Law of 24 May 2011 on the exercise of certain shareholders' rights at general meetings of listed companies

consolidated version as of 24 August 2019

This consolidated version has been prepared by Arendt & Medernach for information purposes only. In case of discrepancies between the French and the English texts, the French text, as published in the *Mémorial*, the Luxembourg official journal, shall prevail. Updated consolidated version of the law of 1 August 2019 amending the amended law of 24 May 2011 on the exercise of certain shareholders' rights at general meetings of listed companies.

Law of 24 May 2011 on the exercise of certain shareholders' rights at general meetings of listed companies

Chapter 1 – General Provisions

Art. 1. Purpose, scope and definitions

(1) This law sets out requirements for the exercise of certain rights attached to voting shares, voting beneficiary shares and non-voting shares (hereinafter referred to as "shares") at the general meetings of companies incorporated under Luxembourg law whose shares are admitted to trading on a regulated market.

It also sets out specific requirements to encourage shareholder engagement, particularly in the long term. These specific requirements apply to the identification of shareholders, the transmission of information, the facilitation of the exercise of shareholders' rights, the transparency of institutional investors, asset managers and proxy advisors, directors' remuneration and transactions with related parties.

This law shall also apply to companies whose securities are traded on a market in a non-Member State of the European Union that is regulated, in regular operation, recognised and open to the public, which have declared it applicable by express reference in their articles of association.

(2) This law shall not apply to:

- collective investment undertakings within the meaning of Article 2, paragraph 2 of the law of 17 December 2010 on undertakings for collective investment, as amended;
- collective investment undertakings within the meaning of Article 1, paragraph 39 of the law of 12 July 2013 on alternative investment fund managers, as amended;
- cooperative companies (*sociétés coopératives*).

By way of derogation from the first subparagraph, the companies referred to therein shall remain subject to the provisions of Chapter 1b.

The companies referred to in paragraph 1 shall remain subject to the law of 10 August 1915 on commercial companies, as amended, except to the extent that the present law derogates from it.

(3) This law shall not apply in the event of the use of instruments, powers and resolution mechanisms provided for in Part I, Title II, Chapters III to XI of the law of 18 December 2015 on the failure of credit institutions and certain investment firms.

(4) Chapter 1a shall apply to intermediaries in so far as they provide services to shareholders or other intermediaries with respect to shares of companies which have their registered office in a Member State and the shares of which are admitted to trading on a regulated market situated or operating within a Member State.

This Chapter shall also apply to intermediaries which have neither their registered office nor their head office in the European Union when they provide the services referred to in the first subparagraph.

(5) Chapter 1b shall apply to:

1. institutional investors, to the extent that they invest directly or through an asset manager in shares traded on a regulated market;

2. asset managers, to the extent that they invest in such shares on behalf of investors;

3. proxy advisors, to the extent that they provide services to shareholders with respect to shares of companies which have their registered office in a Member State and the shares of which are admitted to trading on a regulated market situated or operating within a Member State.

(6) For the purposes of this law the following definitions shall apply:

1. “shareholder” means any natural or legal person who owns shares. The owner is presumed to be the one who is registered as such in the register of shareholders;

2. “proxy advisor” means a legal person that analyses, on a professional and commercial basis, the corporate disclosure and, where relevant, other information of listed companies with a view to informing investors’ voting decisions by providing research, advice or voting recommendations that relate to the exercise of voting rights;

3. “director” means any member of the administrative, management or supervisory bodies of a company including the chief executive officer (*directeur général*) and, if such function exists in a company, the deputy chief executive officer (*directeur général adjoint*);

4. “asset manager” means an investment firm within the meaning of Article 1, paragraph 1(16) of the law of 30 May 2018 on markets in financial instruments which provides portfolio management services to investors, an alternative investment fund manager within the meaning of Article 1(46) of the law of 12 July 2013 on alternative investment fund managers, as amended, that does not fulfil the conditions for an exemption in accordance with Article 3 of that law, or a management company within the meaning of Article 1, paragraph 1(31) of the law of 5 April 1993 on the financial sector, as amended, or an investment company that is authorised in accordance with the law of 17 December 2010 on undertakings for collective investment, as amended, provided that it has not designated a management company authorised under that law for its management;

5. “information regarding shareholder identity” means information allowing the identity of a shareholder to be established, including at least the following information:

(a) name and contact details (including full address and, where available, email address) of the shareholder and, where it is a legal person, its registration number, or, if no registration number is available, its unique identifier, such as the legal entity identifier;

(b) the number of shares held;

(c) only insofar as they are requested by the company, one or more of the following details: the categories or classes of the shares held or the date from which the shares have been held;

6. “intermediary” means a person, such as an investment firm within the meaning of Article 1(16) of the law of 30 May 2018 on markets in financial instruments, a credit institution within the meaning of Article 1(12) of the law of 5 April 1993 on the financial sector, as amended, or a central securities depository as defined in Article 2(1)(1) of Regulation (EU) No 909/2014 of the European Parliament and of the Council, which provides services of safekeeping of shares, administration of shares or maintenance of securities accounts on behalf of shareholders or other persons;

7. “institutional investor” means:

(a) an undertaking carrying out activities of life insurance within the meaning of Article 35 of the law of 7 December 2015 on the insurance and reinsurance sector, as amended, and of reinsurance within the meaning of Article 43(28(a) and (b) of that law, provided that those activities cover life insurance obligations, and which is not excluded pursuant to the aforementioned law of 7 December 2015;

(b) an institution for occupational retirement provision within the meaning of Article 1 of the law of 13 July 2005 on the activities and supervision of institutions for occupational retirement provision, as amended;

8. “regulated market” means a regulated market within the meaning of Article 1(31) of the aforementioned law of 30 May 2018 on markets in financial instruments, situated or operating within a Member State of the European Union;

9. “related party” has the same meaning as in the international accounting standards adopted in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards;

10. “proxy” means the empowerment of a natural or legal person by a shareholder to exercise some or all rights of that shareholder in the general meeting in his name.

Chapter 1a. Identification of shareholders, transmission of information and facilitation of exercise of shareholder rights

Art. 1a. Identification of shareholders

(1) A company has the right to identify its shareholders. At the request of the company or of a third party nominated by the company, intermediaries shall communicate the information regarding shareholder identity to the company without delay.

(2) Where there is more than one intermediary in a chain of intermediaries, the request of the company, or of a third party nominated by the company, shall be transmitted between intermediaries without delay and the information regarding shareholder identity shall be transmitted directly to the company or to a third party nominated by the company without delay by the intermediary who holds the requested information.

The company shall be entitled to request information regarding shareholder identity from any intermediary in the chain of that holds the information.

The company shall also be entitled to request the central securities depository or another intermediary or service provider to collect the information regarding shareholder identity, including from the intermediaries in the chain of intermediaries, and to transmit the information to the company.

(3) In addition, at the request of the company, or of a third party nominated by the company, the intermediary shall communicate to the company without delay the details of the next intermediary in the chain of intermediaries. The personal data of shareholders shall be processed pursuant to this Article in order to enable the company to identify its existing shareholders in order to communicate with them directly with the view to facilitating the exercise of shareholder' rights and shareholder engagement with the company, without companies and intermediaries being entitled to store this personal data for longer than 12 months after they have become aware that the person concerned has ceased to be a shareholder.

(4) An intermediary that discloses information regarding shareholder identity in accordance with the rules laid down in this Article shall not be considered to be in breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision.

(5) Persons shall have the right of rectification of incomplete or inaccurate information regarding their shareholder identity.

Art. 1b. Transmission of information

(1) Intermediaries shall be required to transmit the following information, without delay, from the company to the shareholder or to a third party nominated by the shareholder:

1. the information which the company is required to provide to the shareholder, to enable the shareholder to exercise rights flowing from its shares, and which is directed to all shareholders in shares of that class; or

2. where the information referred to in point 1 is available to shareholders on the website of the company, a notice indicating where on the website that information can be found.

(2) Companies must provide intermediaries with the information referred to in point 1 of paragraph 1 or the notice referred to in point 2 of paragraph 1 in a standardised and timely manner in accordance with Commission Implementing Regulation (EU) 2018/1212 of 3 September 2018 laying down minimum requirements implementing the provisions of Directive 2007/36/EC of the European Parliament and of the Council as regards shareholder identification, the transmission of information and the facilitation of the exercise of shareholders' rights.

(3) The information referred to in point 1 of paragraph 1 or the notice referred to in point 2 of paragraph 1 shall not be transmitted or provided in accordance with paragraphs 1 and 2 where companies send that information or that notice directly to all their shareholders or to a third party nominated by the shareholder.

(4) Intermediaries shall transmit, without delay, to the company, in accordance with the instructions received from the shareholders, the information received from the shareholders related to the exercise of the rights flowing from their shares.

(5) Where there is more than one intermediary in a chain of intermediaries, information referred to in paragraphs 1 and 4 shall be transmitted between intermediaries without delay, unless the information can be directly transmitted by the intermediary to the company or to the shareholder or to a third party nominated by the shareholder.

Art. 1c. Facilitation of the exercise of shareholder rights

(1) Intermediaries shall facilitate the exercise of the rights by the shareholder, including the right to participate and vote in general meetings, which shall comprise at least one of the following:

1. the intermediary makes the necessary arrangements for the shareholder or a third party nominated by the shareholder to be able to exercise the rights itself;

2. the intermediary exercises the rights flowing from the shares upon the explicit authorisation and instruction of the shareholder and for the shareholder's benefit.

(2) When votes are cast electronically, an electronic confirmation of receipt of the votes shall be sent to the person that casts the vote.

After the general meeting, the shareholder or a third party nominated by the shareholder shall be entitled to obtain, on request and within a period not exceeding 2 months from the date of the vote, confirmation that its vote has been recorded and taken into account by the company, unless this information is already available to it.

Where the intermediary receives confirmation as referred to in the preceding 2 sentences, it shall transmit it without delay to the shareholder or a third party nominated by the shareholder. Where there is more than one intermediary in the chain of intermediaries the confirmation shall be transmitted between intermediaries without delay, unless the confirmation can be directly transmitted to the shareholder or a third party nominated by the shareholder.

Art. 1d. Non-discrimination, proportionality and transparency of costs

(1) Intermediaries shall publicly disclose any applicable charges for services provided for under this Chapter, separately for each service.

(2) Any charges levied by an intermediary on shareholders, companies and other intermediaries shall be non-discriminatory and proportionate in relation to the actual costs incurred for delivering the services.

Any differences between the charges levied between domestic or cross-border exercise of rights shall be permitted only where duly justified and where they reflect the variation in actual costs incurred for delivering the services.

Chapter 1b. Transparency of institutional investors, asset managers and proxy advisors

Art. 1e. Engagement policy

(1) Institutional investors and asset managers shall comply with the requirements set out in points 1 and 2 or shall publicly disclose a clear and reasoned explanation why they have chosen not to comply with one or more of those requirements.

1. Institutional investors and asset managers shall develop and publicly disclose an engagement policy that describes how they integrate shareholder engagement in their investment strategy. The policy shall describe how they monitor investee companies on relevant matters, including strategy, financial and non-financial performance and risk, capital structure, social and environmental impact and corporate governance, conduct dialogues with investee companies, exercise voting rights and other rights attached to shares, cooperate with other shareholders, communicate with relevant stakeholders of the investee companies and manage actual and potential conflicts of interests in relation to their engagement.

2. Institutional investors and asset managers shall, on an annual basis, publicly disclose how their engagement policy has been implemented, including a general description of voting behaviour, an explanation of the most significant votes and the use of the services of proxy advisors. They shall publicly disclose how they have cast votes in the general meetings of companies in which they hold shares. Such disclosure may exclude votes that are insignificant due to the subject matter of the vote or the size of the holding in the company.

(2) The information referred to in paragraph 1 shall be available free of charge on the institutional investor's or asset manager's website.

Where an asset manager implements the engagement policy, including voting, on behalf of an institutional investor, the institutional investor shall make a reference as to where such voting information has been published by the asset manager.

(3) Conflict of interest rules applicable to institutional investors and asset managers, including Article 13 of the law of 12 July 2013 on alternative investment fund managers, as amended, Article 109(1)(b) and Article 111(d) of the law of 17 December 2010 on undertakings for collective investment, as amended, and Article 37-2 of the law of 5 April 1993 on the financial sector, as amended, shall also apply with regard to engagement activities.

Art. 1f. Investment strategy of institutional investors and arrangements with asset managers

(1) Institutional investors shall publicly disclose how the main elements of their equity investment strategy are consistent with the profile and duration of their liabilities, in particular long-term liabilities, and how they contribute to the medium to long-term performance of their assets.

(2) Where an asset manager invests on behalf of an institutional investor, whether on a discretionary client-by-client basis or through a collective investment undertaking, the institutional investor shall publicly disclose the following information regarding its arrangement with the asset manager:

1. how the arrangement with the asset manager incentivises the asset manager to align its investment strategy and decisions with the profile and duration of the liabilities of the institutional investor', in particular long-term liabilities;

2. how that arrangement incentivises the asset manager to make investment decisions based on assessments about medium to long-term financial and non-financial performance of the investee company and to engage with investee companies in order to improve their performance in the medium to long term;

3. how the method and time horizon of the evaluation of the asset manager's performance and the remuneration for asset management services are in line with the profile and duration of the liabilities of the institutional investor, in particular long-term liabilities, and take absolute long-term performance into account;

4. how the institutional investor monitors portfolio turnover costs incurred by the asset manager and how it defines and monitors a targeted portfolio turnover or turnover range;

5. the duration of the arrangement with the asset manager.

Where the arrangement with the asset manager does not contain one or more of such elements, the institutional investor shall give a clear and reasoned explanation why this is the case.

(3) The information referred to in paragraphs 1 and 2 shall be available, free of charge, on the institutional investor's website and shall be updated annually unless there is no material change.

Regulated institutional investors within the meaning of Article 1, paragraph 6(7)(a) are permitted to include this information in their report on solvency and financial position referred to in Article 82 of the law of 7 December 2015 on the insurance sector, as amended.

Art. 1g. Transparency of asset managers

(1) Asset managers shall disclose, on an annual basis, to the institutional investor with which they have entered into the arrangements referred to in Article 1e, how their investment strategy and implementation thereof comply with those arrangements and contribute to the medium to long-term performance of the assets of the institutional investor or of the fund. Such disclosure shall include reporting on the key material medium to long-term risks associated with investments, on portfolio composition, turnover and turnover costs, on the use of proxy advisors for the purpose of engagement activities and, where applicable, on their policy on securities lending and how it is applied to fulfil their engagement activities, particularly at the time of the general meeting of the investee companies. Such disclosure shall also include information on whether – and if so, how – they make investment decisions based on evaluation of medium to long-term performance of the investee company, including non-financial performance, and on whether – and if so, which – conflicts of interests have arisen in connection with engagement activities and how the asset managers have dealt with them.

(2) Where the information disclosed pursuant to paragraph 1 is already publicly available, the asset manager is not required to provide the information to the institutional investor directly.

Art. 1h. Transparency of proxy advisors

(1) Proxy advisors shall publicly disclose the code of conduct they apply and shall report on the application of this code of conduct.

Where proxy advisors do not apply a code of conduct, they shall provide a clear and reasoned explanation why this is the case. Where proxy advisors apply a code of conduct but depart from any of its recommendations, they shall declare from which parts they depart, provide explanations for doing so and indicate, where appropriate, any alternative measures adopted.

The information referred to in this paragraph shall be made publicly available, free of charge, on the websites of proxy advisors and shall be updated on an annual basis.

(2) In order to adequately inform their clients about the accuracy and reliability of their activities, proxy advisors shall publicly disclose, at least once a year, all of the following information in relation to the preparation of their research, advice and voting recommendations:

1. the essential features of the methodologies and models they apply;

2. the main information sources they use;

3. the procedures put in place to ensure quality of the research, advice and voting recommendations and qualifications of the staff involved;

4. whether and, if so, how they take national market, legal, regulatory and company-specific conditions into account;

5. the essential features of the voting policies they apply for each market;

6. whether they have dialogues with the companies which are the object of their research, advice or voting recommendations and with stakeholders of these companies and, if so, the extent and nature of these dialogues;

7. the policy regarding the prevention and management of potential conflicts of interests.

The information referred to in this paragraph shall be made publicly available on the websites of proxy advisors free of charge, and shall remain available free of charge for at least 3 years from the date of publication. This information does not need to be disclosed separately where it is available as part of the disclosure under paragraph 1.

(3) Proxy advisors shall identify and disclose without delay to their clients any actual or potential conflict of interests or business relationships that may influence the preparation of their research, advice or voting recommendations and the actions they have undertaken to eliminate, mitigate or manage the actual or potential conflicts of interests.

(4) This Article also applies to proxy advisors that have neither their registered office nor their head office in the European Union which carry out their activities through an establishment located in the European Union.

Chapter 2. General meeting of shareholders

Art. 2. Equal treatment of shareholders

The company shall ensure equal treatment of all shareholders who are in the same position with regard to participation and exercise of voting rights in the general meeting.

Art. 3. Information prior to the general meeting

(1) Without prejudice to Article 10, paragraph 4 and Article 12, paragraph 4 of the law of 19 May 2006 implementing Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids, convening notices for all general meetings shall be published at least 30 days before the meeting:

- in the *Recueil électronique des sociétés et associations*, and in a Luxembourg newspaper; and

- in media that can reasonably be expected to effectively disseminate the information to the public throughout the European Economic Area, and that are accessible quickly and in a non-discriminatory manner.

If a new convening notice is necessary because the requisite attendance conditions are not met for the first meeting convened, and provided that the provisions of this paragraph have been met for the first convocation and that the agenda contains no new items, the period referred to in the first subparagraph shall be extended to no fewer than 17 days before the meeting.

(2) Convening notices shall be communicated, within the time limits for convening the meeting referred to in the first and second subparagraphs of paragraph 1, to registered shareholders, as well as to the directors, members of the management board and the supervisory board, as applicable, and to independent auditors (*réviseurs d'entreprises agréés*). Such communication shall be made by letter (*lettre missive*) unless the addressees have agreed individually, expressly and in writing to receive the convening notice by another means of communication, without there being a requirement to prove that this formality has been performed.

Where all the shares are in registered form, the company may confine itself to the communication of convening notices by registered letter, unless the addressees have agreed individually, expressly and in writing to receive convening notices by another means of communication.

In either case the company may not charge any specific fees for issuing the convening notice in the prescribed manner.

(3) The convening notice referred to in paragraph 1 shall contain at least the following information:

a) a precise indication of when and where the general meeting is to take place, and the draft agenda of the meeting;

b) a clear and precise description of the procedures that shareholders must comply with in order to be able to participate and to cast their vote in the general meeting. This description shall include information concerning:

i) the rights available to shareholders under Article 4, as well as, where applicable, the deadlines by which those rights may be exercised and the email address to which shareholders may send their requests. The convening notice may confine itself to indicating the deadlines by which the rights may be exercised and the aforementioned email address, provided that it states that more detailed information on these rights is available on the company's website;

ii) the procedure for voting by proxy, notably the forms to be used to vote by proxy and the means by which the company is prepared to accept electronic notifications of the appointment of proxy holders; and

iii) where applicable, the procedures for remote participation in the meeting in accordance with Article 6 and for voting by correspondence or electronic means in accordance with Article 10;

c) where applicable, the record date as defined in Article 5 and how shareholders are to be registered, as well as a statement that only persons who are shareholders on that date will have the right to participate and vote in the general meeting;

d) the postal and electronic addresses where the full, unabridged text of the documents and draft resolutions referred to in paragraph 4(c) and (d) may be obtained, and how they may be obtained;

e) the address of the website on which the information referred to in paragraph 4 is available.

(4) For a continuous period beginning on the date of publication of the convening notice of the general meeting and including the day of the general meeting, the company shall make available to its shareholders on its website at least the following information:

a) the convening notice referred to in paragraph 1;

b) the total number of shares and voting rights at the date of convocation, including separate totals for each class of shares, where the company's capital is divided into 2 or more classes of shares;

c) the documents to be submitted to the general meeting;

d) a draft resolution or, where no resolution is proposed to be adopted, a comment from the board of directors or the management board, as the case may be, for each item on the proposed agenda of the general meeting. In addition, draft resolutions submitted by

shareholders shall be added to the website as soon as possible following their receipt by the company;

e) where applicable, the forms to be used to vote by proxy and to vote by correspondence, unless those forms are sent directly to each shareholder.

Where the forms referred to in letter (e) cannot be made available on the website for technical reasons, the company shall indicate on its website how the forms can be obtained in paper form. In this case the company shall be required to send the forms by postal services and free of charge to each shareholder who so requests.

Where, pursuant to Article 10, paragraph 4 or Article 12, paragraph 4 of the law of 19 May 2006 implementing Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids, the convening notice to the general meeting is issued later than on the thirtieth day before the meeting, the period specified in this paragraph shall be shortened accordingly.

Art. 4. Right to put items on the agenda of the general meeting and to table draft resolutions

(1) One or more shareholders who together hold at least 5% of the share capital of a company:

a) shall have the right to put items on the agenda of the general meeting; and

b) shall have the right to table draft resolutions for items included or to be included on the agenda of the general meeting.

(2) Requests made under paragraph 1 shall be made in writing and shall be addressed to the company by post or electronically to the address indicated in the convening notice published in accordance with Article 3. They shall be accompanied by a justification or a draft resolution to be adopted at the general meeting. They shall indicate a postal or email address to which the company may send the acknowledgement of receipt of the request.

(3) Requests made under paragraph 1 must reach the company no later than the twenty-second day before the date of the general meeting. The company shall acknowledge receipt of the requests referred to in the paragraph 1[1] within 48 hours of receipt.

(4) In accordance with Article 3, the company shall publish a revised agenda no later than the fifteenth day before the date of the general meeting.

Art. 5. Requirements for participation and voting in the general meeting

(1) The rights of a shareholder to participate in a general meeting and to vote in respect of any of his shares shall not be subject to any requirement that his shares be deposited with, or

[1] Internal legislative harmonisation.

transferred to, or registered in the name of, another natural or legal person before the general meeting.

The rights of a shareholder to sell or otherwise transfer his shares during the period between the record date, as defined in paragraph 2 below, and the general meeting to which it applies shall not be subject to any restriction to which they are not subject at other times.

(2) The rights of a shareholder to participate in a general meeting and to vote in respect of his shares shall be determined with respect to the shares held by that shareholder on the fourteenth day before the general meeting, at midnight (Luxembourg time) (the "record date").

(3) At the latest on the record date, the shareholder shall declare to the company his intention to participate in the general meeting. The company shall determine how such declaration is to be made.

For each shareholder who has signalled an intention to participate in the general meeting, the company shall record the name or company name and address or registered office, the number of shares held on the record date and a description of the documents which show that the shares were held on that date.

(4) Proof of shareholder status may be made subject only to such requirements as are necessary to ensure the identification of shareholders and only to the extent that they are proportionate to achieving that objective.

Art. 6. Participation in the general meeting by electronic means

(1) The articles of association may provide that any shareholder may take part in the general meeting by any form of participation by electronic means offered by a company which facilitates, in particular, one or more of the following:

a) real-time transmission of the general meeting;

b) real-time two-way communication enabling shareholders to address the general meeting from a remote location;

c) a mechanism for casting votes, whether before or during the general meeting, without the need to appoint a proxy holder who is physically present at the meeting.

Any shareholder who participates in the general meeting in this way shall be deemed to be present at the place where the general meeting is held for the purpose of compliance with the attendance and majority requirements.

(2) The use of electronic means for the purpose of enabling shareholders to participate in the general meeting may be made subject only to such requirements and constraints as are necessary to ensure the identification of shareholders and the security of the electronic communication, and only to the extent that they are proportionate to achieving those objectives.

Art. 7. Right to ask questions

(1) Every shareholder shall have the right to ask questions related to items on the agenda of the general meeting. The company shall answer the questions put to it by shareholders within the limits of the measures it can take to ensure the identification of shareholders, the good order of general meetings and their preparation, and the protection of confidentiality and the company's business interests.

The company may provide one overall answer to questions having the same content. Once the relevant information is available in a question and answer format on the company's website, the company shall be deemed to have given an answer to the questions asked merely by making a referral to that website.

(2) Without prejudice to the application of paragraph 1 during the general meeting, the articles of association may provide that shareholders shall, as soon as the convening notice is published, be entitled to ask questions in writing concerning items on the agenda, to be answered during the meeting. These questions may be sent to the company by email to the address indicated in the convening notice to the general meeting. The articles of association shall specify the period within which these written questions must be received by the company.

Shareholders who intend to make use of the option granted to them by the articles of association in accordance with the preceding paragraph shall establish their status as shareholders in accordance with Article 5.

Art. 7a. Right to vote on the remuneration policy

(1) Companies shall establish a remuneration policy as regards directors and shall submit it to a vote by the shareholders at the general meeting.

(2) The vote by the shareholders on the remuneration policy at the general meeting is advisory. The company shall pay remuneration to its directors only in accordance with a remuneration policy that has been submitted to such a vote at the general meeting. Where the general meeting rejects the proposed remuneration policy, the company shall submit a revised policy to a vote at the following general meeting.

(3) However, the articles of association may provide for the vote at the general meeting on the remuneration policy to be binding. In such case, companies shall pay remuneration to their directors only in accordance with a remuneration policy that has been approved by the general meeting.

Where no remuneration policy has been approved and the general meeting does not approve the proposed policy, the company may continue to pay remuneration to its directors in accordance with its existing practices and shall submit a revised remuneration policy for approval at the following general meeting.

Where an approved remuneration policy exists and the general meeting does not approve the proposed new policy, the company shall continue to pay remuneration to its directors in accordance with the existing approved policy and shall submit a revised remuneration policy for approval at the following general meeting.

(4) In exceptional circumstances, companies may temporarily derogate from the remuneration policy, provided that the policy includes the procedural conditions under which derogation can be applied and that it specifies the elements of the policy from which derogation is possible.

Exceptional circumstances as referred to in the first subparagraph shall cover only situations in which the derogation from the remuneration policy is necessary to serve the long-term interests and sustainability of the company as a whole or to assure its viability.

(5) Companies shall submit the remuneration policy to a vote by the general meeting at every material change and in any case at least every 4 years.

(6) The remuneration policy shall contribute to the company's business strategy and long-term interests and sustainability and shall specify how it contributes to these objectives. It shall be clear and understandable and shall describe the different components of fixed and variable remuneration, including all bonuses and other benefits, in whatever form, which can be awarded to directors and shall indicate their relative proportion.

The remuneration policy shall explain how the pay and employment conditions of employees of the company were taken into account when establishing the remuneration policy.

Where the company awards variable remuneration, the remuneration policy shall set clear, comprehensive and varied criteria for the award of the variable remuneration. It shall indicate the financial and non-financial performance criteria, including, where appropriate, criteria relating to corporate social responsibility, and shall explain how they contribute to the objectives set out in the first subparagraph, and the methods to be applied to determine to which extent the performance criteria have been fulfilled. It shall specify information on any deferral periods and on the possibility for the company to reclaim variable remuneration.

Where the company awards share-based remuneration, the remuneration policy shall specify vesting periods and, where applicable, retention of shares after vesting and shall explain how the share-based remuneration contributes to the objectives set out in the first subparagraph.

The remuneration policy shall indicate the duration of contracts or arrangements with directors and the applicable notice periods, the main characteristics of supplementary pension or early retirement schemes and the terms of the termination and payments linked to termination.

The remuneration policy shall explain the decision-making process followed for its determination, review and implementation, including measures to avoid or manage conflicts of interest and, where applicable, the role of the remuneration committee or other committees concerned. Where the policy is revised, it shall describe and shall explain all significant changes and how it takes into account the votes and views of shareholders on the policy and reports since the most recent vote on the remuneration policy by the general meeting of shareholders.

(7) After the vote on the remuneration policy at the general meeting, the remuneration policy, together with the date and the results of the vote, shall be made public without delay on the website of the company and shall remain publicly available, free of charge, at least as long as it is applicable.

Art. 7b. Information to be provided in the remuneration report and the right to vote on the remuneration report

(1) The company shall draw up a clear and understandable remuneration report, providing a comprehensive overview of the remuneration, including all benefits, in whatever form, awarded or due during the most recent financial year to individual directors, including to newly recruited and to former directors, in accordance with the remuneration policy referred to in Article 7a.

Where applicable, the remuneration report shall contain the following information regarding each individual director's remuneration:

1. the total remuneration split out by component, the relative proportion of fixed and variable remuneration, an explanation of how the total remuneration complies with the adopted remuneration policy, including how it contributes to the long-term performance of the company, and information on how the performance criteria were applied;

2. the annual change of remuneration, of the performance of the company, and of average remuneration on a full-time equivalent basis of employees of the company other than directors over at least the 5 most recent financial years, presented together in a manner which permits comparison;

3. any remuneration from any company belonging to the same group, within the meaning of Article 1711-1 of the law of 10 August 1915 on commercial companies, as amended;

4. the number of shares and share options granted or offered, and the main conditions for the exercise of the rights including the exercise price and date and any change thereof;

5. information on the use of the possibility to reclaim variable remuneration;

6. information on any deviations from the procedure for the implementation of the remuneration policy referred to in Article 7a, paragraph 6 and on any derogations applied in accordance with Article 7a, paragraph 4, including the explanation of the nature of the exceptional circumstances and the indication of the specific elements derogated from.

(2) Companies shall not include in the remuneration report special categories of personal data of individual directors within the meaning of Article 9(1) of Regulation (EU) 2016/679 of the European Parliament and of the Council, or personal data which refer to the family situation of individual directors.

(3) Companies shall process the personal data of directors included in the remuneration report pursuant to this Article for the purpose of increasing corporate transparency as regards directors' remuneration with the view to enhancing directors' accountability and shareholder oversight over directors' remuneration.

Companies shall no longer make publicly available, pursuant to paragraph 5, the personal data of directors included in the remuneration report in accordance with this Article after 10 years from the publication of the remuneration report.

(4) The annual general meeting shall have the right to hold an advisory vote on the remuneration report of the most recent financial years. The company shall explain in the following remuneration report how the vote by the general meeting has been taken into account.

However, small and medium-sized companies as defined, respectively, in Articles 35 and 47 of the law of 19 December 2002 on the trade and companies register as well as the accounting and annual accounts of companies, as amended, shall be entitled, as an alternative to a vote, to submit the remuneration report of the most recent financial years for discussion in the annual general meeting as a separate item on the agenda. The company shall explain in the following remuneration report how the discussion in the general meeting has been taken into account.

(5) Without prejudice to Article 3, paragraph 4, after the general meeting, companies shall make the remuneration report publicly available on their website, free of charge, for a period of 10 years, and may choose to keep it available for a longer period provided it no longer contains the personal data of directors. The independent auditor (*réviseur d'entreprises agréé*) must verify that the information required by this Article has been provided.

(6) The directors of the company, acting within the scope of the powers conferred on them by law, have a collective responsibility to ensure that the remuneration report is drawn up and published in accordance with the requirements of this law.

Art. 7c. Transparency and approval of related party transactions

(1) Any material transaction between the company and a related party shall be subject to the prior approval of the company's administrative body.

(2) For the purposes of this Article, "material transaction" means any transaction between the company and a related party the publication and disclosure of which could have a significant impact on the economic decisions of the company's shareholders and which could create a risk for the company and shareholders who are not related parties, including minority shareholders. The nature of the transaction and the position of the related party shall be taken into consideration.

(3) Companies shall publicly announce material transactions with related parties at the latest at the time of the conclusion of the transaction. The announcement shall contain at least information on the nature of the related party relationship, the name of the related party, the date and value of the transaction and any other information necessary to assess whether or not the transaction is fair and reasonable from the perspective of the company and of the shareholders who are not related parties, including minority shareholders.

(4) Where the related party transaction involves a director or shareholder, the director or shareholder shall not take part in the approval or in the vote, as the case may be.

(5) Paragraphs 1 to 3 shall not apply to transactions entered into in the ordinary course of business and concluded on normal market terms. For such transactions, the administrative body of the company shall establish an internal procedure to periodically assess whether these conditions are fulfilled. The related parties shall not take part in that assessment.

(6) Companies shall not be subject to the requirements of paragraphs 1 to 3 for the following transactions:

1. transactions entered into between the company and its subsidiaries, provided that they are wholly owned or that no other related party of the company has an interest in the subsidiary;

2. transactions regarding remuneration of directors, or certain elements of remuneration of directors, awarded or due, in accordance with Article 7a;

3. transactions entered into by credit institutions on the basis of measures aiming at safeguarding their stability adopted by the Financial Sector Supervisory Commission (*Commission de surveillance du secteur financier*);

4. transactions offered to all shareholders on the same terms where equal treatment of all shareholders and protection of the interests of the company is ensured.

(7) Companies shall publicly announce material transactions concluded between related parties of the company and the company's subsidiary. The exemptions provided for in paragraphs 5 and 6 shall also apply to the transactions specified in this paragraph.

(8) Transactions with the same related party that have been concluded in any 12-month period or in the same financial year and have not been subject to the obligations listed in paragraphs 1 to 3 shall be aggregated for the purposes of those paragraphs.

Art. 8. Proxy voting

(1) Every shareholder shall have the right to appoint any other natural or legal person as a proxy holder to attend and vote at a general meeting in his name. The proxy holder shall enjoy the same rights to speak and ask questions in the general meeting as those to which the shareholder thus represented would be entitled.

Clauses in the articles of association restricting the possibility for persons to be nominated as proxy holders shall be void.

(2) A shareholder may only be represented by one person for a given general meeting. By way of derogation from the preceding sentence:

a) if a shareholder has shares of a company held in more than one securities account, he shall be entitled to appoint a separate proxy holder as regards shares held in each securities account in relation to any one general meeting;

b) a person who is a shareholder but who acts in the course of a business on behalf of other natural or legal persons shall be entitled to grant a proxy to each of these other natural or legal persons or to a third party designated by them.

(3) In the event of potential conflicts of interests between the shareholder and the proxy holder appointed by him:

a) the proxy holder shall disclose certain specified facts which are relevant for the shareholder in assessing any risk that the proxy holder might pursue any interest other than the interest of the shareholder;

b) the proxy holder shall only be entitled to exercise voting rights on behalf of the shareholder if he has specific voting instructions for each resolution on which he is to vote on behalf of the shareholder;

c) the transfer of a proxy to another person shall be excluded, without prejudice to the possibility for a proxy holder that is a legal person to exercise the powers conferred upon it through any member of its administrative or management body or any of its employees.

A conflict of interests within the meaning of this paragraph may, in particular, arise where the proxy holder:

i) is a controlling shareholder of the company, or is another entity controlled by such shareholder;

ii) is a member of the administrative, management or supervisory body of the company, or of a controlling shareholder or controlled entity referred to in point (i);

iii) is an employee or statutory auditor of the company, or of a controlling shareholder or controlled entity referred to in point (i);

iv) has a family relationship with a natural person referred to in points (i) to (iii).

(4) The proxy holder shall cast votes in accordance with the instructions issued by the appointing shareholder.

He shall keep a record of the voting instructions for a period of at least one year from the most recent execution of the voting instructions and shall confirm, on request, that the voting instructions have been carried out.

(5) A person acting as a proxy holder may hold a proxy from more than one shareholder without limitation as to the number of shareholders so represented. Where a proxy holder holds proxies from several shareholders, he shall be entitled to cast votes for a certain shareholder differently from votes cast for another shareholder.

Art. 9. Formalities for proxy holder appointment and notification

The appointment of a proxy holder by a shareholder shall be made in writing. Notification to the company of the appointment of a proxy holder by a shareholder is also to be made in writing, either by post or by electronic means, to the postal or email address indicated in the convening notice published in accordance with Article 3.

Beyond this requirement for written communication, the appointment of a proxy holder, the notification of the appointment to the company and the issuance of voting instructions, if any, to the proxy holder may be made subject only to such formal requirements as are necessary to ensure the identification of the shareholder and of the proxy holder, or to ensure the possibility of verifying the content of voting instructions, respectively, and only to the extent that they are proportionate to achieving those objectives.

The provisions of this Article shall apply *mutatis mutandis* for the revocation of a proxy holder.

Art. 10. Remote voting

(1) The articles of association may authorise any shareholder to vote remotely prior to the general meeting, by correspondence or electronically, using a form provided by the company.

Where the company authorises remote voting, it shall be capable of verifying the shareholder status and identity of shareholders. The articles of association shall set out how the shareholder status and the identity of the person wishing to vote remotely are to be verified and ensured.

(2) The remote voting form must include at least the following information:

1. the name or company name of the shareholder, and the domicile or registered office;

2. the number of votes that the shareholder wishes to cast at the general meeting, and how each vote is to be cast or abstained from;

3. the form of the shares held;

4. the agenda of the meeting, including draft resolutions;

5. the time frame within which the remote voting form must reach the company;

6. the shareholder's signature, as applicable, in the form of an electronic signature that meets the conditions of Articles 1322-1 and 1322-2 of the Civil Code.

(3) Forms that contain neither a statement of which way the vote was cast, nor an abstention, shall be void. In the event of a draft resolution on which a remote vote has been cast being amended during a meeting, the vote cast shall be considered void.

(4) Article 5 shall apply where the company authorises remote voting. For the calculation of the quorum, only forms that have been received by the company before the date of the general meeting shall be taken into account, within the time limits set by the articles of association.

Art. 11. Voting results

(1) The company shall establish for each resolution at least the number of shares for which votes have been validly cast, the proportion of the share capital represented by those votes, the total number of votes validly cast as well as the number of votes cast in favour of and against each resolution and, where applicable, the number of abstentions.

The articles of association may provide that if no shareholder requests a full account of the voting, it shall be sufficient to establish the voting results only to the extent needed to ensure that the required majority is reached for each resolution.

(2) Within 15 days of the general meeting, the company shall publish the voting results established in accordance with paragraph 1 on its website.

Art. 11a. Specific provision

In order to carry out a capital increase the general meeting shall be entitled to decide, by a two-thirds majority of the votes validly cast, either to amend the articles of association so that they stipulate that the convening of a general meeting shall take place, by way of derogation from Article 12, paragraph 1, within a shorter period, or to convene a general meeting directly within a shorter period, provided in either case that at least 10 days will elapse between the convening notice and the date of the general meeting, that the conditions of Article 59-43[2] or Article 59-45 of the law of 5 April 1993 on the financial sector, as amended, are met and that the capital increase is necessary to avoid the initiation of a resolution procedure under the conditions set out in Articles 33 and 34 of the law of 18 December 2015 on the failure of credit institutions and certain investment firms.

For the purposes of the preceding paragraph, Article 4, paragraphs 3 and 4 and Article 5, paragraph 2 shall not apply.

Chapter 3. Penalties

Art. 11b. The directors shall be jointly and severally liable for any damages resulting from the breach of their obligations under this law.

Art. 12. Transitional provisions

This law shall enter into force on the first day of the second month following its publication in the *Mémorial*.

---

[2] Art. 59-43 entitled "Early intervention measures" of the law of 5 April 1993 provides:
"(1) If a BRRD institution infringes or is likely to infringe, in the near future, the requirements of Regulation (EU) No 575/2013, this law, or the measures taken to implement these, or any of Articles 3 to 7, 14 to 17 and 24, 25 and 26 of Regulation (EU) No 600/2014, depending on the applicability of those Articles in accordance with Article 55 of Regulation (EU) No 600/2014, due, *inter alia*, to a rapid deterioration in its financial situation, including a deterioration in its liquidity, to an increase in the level of leverage, to non-performing loans or to a concentration of exposures, according to an assessment based on a set of triggering factors, the CSSF may take, without prejudice to the measures provided for in Article 53-1 and the relevant implementing measures, as applicable, at least the following measures:
(a) require the BRRD institution's management body to:
(i) update the recovery plan, in accordance with Article 59-18(3), where the circumstances leading to early intervention differ from the assumptions set out in the initial recovery plan;
(ii) apply one or more of the provisions or measures set out in the recovery plan;
(iii) examine the situation, identify measures to overcome the problems noted and draw up an action plan to overcome these problems, as well as a timetable for its implementation;
(iv) convene a meeting of the shareholders of the BRRD institution. If the management body does not comply with this requirement, the CSSF may convene such meeting directly. In either case, the CSSF shall be entitled to set the agenda and request that certain decisions be submitted to the shareholders for adoption;
(v) establish a plan to negotiate the restructuring of its debt with some or all of its creditors in accordance with the recovery plan, if any;
(b) require the BRRD institution to:
(i) ensure that one or more members of the authorised management body or management body are dismissed or replaced if it is found that they are unfit to perform their duties within the meaning of Articles 7 and 19;
(ii) amend the BRRD institution's business strategy;
(iii) amend the legal or operational structures of the BRRD institution;
(c) collect, including through on-site inspections, and provide the Luxembourg resolution authority with, all necessary information in order to update the resolution plan and prepare the possible resolution of the BRRD institution and the valuation of its assets and liabilities in accordance with Article 37 of the law of 18 December 2015 on the failure of credit institutions and certain investment firms.
(2) The CSSF shall promptly notify the Luxembourg resolution authority when it has been determined that the conditions set out in paragraph (1) are met in respect of a BRRD institution and shall notify it as soon as possible of the measures taken pursuant to paragraph (1).
(3) For each of the measures referred to in paragraph (1), the CSSF shall set an appropriate time limit within which to assess the effectiveness of the measure.

This law does not apply to general meetings convened before its entry into force. Where there have been several convening notices, or one convening notice published with various publication dates, the date of the first notice, or the first date of publication, shall be the only one taken into account.

This law shall not apply to general meetings adjourned pursuant to Article 450-1, paragraph 5 of the law of 10 August 1915 on commercial companies, as amended, or reconvened due to a failure to meet conditions of attendance, provided that the meetings in question were initially convened before its entry into force.

Chapter 4. Citation

Art. 13. Reference to this law may be made in abbreviated form using the term “law of 24 May 2011 on the exercise of certain shareholders’ rights at general meetings of listed companies”.