



COVID-19: SPECIFIC MEASURES FOR LUXEMBOURG LEGAL PERSONS

Update as at 25 June 2020

On 18 March 2020, the Luxembourgish government declared a state of emergency, thereby allowing itself to adopt temporary measures changing the existing legislation.

Pursuant to this declaration the Grand Ducal regulation of 20 March 2020 set-up some measures concerning the holding of general meetings of shareholders and meetings of management bodies of Luxembourg companies. A few of these measures had already been legalised by the law of 22 May 2020 (Cf. BDO memo of May 2020). By voting for the law of 20 June 2020 (the « Law ») the legislature reinforced and precised the temporary provisions benefiting legal persons. The Law came into force on 25 June 2020 and its provisions are fully applicable, the temporary measures regarding the current health crisis have now been globally legalised.

I. General meetings of shareholders

1.1 Procedures for the holding of general meetings

The Law confirms the possibility for companies, notwithstanding any contrary provision in the articles of association and regardless of the number of participants in the general meeting, to hold any meetings without any physical presence and oblige the shareholders/members/other participants to

participate and to exercise their voting rights as follows:

- under condition that the full text of proposed resolutions/decisions are communicated or published to the shareholders/members, remotely in writing or electronically
- through a proxyholder designated by the company, or by the shareholder/member
- by video conference or other telecommunication means permitting the identification of the shareholder/member

The shareholders/members participating in a shareholders meeting by any such means are deemed to be present for the calculation of the quorum and the majority at the meeting.

In case a legal person having already convened its general meeting according to its usually applicable rules, the Law now gives the possibility to convene a new general meeting to be held remotely under the condition that such decision is published and notified to the shareholders/members in the same forms as the previous general meeting or to publish such convening notice on its website at the latest three opened days before the general meeting is held.



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The above mentioned rules also apply to bondholder meetings.

The Law foresees in article 7 that such measures are not only applicable to companies but also to the following legal persons:

- Non-for-profit organisations and foundations as ruled by the law of 21 April 1928 as amended on non-for-profit organisations and foundations
- Agricultural associations incorporated according to the amended Grand Ducal regulation of 17 September 1945 modifying the law of 27 March 1900 on the organisation of agricultural associations
- Mutual societies as ruled by the law of 1st August 2019 concerning mutual societies
- Economic interest groupings incorporated according to the law of 25 March 1991
- European economic interest groupings incorporated according to the law of 25 March 1991 and providing measures of application of the European Regulation CEE n. 2137/85 of the Council relating to the creation of a European Economic interests Grouping (EEIG)
- To the “Fond du Logement” established by the law of 24 April 2017 on reorganisation of the public establishment named “Fonds du Logement”
- Syndicates of joint ownership as ruled by the amended law of 16 May 1975 on the joint ownership of built non-movable properties
- To the «Institut des réviseurs d’entreprises» as ruled by the law of 23 July 2016 in relation to the audit profession
- To the «Ordre des experts-comptables» as ruled by the amended law of 10 June 1999 on the organisation of the profession of Chartered Accountant

The provisions of the Law concerning the meeting of other corporate bodies (notably management bodies) also apply to all legal persons as listed above (Cf. point II. thereafter).

1.2. Date of the general meeting of shareholders

It is recalled/noted that since the law of 22 May 2020 commercial companies are authorised to convene their annual general meetings within nine months as from the closing of the financial year. To be clear, the company which financial year ended on 31 December 2019 will be able to hold its general meeting until 30 September 2020 and to file its annual accounts until 31 October 2020.



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Companies may benefit from the extended delays if their financial year ended before, or during the state of emergency, and providing that the delay for filing and publication of their annual accounts had not expired as at 18 March 2020.

The law also extends this possibility:

- To non-for-profit organisations
- To joint-ownership syndicates as ruled by the law of 16 May 1975 (joint-owners assembly)
- To the “Fond du Logement”
- To the “Ordre des experts comptables” (OEC)
- To the “Institut des réviseurs d’entreprises” (IRE)

II. Meeting of management bodies

The Law precises that it also applies to meeting of other corporate bodies of the legal persons concerned, and therefore includes the management bodies.

The Law refers to the law of 22 mai 2020, and indeed, during the legal extended three month period for the holding of general

meetings and the filing of annual accounts, other corporate bodies benefitted from these prerogatives with regard to meetings being held remotely, notwithstanding any contrary provisions in their articles of association.

III. Filing and publication of annual accounts

As a reminder, the law of 22 May 2020 extended the following delays by a period of three months (Cf. memo BDO of May 2020):

- Delay of filing of the statutory annual accounts with the Luxembourg Trade and Companies Register;
- Delay of publication of the statutory annual accounts with the Recueil Electronique des Sociétés et Associations (“RESA”);
- Delay of publication of the report on payments processed in favour of governments with the RESA.

The above delays have been extended to consolidated accounts and related documents, which therefore benefit an additional delay of three months for filing and publication.

These provisions apply to companies whose financial year ended before, or during, the state of emergency and for those whose the filing and publication delay was still running as at 18 March 2020.

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