

Luxembourg companies to hold virtual meetings until 30 June 2021

Insights - 26/11/2020

A new law was approved by the Luxembourg parliament on 25 November 2020 (the **Law**)^[1], which aims to maintain flexible governance measures.

Among other measures it extends those of the law of 23 September 2020^[2] concerning the holding of remote meetings in companies and other legal entities (the **September Law**), until 30 June 2021^[3].

It also extends until 30 June 2021 the suspension of the obligation to make an admission of cessation of payments (amendment of article 9 of the law of 20 June 2020^[4]).

As a reminder, the September Law enables companies to hold their meetings by submitting voting forms in writing or by electronic format, by a proxy holder, or exclusively digitally by video conference or via any other means of telecommunication allowing their identification.

The following rules apply notwithstanding any provision to the contrary in the articles of association of the relevant company and regardless of the number of participants relating to (i) general meetings and (ii) meeting of board of directors/managers:

(i) General Meetings

A company may, irrespective of the intended number of participants in its general meeting, hold any general meeting without a physical meeting, and may require its shareholders or members and other participants in the meeting to attend the meeting and exercise their rights exclusively by:

- a vote in writing or in electronic form provided that the full text of the resolutions or decisions to be taken has been provided to the participants of the meeting;
- a proxy appointed by the respective company; or

- video conference or other means of telecommunication which enables the identification of the participants to the meeting.

Shareholders who participate by such means are deemed present for the calculation of the quorum and majority at such meeting. This provision is also applicable to meetings of bondholders.

(ii) Meetings of board of directors/managers

Board of directors/managers, supervisory boards or any other bodies of a company may hold their meetings without a physical meeting by way of:

- written circular resolutions; or
- video conference or other means of telecommunication enabling the identification of the members of the body participating in the meeting.

Again participants through such aforementioned means are considered present for the purposes of determining the quorum and majorities of the meeting.

(iii) Suspension of the obligation for directors to file for insolvency

As a general principle, where a Luxembourg company is in financial difficulty, a director/manager has an obligation to file for bankruptcy within a thirty day period of a meeting where it is determined that the company is unable to pay its debts as they fall due and there is a loss of creditworthiness.

In light of the COVID-19 crisis, the obligation for directors to file for insolvency was suspended for a limited period of time. Such exemption is now extended until 30 June 2021.

Directors are still allowed to file for insolvency (*aveu de faillite*), and may feel obliged to do so depending on the circumstances of the company. Creditors may also petition for insolvency.

[1] Law of 25 November 2020 (<http://legilux.public.lu/eli/etat/leg/loi/2020/11/25/a932/jo>).

[2] Law of 23 September 2020 (<http://legilux.public.lu/eli/etat/leg/loi/2020/09/23/a785/jo>).

[3] The September Law is in force until 31 December 2020.

[4] <http://legilux.public.lu/eli/etat/leg/loi/2020/06/20/a523/jo>

About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

Disclaimer

This client briefing has been prepared for clients and professional associates of Ogier. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Regulatory information can be found under [Legal Notice](#)

Meet the Author



[Bertrand Gérardin](#)

Partner

[Luxembourg Legal Services](#)

E: bertrand.geradin@ogier.com

T: [+352 2712 2029](tel:+35227122029)

Related Services

[Corporate](#)

[Investment Funds](#)

[Banking and Finance](#)

[Regulatory](#)

[Legal](#)

Related Sectors

Funds Hub