

Luxembourg introduces new law on company meetings in light of COVID-19 social distancing measures

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As part of the company law measures taken by the Grand Duchy of Luxembourg in response to COVID-19 which started with the Grand-Ducal regulation dated 20 March 2020 (the Regulation), followed by the laws of 12 and 22 May 2020 (see EY Global Tax Alert, [Luxembourg takes additional corporate governance measures to mitigate impact of COVID-19](#), dated 2 June 2020 on the topic), the law of 20 June 2020 has entered into force on 25 June 2020.

The Regulation introduces a series of measures addressing Luxembourg company law in the context of the declared state of emergency triggered by the COVID-19 outbreak. In summary, it provides several measures to facilitate board and shareholder meetings, and in particular, the possibility to hold the meetings without a physical presence, due to the unavoidable health risks, for all Luxembourg companies and other entities, even when this possibility was not provided by the articles of association. For more details, see EY Global Tax Alert, [Luxembourg announces new provisions for shareholders and board meetings in response to COVID-19](#), dated 25 March 2020.

However, the Regulation was adopted in the context of the state of emergency as per Article 32, paragraph 4, of the Luxembourg Constitution, according to which the Regulation has a limited application in time (i.e., three months).

Accordingly, it was in force for the duration of Luxembourg's state of emergency which ended on 24 June 2020. As a result, board or shareholder's meetings validly convened based on the Regulation at a date after the end of the state of emergency could no longer benefit from its measures. Moreover, a company that holds a general meeting by remote means, while its articles of association do not provide for such possibility, would expose its managers/ directors to liability risks.

Therefore, in order to provide legal certainty for such situations, the main purpose of the law of 20 June 2020 is to ensure the extension of the measures of the Regulation.

Specifically, the law provides that Luxembourg-based companies and other legal entities may now hold, notwithstanding any provisions to the contrary in the articles of association, general meetings or other meetings (e.g., board/ other bodies meetings) without physical presence:

- ▶ By remote vote in writing or by electronic vote for any general meeting, provided that the full text of the resolutions is priory published or communicated
- ▶ Through the intermediary of a proxyholder for any general meeting
- ▶ By the adoption of circular/ written resolutions
- ▶ By phone or video conference or other means of communication

Companies that have convened their general meetings prior to the entry into force of the Regulation, and whose articles of association do not allow for meetings at distance, may reconvene the general meetings based on the provisions of the law of 20 June 2020. To do so, the decision will be published or communicated to the shareholders (and any other participants) in the same manner as the first convening was made or it may be published on the companies' websites at least three business days prior to the meeting.

The application of the law of 20 June 2020 is limited to a nine-month period, computed as of the end of the 2019 financial year of each entity.

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