

## Luxembourg companies to hold virtual meetings until 31 December 2021

Insights - 01/07/2021

A new law was published on 30 June 2021 (the **Law**); this aims to maintain flexible corporate governance measures until 31 December 2021, by extending the provisions of the law of 23 September 2020 concerning the holding of remote meetings in companies and other legal entities (the **Covid-19 Law**) until 31 December 2021. It also extends the suspension of the obligation to make an admission of cessation of payments until 31 December 2021.

As a reminder, the Covid-19 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 will continue to 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) meetings of board of directors/managers:

### **(i) General Meetings**

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

- a vote in writing or by electronic form, provided that the full text of the resolutions or decisions to be taken has been given to the meeting's participants;
- 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 in meetings by such means are deemed present for the calculation of the quorum and majority. This provision is also applicable to meetings of

bondholders.

## **(ii) Meetings of board of directors / managers**

A 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 who attend through such aforementioned means are considered present for the purposes of determining the quorum and majorities.

## **(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.

The Luxembourg legislator is taking the view that the situation, whatever the evolution, might not be normalised before the end of the year. Therefore, the suspension of the obligation for directors to file for insolvency is now extended until 31 December 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.

For more information on this update, please contact a member of the team or your usual Ogier contact.

## **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](mailto:bertrand.geradin@ogier.com)

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

## Related Services

[Corporate](#)

[Regulatory](#)

[Corporate Services - Ogier Global](#)

[Ogier Global](#)

[Legal](#)

[Corporate and Fiduciary](#)