Addendum to the Handbook for the preparation of annual accounts under the Luxembourg accounting framework

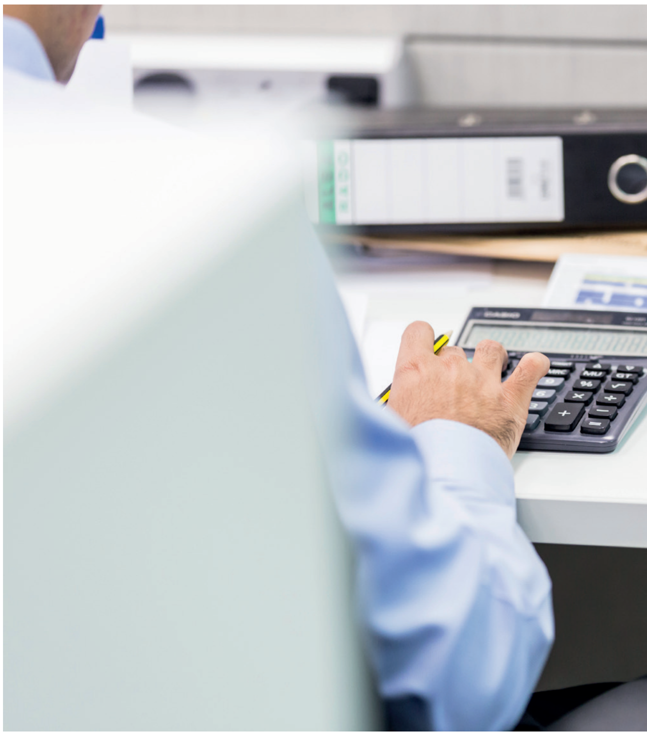
Update of Luxembourg Accounting[1] and Commercial[2] Laws applicable for financial periods beginning on or after 1 January 2016

The new Luxembourg Law of 18 December 2015 (the "New Law")[3], which amends various provisions relating to the accounting and (consolidated) annual accounts of certain types of companies, will be applicable to financial years beginning **on** or **after 1 January 2016**.

This New Law is part of a two-step implementation process of Directive 2013/34/EU. The aim of the first step, in accordance with the New Law, is to introduce the mandatory changes provided by the Accounting Directive into Luxembourg legislation. A second law – which will be enacted at a later stage – will focus on the options offered to EU Member States on certain accounting provisions.

A new requirement will, to a certain extent, oblige large and public-interest undertakings active in certain industries to report payments made to governments in order to combat bribery. Aside from that, the main changes are related to the presentation of the annual accounts, the introduction of the materiality concept and some amendments in the notes to the annual accounts.

The purpose of this addendum is to help you through the main changes enforced by the New Law and to amend accordingly the notes to the Handbook issued in November 2014 for financial periods beginning on or after 1 January 2016.



1 Law of 19 December 2002 (as amended) on the register of commerce and companies and the accounting and annual accounts of undertakings.
2 Law of 10 August 1915 on commercial companies, as amended.
3 Implementation of Directive 2013/34/EU, which aims to merge and replace the fourth and fifth Accounting Directives related to stand-alone and consolidated accounts respectively.

Introduction

Ref. article of Law

Size criteria

Threshold amendments for medium-sized and large undertakings

47 Companies which do not exceed two of the following three criteria for two consecutive years are medium-sized undertakings:

- balance sheet total: EUR 20 million (previously EUR 17.5 million).
- net turnover: EUR 40 million (previously EUR 35 million).
- average number of full-time employees during the financial year: 250 (unchanged).

General accounting principles

General provisions relating to the content and presentation of the annual accounts

26(6)
51 g) The **materiality concept** is introduced and defined as the level of information whose omission or misstatement could reasonably be expected to influence decisions that users make on the basis of the Company's annual accounts. The materiality of individual items must be assessed in the context of other similar items. The New Law clarifies that immaterial information should not be subject to the presentation and disclosure requirements enforced by the Accounting Law.

33 **Offsetting**: If the right to offset is provided by law and compensation/netting has been used in the balance sheet and/or the profit and loss account, the gross amount must be disclosed in the notes to the annual accounts.

51 **Accounting policies and valuation methods** must not change from one financial year to another except when under exceptional circumstances, applying any requirement of the Accounting Law goes against the principle of a true and fair view of the undertaking's assets, liabilities, financial position or results. Any exceptional departure from the norm must be accompanied by an explanatory note in the notes to the annual accounts, detailing the reason for such changes and explaining their impact on the undertaking's financial situation and results[4].

4 For comparative purposes, management may opt to insert into the notes to the annual accounts a comparative table including a column with pro forma figures where the data from previous years have been restated using the Company's new accounting rules.

Balance sheet and profit and loss account

Ref. article of Law

34, 35 46, 47 The **new formats** for the **balance sheet** and **profit and loss account** (full and abridged versions) for stand-alone annual accounts are defined by the Grand-Ducal Regulation of 18 December 2015. The new layouts are available on www.ecdf.lu.

Notes to the annual accounts

65(1) The notes to the annual accounts must be presented in a specific order: information must be disclosed in the same order as the items related to it in the balance sheet and the profit and loss account.

NOTE X – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

65(1)1° Management must describe the accounting policies in addition to the valuation policies in the notes to the annual accounts (e.g. for depreciable assets: LIFO and FIFO).

Intangible fixed assets

There are new rules for development costs and goodwill:

- 59 only development costs can still be capitalised (research costs can no longer be).
- the depreciation period covers an asset's useful life. If the useful life cannot be estimated reliably, the asset must be depreciated over a period not exceeding 10 years. An explanation of the depreciation period is disclosed in the notes to the accounts;
- 55(1)c)dd), 59 it is no longer possible to reverse value adjustments for goodwill, even if the reasons for making such adjustments no longer apply.

62(2) NOTE X – INVENTORIES

It is no longer required to disclose the valuation on the basis of the last available market price if there is a significant difference between that and the purchase price/production cost.

65(1)5° NOTE X – SUBSCRIBED CAPITAL / NOTE X – DEBTS

Founders' shares, convertible bonds, warrants, options and similar rights issued must be disclosed in the notes, along with their quantity and the rights they confer.

NOTE X – PROVISIONS

65(1)11°c) ***Provision for taxation***

The amount of deferred tax at balance-sheet date and movements during the year/period must be disclosed in the notes.

Notes to the annual accounts (cont.)

Ref. article of Law

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NOTE X – INCOME TAX

It is no longer required to distinguish between income tax resulting from ordinary activities and income tax resulting from extraordinary activities.

65(1)7ter°

NOTE X – RELATED-PARTY TRANSACTIONS

Small and medium-sized undertakings can limit their disclosure to the transactions that took place with:
- the Company and its shareholders;
- undertakings in which the Company holds participating interests; and
- the Company and its administrative, managerial and supervisory bodies.

This exemption does not apply if the company has transferable securities quoted on a regulated market in the European Union[5].

65(1)16°

NOTE X – AUDITORS' FEES

Auditors' fees must be itemised to list the fees of each different auditor[6].

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NOTE X – EXTRAORDINARY INCOME/CHARGES

These items have been removed from the new profit and loss account's layout. This information only needs to be disclosed in the notes to the accounts if such income/charges is/are of an exceptional size or incidence.

65(1)7bis°

NOTE X – OFF-BALANCE-SHEET COMMITMENTS

Small and medium-sized undertakings must disclose the financial impact of the Company's significant off-balance-sheet operations.

65(1)18°

NOTE X – SUBSEQUENT EVENTS

The nature and financial impact of significant post-balance-sheet events that are not disclosed in the profit and loss account or the balance sheet must be disclosed in the notes to the annual accounts.

5 Within the meaning of Article 1 item 11 of the law of 13 July 2007 on markets in financial instruments.
6 Medium-sized undertakings can benefit from the disclosure exemption without any additional restrictions (Article 67(2)).

Impact of the New Law on the small undertakings: additions and removals regarding information disclosure

Ref. article of Law		Before the New Law	With the New Law
38	Commitments concerning pensions	Not applicable	Mandatory
49	Extraordinary items	Not mandatory	Mandatory
65(1)	Obligation to present the notes to the annual accounts in a specific order	Not applicable	Mandatory
65(1)1°	Obligation to describe the accounting policies	Not applicable	Mandatory
65(1)2°	Breakdown of shareholdings >20%	Mandatory	Not mandatory unless non-disclosure prevents a true and fair view from being provided
65(1)3°	Shares subscribed during the year – changes in number and value	Mandatory	Not mandatory
65(1)4°	Share classes – changes in number and value	Mandatory	Not mandatory
65(1)7°	Information about the global amount of financial commitments not disclosed in the balance sheet, where significant	Not mandatory	Mandatory
65(1)7bis°	Significant off-balance-sheet commitments – financial impact	Not mandatory	Mandatory
65(1)7ter°	Related-party transactions	Mandatory	Mandatory (new requirements: transactions with undertakings in which the Company holds participating interests must be disclosed)
65(1)9°	Staff	Not mandatory	Mandatory
65(1)11°c)	Deferred tax – amount at balance-sheet date and movements during the year/period	Not applicable	Mandatory
65(1)14°	Information concerning material income/charges in respect of the financial year that is/are receivable/payable after financial year-end	Mandatory	Not mandatory
65(1)15°a)	Information about the largest body of undertakings of which the entity forms a part as a direct/indirect subsidiary undertaking	Mandatory	Not mandatory
65(1)17°b)	Additional information in case of non-depreciation of financial fixed assets whose fair value is below the carrying amount	Mandatory	Not mandatory
65(1)18°	Subsequent events	Not applicable	Not mandatory

Enhancement of the auditor's duties

Ref. article of Law

Ref. article of Law	
69(1)b)	The management report must be established in accordance with the annual accounts and in conformity with the legal and regulatory requirements.
69bis	The content of the annual report has been aligned to the requirements of the Accounting Directive.

Country-by-country reporting

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A new transparency report for the extractive industry and loggers of primary forests has been introduced. Public-interest entities ("PIEs") and large non-PIEs in such industries must disclose material payments made to governments (above EUR 100,000). The aim of this new measure is to contribute to transparency and the fight against bribery and corruption. The following types of payments must be reported:

- production entitlements;
- taxes levied on companies' income, production and profits;
- royalties;
- dividends;
- signing, discovery and production bonuses;
- licence, rental and entry fees and other considerations for licences and/or concessions; and
- payments for infrastructure improvements.

A separate report must be published, by way of a reference to being filed on the Luxembourg Trade and Companies Register, within 12 months of the end of the financial year. This report does not require an audit.

Consolidated accounts

312[7] The consolidation exemption for passive holding entities is repealed.

318[7] A parent company is exempt from drawing up consolidated accounts if all of its subsidiaries are neither individually nor collectively material or can be excluded from consolidation in accordance with Article 317[7].

7 Of the Law of 10 August 1915 on commercial companies.

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