of the company should expressly establish using this possibility as a means valid by itself for publishing the calling for such a Meeting. If Bylaws do not provide anything in this regard, calling would have to be published in the Official Gazette of the Mercantile Registry as well as in the corporate website. In case no corporate website had been duly created and if Bylaws

did not regulate this issue, this means of calling publication would have to be replaced by advertisement in a newspaper with broad diffusion in the province of the corporate domicile.

At any event, please note that thanks to the above-referred recent corporate law modifications, Bylaws may also indeed provide for other means to call for General Shareholders/Partners' Meetings, as alternative (not only in addition) to the above-indicated ones. In particular, as from now on, calling may also be duly made (if Bylaws expressly so accept) by an individual and written notice sent to all shareholders/partners in a manner assuring receipt by each of them in the domicile designated for such purpose or in that appearing the company's documents. This is yet to be interpreted, but a majority of authors understand that calling by sending an email with reading confirmation could be deemed as sufficient for this purpose, and, with less doubts, other means such as registered mail with acknowledgement of receipt or *burofax* with confirmation of content and receipt, would be more clearly accepted.

It might also be noted that, in case of shareholders/partners with residence abroad, Bylaws could provide that they shall only be individually called when they had designated a place for notices within Spanish national territory.

Finally, I would just like to mention that there is an exception to all the above comments,

which is an S.A. company with bearer shares: in this case, calling shall be published at least in the Official Gazette of the Mercantile Registry. Using or establishing additional means would be a voluntary option.

Therefore, Spanish companies should pay attention to all the above possibilities and consider which alternative may save more costs in each case and whether modification of their Bylaws might be advisable.