

Our Guide to Company Liquidation and Winding Up

All company liquidation and winding up processes, regardless of their size, are complex but necessary procedures for a company's dissolution, requiring legal advice to ensure proper execution. At Seegman, we assist companies and their advisory teams in successfully closing these processes.

Our team specializes in assisting with the liquidation and winding up of companies for legal, statutory, or mandatory reasons, as well as acting as liquidators when the situation requires it.

We have experience in liquidating companies across various sectors, sizes, and profiles, including:

- Single-member companies belonging to the same corporate group.
- Start-ups at various stages of development, with either institutional or independent shareholders.
- Companies with shareholders whose interests may not necessarily be aligned.

We support our clients by handling preparatory tasks for the liquidation process and accompanying them throughout.

Dissolution vs. Liquidation

- **Dissolution:** This is the phase or milestone that begins the process, triggered by the decision to cease business activity and initiate the liquidation period.
- **Liquidation:** This is the phase where assets are sold, debts are settled, and as a result, any remaining assets are distributed among the shareholders or members.

Pre-Liquidation Actions for Companies

1. Review the company's situation from a contractual, fiscal, commercial, labor, regulatory compliance, and procedural perspective, to determine the scope of work and the complexity of the liquidator's role.
2. Feasibility analysis for carrying out the dissolution and liquidation phases simultaneously.
3. Review the company's accounting records with the accounting team to identify the structure and characteristics of its assets and liabilities.
4. Execute tasks aimed at simplifying the liquidation of the company, such as regularizing formal obligations with public registries and tax authorities.

Assistance in the Liquidation Process

If the financial and commercial circumstances are favorable, it may be proposed to the General Meeting of shareholders to vote on the relevant information to agree on the simultaneous dissolution and liquidation of the company.

If not, the process will be carried out in successive phases. Seegman will collaborate with the client's accounting team to prepare an initial liquidation balance and move forward with the necessary steps to draft it for shareholder review.

- **Drafting of the notice and company resolutions covering the dissolution**, the removal of current administrators, and the subsequent appointment of liquidators, as well as the company's liquidation.
- **Updating of accounting and commercial books** and their submission for legalization within the legal timeframes.
- **Coordination and preparation with the notary appointed by the client** for the formalization of the dissolution and liquidation deeds.
- **Preparation and submission of the relevant de-investment declarations to the competent authorities** in Spain as part of the liquidation process.
- **Notarization of the dissolution and liquidation resolutions** at each stage.
- **Requesting the registration of the public deeds** executed by the company with the Commercial Registry and following up until final registration.
- **Preparation of the census declaration for the company's de-registration** with the State Tax Administration Agency, followed by the registration of its shareholders in the census of entrepreneurs, professionals, and withholding agents of dissolved entities and their successors.
- **Providing regular updates to all involved parties** on the progress of the liquidation.
- **Notifying public bodies, banks, and third parties** of the cessation of activity once the liquidation is finalized.
- **Overseeing the distribution of the liquidation proceeds among the beneficiaries.**
- **Obtaining the electronic certificate** for individuals or entities associated with the company.
- **Review of the DEHú (Unified Electronic Headquarters)** of the company during and after liquidation.
- **Custody of the company's records** for the legally required statutory periods.

Business Case: Liquidation of a Multimember Company

In the recent years, the turbulent global context caused by the Covid-19 pandemic and the war between Russia and Ukraine, among other factors, led many entrepreneurs and corporate groups to implement restructuring processes, closing certain companies through dissolution, mergers by absorption, or other mechanisms, in order to optimize costs and avoid potential contingencies.

The following presents a case undertaken by our firm concerning a company in a similar situation, involving the dissolution and liquidation of a multimember company with multiple shareholders.

1 Company Background

The company in question was a limited liability company with a focus on the research and commercialization of products for the agro-food and biotechnology industries, with over ten years of experience. It was founded by experts and doctors in the field.

To fuel its growth, the founding partners allowed access to the company by corporate investors, both national and foreign, who made substantial financial contributions. As a result, the company's share capital was represented by three distinct classes of shares (Classes 1, 2, and 3). While all shares conferred identical voting rights, holders of Class 1 shares enjoyed preferential economic rights compared to the others in certain situations, as did Class 2 shareholders over Class 3 shareholders.

2 Challenges in the Liquidation Process

As part of a corporate restructuring, the company transferred its assets to a foreign company (the "**Participated Entity**"), in exchange for a stake representing more than half of the capital of the Participated Entity.

Due to the pandemic and a lack of liquidity, the Participated Entity entered into various agreements with third parties, which resulted in a gradual dilution of its stake in the company.

3 Seegman's Role

At the time, the company was managed by a Board of Directors, some of whose members also held positions in the Participated Entity. Seegman took on the role of company secretary, providing the following services

- 1. Legal Review (Due Diligence):** Review of the company's corporate documentation, including deeds, minutes, mercantile books, articles of incorporation, shareholder agreements, investment agreements, management reports, and pending financial audits.
- 2. Document Transfer:** Transfer and digitalization of the company's documentation from the previous legal service provider, ensuring proper custody and organization of physical and digital records.
- 3. Internal Process Alignment:** Ensuring the company's operations were aligned with its internal policies and corporate governance standards.
- 4. Bookkeeping and Legalization:** Handling the maintenance of the company's mercantile books and ensuring the regular submission of documentation for legalization.
- 5. General Assembly and Board Meetings:** Managing the convocations, minutes, and certificates of the quarterly Board of Directors and extraordinary General Shareholder meetings.
- 6. Annual Accounts Filing:** Coordinating the filing of the company's annual accounts with the Commercial Registry.

4 Sale of Assets and Decision to Dissolve

The consequences of the pandemic directly impacted the business development of the Participated Entity and, consequently, the financial statements of the Company. Facing an imminent situation of insolvency, the Participated Entity initiated a financing process that culminated in the formalization of a third-party acquisition offer. As a result, an urgent session of the Company's Board of Directors was convened to submit for approval by the General Shareholders' Meeting the sale of its shares in the Participated Entity to the potential acquirer, as it was considered an essential asset.

Once the sale of its only essential asset was formalized, the Company, as a holding entity, had fulfilled its corporate purpose and, therefore, was required to dissolve in accordance with the applicable regulations in Spain. In compliance with these obligations, and given the potential joint and several liability of the directors for corporate debts, the Board of Directors convened the General Shareholders' Meeting, as the Company was facing grounds for dissolution and a resolution needed to be adopted, either to remedy the situation or to initiate the liquidation process.

Just six days before the scheduled General Shareholders' Meeting, one of the shareholders requested the presence of a Notary Public during the session. After confirming that the requesting shareholder was legally entitled to make such a request, and considering that none of the directors were in Spain, Seegman, in its capacity as Secretary, recommended that the Chairman urgently convene a Board of Directors meeting to address this request.

In the notarial district corresponding to the Company's registered office, only two Notaries resided and were authorized to certify the General Shareholders' Meeting. Anticipating that neither of them might be available—or willing—to notarize the Meeting, which would render any resolutions adopted ineffective, the Board urgently held a written session without a physical meeting, resolving to: (i) notify all shareholders of the postponement of the General Shareholders' Meeting, allowing for the corresponding notice period and adding an additional agenda item; and (ii) grant express power of attorney to the Secretary to formally issue the appropriate request to ensure the presence of a Notary Public during the General Shareholders' Meeting.

Given the challenges posed by the shareholder's request, Seegman recommended including various statutory amendments in the agenda for the newly convened General Shareholders' Meeting. These amendments aimed to relocate the Company's registered office to Madrid and allow for hybrid or fully remote meetings in the future, given that the exceptional legislative measures adopted to mitigate the effects of Covid-19—which had temporarily permitted virtual meetings even without explicit statutory provisions—had expired.

Before the scheduled date of the General Shareholders' Meeting (and throughout its subsequent sessions), Seegman assisted shareholders requiring representation proxy cards to attend and vote on their behalf during each session. Additionally, a videoconference channel was made available for shareholders unable to attend in person, allowing them to follow the session in real-time as listeners (without formal intervention rights). A simultaneous interpretation channel was also provided by an official Spanish-to-English interpreter.

On the scheduled day of the General Shareholders' Meeting, the session was held before a Notary Public at the original registered office of the Company, where the General Shareholders' Meeting resolved to dissolve the Company.

5 Liquidation Process Execution

Given that Seegman was already familiar with the background of the Company and despite the complexity of the liquidation process, Seegman put itself forward as the liquidator at the time of the General Meeting of Partners, and was ultimately appointed as such. The liquidation process was then initiated, during which Seegman carried out the following actions, outlined in chronological order:

1. First, the corresponding service agreements, indemnity agreements, and civil liability insurance policies were formalized.
2. A detailed due diligence review of all Company information was conducted, covering accounting, financial, tax, labor, contractual, and litigation matters, among others. This allowed for the identification of potential contingencies, as well as the main assets and liabilities, in order to define an action plan and prepare the Company's initial liquidation balance sheet.
3. Meetings were held with the Company's staff, attorneys-in-fact, and accounting service providers to gain deeper insight into the business operations, commercial relationships, and other relevant details.
4. The necessary notifications were sent to the Company's debtors and creditors to inform them of the opening of the liquidation process. Debtors were urged to settle outstanding debts with the Company, while creditors were asked to provide documentation supporting their claims.
 - In this regard, two key assets listed on the Company's initial liquidation balance sheet are worth highlighting: (i) the receivable from the Participated Entity; and (ii) the credit right against the purchaser of the Participated Entity. Regarding the first asset, the liquidator engaged in negotiations over several months, ultimately reaching an agreement that provided the Company with sufficient liquidity to meet its outstanding liabilities. The liquidation of the second asset was more complex, as the sale contract of the Investee Entity, which involved the Company, set forth a series of conditions and milestones that had to be met before the funds corresponding to the Company—held in a custodian-controlled account—could be released, subject to prior satisfaction of the privileged shareholders.
5. Three months after the liquidation commenced, an initial report and the Company's initial liquidation balance sheet were prepared and made available to the partners, summarizing the operations carried out during that period.
6. Meanwhile, although the Company was not required to submit its annual accounts for independent audit verification—nor was it mandated under any shareholders' agreements—the liquidator engaged a reputable firm to conduct audit reports on the Company's annual accounts for the last two financial years, which had yet to be filed. These financial years covered the periods during which both the Company's asset transfer to the Participated Entity and the subsequent sale of the shares took place.
 - It is worth noting that, in collaboration with the Company's accounting service provider, the liquidator ensured the timely fulfillment of the Company's tax obligations by submitting all necessary tax returns in a correct and timely manner from the start of the liquidation process until the complete discharge of all the Company's obligations towards third parties.
7. After six months had passed since the initiation of the liquidation process, a General Meeting was convened to review and approve the annual accounts for the two most recent financial years, which had not yet been filed. This approval was based on the aforementioned audit reports and was also used as an opportunity to present an update on the liquidation operations conducted thus far.

8. Since the Company had resolved in its previous meeting to relocate its registered office to Madrid—among other statutory modifications pending registration due to the provisional closure of its corporate registry file for failure to file its accounts—the meeting was held before a Notary with jurisdiction over the new registered office, upon the liquidator’s request. The meeting took place in person at the new Madrid-based headquarters, with an option for remote participation via telematic means. A simultaneous Spanish-to-English interpretation service was also made available to the partners, allowing them to participate and ensure their statements were duly recorded.
9. Following the approval of the aforementioned annual accounts by the General Meeting, Seegman filed them for registration and simultaneously submitted the notarized deed formalizing corporate resolutions related to the relocation of the registered office and other statutory amendments, which had previously remained unregistered due to the provisional closure of the corporate registry file. Once the relevant documents were processed, the Commercial Registry completed the requested registrations and lifted the provisional closure.
10. The final liquidation operations focused primarily on verifying all administrative files related to public and private entities that had granted the Company state aid or subsidies in recent years. The liquidator ensured that any refundable subsidies were repaid, along with accrued interest, and obtained the corresponding payment receipts. Likewise, the liquidator arranged for the closure of the Company’s foreign currency bank accounts, keeping only euro-denominated accounts open with sufficient funds to cover periodic bank fees until all remaining receivables were collected.

6 Asset Distribution

As a result of this process, the liquidator prepared the final liquidation balance sheet, a comprehensive report on the liquidation operations, and the proposed distribution of the Company’s remaining assets among the shareholders. These documents were submitted to the General Shareholders’ Meeting for review and potential approval, together with the financial statements for the previous fiscal year.

Notably, the proposed distribution submitted to the General Shareholders’ Meeting did not involve a cash payout but rather the allocation of credit rights held by the Company at the time, including those against the Tax Agency and the purchaser of the Participated Entity. In this regard, the liquidator acted in accordance with the applicable legislation, the Company’s bylaws, and the existing shareholders’ agreements.

Given that the remaining assets were insufficient to reimburse each shareholder’s original investment, the shareholders’ agreement provided for a preferential allocation right in favor of the holders of Class 1 shares, to the detriment of the other shareholders. As a result, the remaining assets were distributed among them on a pro-rata basis.

Since the final liquidation balance was not approved unanimously, before formalizing the public deed of corporate resolutions, the liquidator had to allow the legally mandated period to elapse so that any dissenting shareholders could contest the balance sheet through any legal actions they deemed appropriate.

7 Dissolution of the Company

Once this period had passed without the Company receiving any notice of challenges from dissenting shareholders, the corresponding deed was granted. It was also stipulated that the liquidator would withhold the necessary amounts from the beneficiary shareholders to cover the applicable indirect tax obligations, subject to their prior authorization.

Additionally, Seegman assisted certain beneficiary shareholders who, being non-residents, did not have a Spanish tax identification number or an electronic certificate. This ensured compliance with the obligations set forth in the General Tax Law before submitting the liquidation deed to the Commercial Registry.

Finally, upon the registration of the liquidation deed, the liquidator submitted the necessary notifications to the Tax Agency and filed the appropriate tax returns until the Company’s final dissolution was completed.



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This brochure is of an advertising and informative nature. For the provision of professional legal advice you should contact the firm directly through the specialized contacts.

Seegman refers to the company Seegman Servicios Jurídicos, S.L.P., with tax identification number B88144852.

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