

## Minority Shareholders' Rights

Madrid, October 2020

Below is a summary of the minimum set of rights that minority shareholders of limited liability companies (*sociedades limitadas* or *SLs* and *sociedades anónimas* or *SAs*) and of listed companies have pursuant to the Spanish Companies Act (SCA). No reference is made to the rights attached to shareholders as such, i.e. regardless of their percentage in the share capital.

Decisions at the general shareholders meeting are approved by simple majority, although the SCA requires reinforced majorities in certain cases and the bylaws can also provide for reinforced majorities for almost any type of decision, provided that unanimity or a majority amounting in practice to unanimity is not required.

Right	Non listed companies		Listed companies	
	%	Section	%	Section
SAs only: Attendance to the GSM, should the bylaws limit this right by requiring a minimum number of shares.  Bylaws of listed companies may not require holding more than 1,000 shares to attend the meeting.	1‰	179.2	1,000 shares	521 bis
Challenge corporate resolutions both from the GSM and the board of directors.	1%	206.1 251.1	1‰	495.2.b
Request the presence of a public notary at the shareholders meeting for the drafting of the minutes.	1% <sup>1</sup>	203.1	1%	203.1
Obtain the data of the current shareholders of the company for the sole purposes of facilitating their contact for the exercise of their corporate rights and defending their common interests. <sup>2</sup>	N/A	N/A	3%	497.2.
SAs only: Request the appointment of an independent expert –when directors have not done so- for the valuation of certain contributions in kind to be made in exchange of capital.	5%	69.b	3%	495.2.a
SLs only: Bring legal actions against shareholders or directors in relation to contributions in kind.	5%	74.2	N/A	N/A

<sup>1</sup> It is 5% in SLs.

<sup>2</sup> The Spanish Parliament is currently discussing a bill reforming several aspects of the SCA. According to it this right will entitle to learn (i) the identity of shareholders holding at least 0.5% of the shares (new section 497) and (ii) the beneficial owners of the shares (new section 497 bis).

<b>Right</b>	<b>Non listed companies</b>		<b>Listed companies</b>	
	<b>%</b>	<b>Section</b>	<b>%</b>	<b>Section</b>
Call for a GSM.	5%	168	3%	495.2.a
SAs only: Request additional matters to be included in the GSM agenda.  In listed companies this right is restricted to the ordinary GSM.	5%	172.1	3%	519.1
Make proposals of decisions regarding matters included –or to be included- in the agenda of the GSM.	N/A	N/A	3%	519.3
Oppose to the settlement or waiver by the GSM in relation to a corporate legal action against directors (or auditors).	5%	238.2 271	3%	495.2.a
Bring corporate legal actions against directors or auditors when (i) the directors fail to call the GSM –having been requested to decide on such matter-, (ii) the company fails to initiate the judicial proceedings itself or (iii) the GSM decides not to bring such action.  Bring corporate legal actions against directors without the need of the prior approval by the GSM, when based on breach of their duty of loyalty <sup>3</sup> .	5%	239.1 271	3%	495.2.a
Request the interim suspension of a board or GSM decision until the court rules on the merits.	5%	207.1 <sup>4</sup>	1%	207.1
Request the appointment of an independent auditor when the company has no obligation to submit its financial statements to independent verification.	5%	265.2	N/A	N/A
Request the revocation of the company’s auditor with cause.	5%	266.1	3%	266.3 495.2.a
SLs only: Review the documentation supporting the financial statements before the GSM, unless otherwise stated in the bylaws.	5%	272.3	N/A	N/A
SAs only: Bring legal actions seeking the dismissal of the liquidator by the court.	20%	380.1		

<sup>3</sup> By contrast with this derivative action, the individual action does not require any given percentage but proof of a direct damage.

<sup>4</sup> This right is set out in section 727.10 of the Spanish Civil Procedural Act, to which section 207.10<sup>a</sup> of the SCA refers.

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	<b>%</b>	<b>Section</b>	<b>%</b>	<b>Section</b>
SAs only: Request the appointment of a controller of the liquidation process by the court.	20%	381.1		
Request information regarding issues included in the GSM agenda without directors having the possibility to reject it.  In listed companies information requests may also refer to (i) public data provided to the CNMV or (ii) the auditors' report.	25% <sup>5</sup>	196.3 197.4	25%	520.1
Request the adjournment of the GSM.	25%	195.2	25%	195.2
Not to be expelled from the company until the decision of the GSM in that respect has been confirmed by a final judicial decision.	25%	352.2		
SAs only: Appoint board members in proportion to the share capital they own (including through syndication with other shareholders) provided the latter is higher than the total share capital divided by the number of board seats.	N/A	243.1	N/A	243.1

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<sup>5</sup> In SAs the bylaws may establish a lower percentage provided it is not below 5%.