

INCORPORATION OF A PRIVATE LIMITED LIABILITY COMPANY (*SOCIETE À RESPONSABILITE LIMITEE*) IN LUXEMBOURG

I. Set up of a private limited liability company in Luxembourg

Any individual and legal entity may act as founder or shareholder to incorporate a private limited liability company in Luxembourg (**SARL**). There are no nationality or residency requirements for shareholders from a corporate perspective.

II. Incorporation process

An SARL in Luxembourg is set up *via* the passing of a notarial deed of incorporation before a public notary residing in Luxembourg. Prior to the incorporation meeting, assuming the incorporation will be done in cash, the share capital amount (i.e., at least €12,000) must be deposited on the Luxembourg bank account of the new company.

The most time-consuming aspect of the process is normally the setting up of the bank account (e.g., clearing the AML / KYC process of the bank). Once the account has been created and the incorporation capital has been wired to the account, a so-called “blocking certificate” must be provided by the bank to the Luxembourg notary confirming that this amount is held on the bank account for purposes of the incorporation.

An SARL can also be incorporated by means of a contribution in kind. The value of such contribution in kind must be confirmed in a certificate by the contributing founder or shareholder for the Luxembourg public notary. No external audit report is required in this case.

The incorporation meeting then takes place in the presence of a Luxembourg notary public (to which the shareholders can be present or represented via a power of attorney). Once the incorporation has taken place, the notary will issue a so-called “deblocking certificate” which will allow the share capital amount to be released.

Subsequently, the incorporation deed including the articles of incorporation of the new SARL will have to be filed with the Luxembourg Register of Commerce and Companies (**RCS**) within one month and published (in full) in the Luxembourg electronic gazette (*Recueil Electronique des Sociétés et Associations*) (**RESA**).

III. Documents required for incorporation

With regard to the founder(s) or shareholders and its representative(s):

- if the sole shareholder or shareholders is/are an individual: (i) valid copy of the passport, (ii) valid copy of the identity card;
- if the sole shareholder or shareholders is/are a legal entity: (i) valid up to date copy of the articles of association of the shareholder, (ii) a copy of the up to date shareholder's register (the notary may request a certified or legalised copy), and (iii) an excerpt of the companies' register (the notary may request a certified or legalised copy);
- if the legal representative(s) of the shareholder is an individual: (i) a valid copy of their passport, (ii) valid copy of the identity card of the legal representative of the shareholder; and
- if the legal representative(s) of the shareholder is a company, the notary may request: (i) an excerpt of the companies' register (the notary may request a certified or legalised copy), and/ or (ii) the articles of association of the legal representative of the shareholder.

With regard to the manager(s) of the company, an SARL can be managed by a sole manager or by a board of managers:

- if the sole manager or a manager of the Company is a natural person(s): (i) a valid copy of the passport, (ii) valid copy of the identity card; and
- if the sole manager or a manager of the company will be another company, it will need to be represented by a natural person: (i) a valid copy of the passport, (ii) proof that the person is duly empowered to represent the company who will act as sole manager or manager.

Declaration(s) of beneficial ownership must also be provided to the notary by any person or entity which will ultimately hold or control 25% or more of the shareholding in the company upon its incorporation.

IV. Information to be provided for incorporation

- Choice of the name of the company (a verification of the availability of the name in the RCS is ordinarily requested);
- Choice of the corporate object of the company;

- Determination of the address of the registered office of the company;
- Determination of the amount of the share capital (i.e., €12,000 is the minimum legal requirement);
- Choice and composition of the governing body: i.e., sole manager or board of managers; and
- Choice of statutory auditor (if applicable).

V. Time frame and costs

Subject to the bank account having been setup (if incorporating in cash) and the necessary documents and information described above being made available, the average time required to pass the incorporation deed before the notary would be approx. 1 week.

Once the incorporation has taken place, it usually takes 2-3 weeks for the incorporation deed (including the articles of incorporation) to be published with the RESA and for the unique Luxembourg trade registry number of the company to be issued.

From the moment the incorporation deed is passed the company is fully operational and may validly enter into contracts notwithstanding the fact that the company's trade registry number may only be issued a couple of weeks later.

Outside of the legal fees involved in the setup, setting up an SARL entails certain costs, including: (i) a minimum share capital of €12,000, and (ii) the fee of the notary (usually approx. €1,200).

For further information on the process or for assistance with incorporating a company in Luxembourg please contact:

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