

WILDGEN NEWSLETTER

July 2016

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LUXEMBOURG LAW FIRM

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JULY 2016

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ABOUT WILDGEN

Since 1923, WILDGEN, Partners in Law has been at the heart of law practice in Luxembourg. It is today one of the best known and well-respected law firms in Luxembourg, possessing a strong track record and continuing to offer sound technical expertise.

As a full-service business law firm, we represent Fortune 500 companies and a wide variety of closely and publicly held corporations, partnerships, emerging businesses and individuals, investment funds, private equity houses as well as leading banking and financial institutions and leading insurance and reinsurance service providers.

We enjoy a solid reputation in a wide range of practice areas:

Administrative Law, Aviation & Maritime, Banking & Finance, Capital Markets, Corporate Finance, Corporate Law, Employment and Pensions, Energy, Insurance & Reinsurance, Intellectual Property & Telecommunications, Media and Technologies, Investment Funds, Islamic Finance, Litigation and Arbitration, Mergers & Acquisitions, Private Equity and Venture Capital, Restructuring & Insolvency, Real Estate, Securitisation, Tax.

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LUXEMBOURG LAW FIRM

THE SIMPLIFIED S.À R.L.: A NEW TOOL TO SUPPORT THE BOOMING LUXEMBOURG STARTUP INDUSTRY

Isabelle Charlier (Director), Yann Payen (Director) - July 2016



isabelle.charlier@wildgen.lu



yann.payen@wildgen.lu

Luxembourg once again strengthens its position as a leading European hub for startups and innovation with the adoption on 13 July 2016 of the bill of law 6777 establishing the simplified private limited liability company (“*société à responsabilité limitée simplifiée*” or “S.à r.l.-S”), which will enter into force on 16 January 2017.

The S.à r.l.-S has been designed to allow a natural person who wishes to test and develop business innovative ideas to create a tailor-made company in a timely and cost-efficient way, with a symbolic financial contribution - i.e. EUR 1 as a minimum starting capital - while benefiting from limited liability¹. The main features of the S.à r.l.-S – being a simplified variant of the traditional S.à r.l. – may be summarised as follows:

- it can be incorporated under private seal instrument (i.e. without the need for a notary) with an initial corporate capital of between EUR 1 and EUR 12,000, which must be entirely subscribed and paid-up;
- its capital is open to natural people only who further cannot be members of several S.à r.l.-S at the same time;
- it can only be managed by a natural person; and
- it can only carry out activities for which a business license is required (autorisation d'établissement) under the law of 2 September 2011 (which license must be obtained prior the formal incorporation of the S.à r.l. – S).

With its reduced costs of incorporation (i.e. around EUR 191), the S.à r.l.-S is for sure a dedicated vehicle for young talented entrepreneurs with limited financial resources but unlimited ideas.

Wildgen 4 Innovation and corporate practice group members are available to provide you with further information on this topic and discuss the advantages of the S.à r.l. –S for your business.

¹In return, 5% of the net profits of the company shall be allocated, each year, to a specific – non distributable - reserve until the latter reaches EUR 12,000, making the S.à r.l.-S a transitory form of company.

BE READY FOR THE NEW LUXEMBOURG COMPANY LAW

Isabelle Charlier (Director), Yann Payen (Director), Kristof Jansen (Associate) - July 2016



isabelle.charlier@wildgen.lu

On July 13, 2016 – after almost 10 years of steady maturation – the Luxembourg parliament adopted the bill of law 5730 modernising and amending the law of August 10, 1915 on commercial companies, the Civil Code and the law of December 19, 2002 on the trade and companies’ register and on the accounting and annual accounts of undertakings (to simplify, the “New Company Law”).

The New Company Law will however become only effective the fourth day following its formal publication in the Luxembourg Official Gazette, which is expected to occur in the coming weeks (most probably in August although there is no clear confirmation on this).



yann.payen@wildgen.lu

The main objectives pursued by the New Company Law are (i) to recognise a number of common established corporate practices, providing hence more clarity and legal certainty so as (ii) to introduce new mechanisms and solutions in order to make the Luxembourg company regime even more attractive and competitive, by strengthening the contractual freedom, flexibility and pragmatism which have made its success over the years. (...)



kristof.jansen@wildgen.lu

[The full article can be read on our website.](#)

INTRODUCTION OF A NEW TYPE OF ALTERNATIVE INVESTMENT FUND

July 2016



samia.rabia@wildgen.lu

On 14 July 2016, the Luxembourg Parliament adopted the bill n°6929 which introduces a new type of alternative investment fund in Luxembourg: the so-called Reserved Alternative Investment Fund ("RAIF"). This law will enter into force three days following its publication in the official gazette.

For more information regarding RAIF please read our article "**RAIF: Introduction of a New Investment Vehicle in Luxembourg**" published on our website in December 2015.

Contact: [Samia Rabia, Investment Funds Partners](#)

EU DATA PROTECTION REFORM

Emmanuelle Ragot (Partner), Florence Delille (Senior Associate) - July 2016



emmanuelle.ragot@wildgen.lu



florence.delille@wildgen.lu

Launched on 2012 by the Commission, the Data protection reform (the “Reform”)² is a package aiming to update, on one hand, the rules of the 1995 Data Protection Directive³ and, on the other hand, the 2008 framework decision on data protection in judicial cooperation in criminal matters and police cooperation⁴.

The Reform concerns two legislative instruments:

- the General Data Protection Regulation: this instrument, intended to replace directive 95/46/EC, aims to enable people to better control their personal data and increase business opportunities in the Digital Single Market including through reduced administrative burden; and
- the Data Protection Directive in the area of law enforcement: this instrument, intended to replace the 2008 data protection framework decision, aims to protect personal data processed for prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.

LAST DEVELOPMENTS

On December 15, 2015, under the Luxembourg Presidency of the Council, an agreement was reached between the representative of the Council, the European Parliament and the European

² Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), COM-2012-011 , 25.01.2012; and Proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data, COM-2012-010 , 25.01.2012.

³ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, OJ L 281 , 23.11.1995, p. 31 - 50

⁴ Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, OJ L 350, 30.12.2008, p. 60 -71

Commission, following final negotiations between the three institutions in “Trilogue” meetings.

In an extraordinary meeting on December 17, 2015, the European Parliament’s Civil Liberties, Justice and Home Affairs Committee expressed its position on the texts agreed.

Finally, on December 18, 2015, the Permanent Representatives Committee (Coreper) confirmed the compromise texts.

Following such compromise was agreed, the Council adopted – on April 8, 2016 – its position at first reading on the Reform.

On April 14, 2016, the European Parliament – in a plenary vote supporting the Reform – adopted the draft text of the Reform package. This vote completed the legislative process for adoption of the Reform.

On May 4, 2016, the General Data Protection Regulation and the Data Protection Directive have been published in the Official Journal of the European Union, in all official languages.

Twenty days after its publication, i.e., on May 24, 2016, the General Data Protection Regulation will come into force. There will be a two-year grace period, after which its provisions will be directly applicable and will become enforceable in all Member States, i.e. on May 25, 2018.

The Data Protection Directive has entered into force on May 5, 2016. The Members States have now a two-year transition period, to transpose its provisions into national law, i.e. the transposition deadline will be on May 6, 2018. Concerning the United Kingdom and Ireland, the provisions of the Data Protection Directive will only apply to a limited extent, due to their special status regarding justice and home affairs legislation. In addition, Denmark will have the opportunity to decide, within six months after the final adoption of the Data Protection Directive, whether it is willing to implement it in its national law. (...)

[The full article can be read on our website.](#)

10 COMMANDMENTS FOR SUCCESSFUL EXPATRIATE RECRUITMENT

Jackye Elombo (Partner) - June 2016



jackye.elombo@wildgen.lu

In an increasingly competitive environment, Luxembourg is well placed to attract talented candidates from abroad thanks to the taxation and social protection advantages it offers, as well as its high ranking in measures of expatriates' quality of life. But what particular factors should an employer bear in mind when determining the framework and relocation conditions of employees recruited from abroad? Here are 10 of the most important issues that should be anticipated and addressed when drawing up a contract between the employer and the migrant worker.

1. Thou shalt consider thy choice of migrant worker
2. Thou shalt deal with administrative formalities relating to residence
3. Thou shalt register with the authorities
4. Thou shalt discuss the defrayal of mobility expenses
5. Thou shalt take care of social security
6. Thou shalt reflect on the choice of contract type
7. Thou shalt be aware of the law governing the contract
8. Thou shalt define the expiry of the contract
9. Thou shalt not overlook the return and possible reintegration of the employee
10. Thou shalt examine the question of the competent court in the event of litigation

[The full article can be read on our website](#)

ENTRY INTO FORCE OF THE NEW LUXEMBOURG LEGAL PUBLICATION REGIME

Isabelle Charlier (Director) - May 2016



Isabelle.charlier@wildgen.lu

Modernisation of the Luxembourg Trade and Companies Register – New publications process – New registration obligation for Luxembourg FCPs – Increase of costs for late filing of the annual accounts

The Law of **27 May 2016** reforming the legal publication regime relating to companies and associations, comes into force on 1 June 2016, together with the Grand-Ducal Regulation of 27 May 2016 and the Ministerial Regulation of 27 May 2016.

In this regard, the Luxembourg Trade and Companies Register (*Registre de Commerce et des Sociétés*) (“**RCSL**”) issued a circular on 10 March 2016 (circular RCSL 16/01) which clarifies the main amendments of the reform.

This reform is the last step towards modernisation of the RCSL which started in 2003 and aims at significantly reducing the administrative burdens for legal publications in Luxembourg.

[The full article can be read on our website.](#)

WILDGEN'S NEWS

JULY 2016

WILDGEN 2016 PROMOTIONS

Wildgen is delighted to announce the firm's latest career moves: **Lionel Bonifazzi** and **Delia Nitescu** are promoted Directors while **Florence Delille** is appointed Senior Associate.



Lionel Bonifazzi specialises in corporate law. His practice also includes tax law and accounting law. From January 2008 to January 2016, Lionel was author of "Brèves" in the "Guide des comptes annuels pour le Luxembourg" (Ed. Wolters Kluwer).



Delia Nitescu specialises in mergers & acquisitions, corporate structuring, project finance, public procurement, bankruptcy & restructuring and in EU regulatory services.



Florence Delille specialises in intellectual property, trademarks, dispute resolution and corporate law. She also has experience in European and International law. Florence has been part of the *Comité du Jeune Barreau* of Luxembourg since September 2015



Furthermore, **Jeanne Fournier** and **Kristof Jansen** (both specialised in corporate law) are promoted Associates.



These promotions show firm's continuing investment in encouraging professional development and promoting talented people.

JULY 2016

MIND AND MARKET 2016: CONGRATS

Congratulations to all start-up companies that pitched at the Mind and Market Forum Luxembourg on 30 June 2016 and especially to **Seerus** accredited with the jury award by Wildgen and to **LuxAI** that won the Mind & Market 2016 Special Award! Were also awarded: Tap Tap, Lux United, Yollty, Home Farmers, Cabin3D, DreamZ, Aquachiar, Bhaluu.



BROCHURES

JULY 2016

THE REFORM OF THE LUXEMBOURG COMPANY LAW REGIME

The Reform of the Luxembourg
Company Law Regime



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On July 13, 2016 the Luxembourg parliament adopted the bill of law 5730 modernising and amending the law of August 10, 1915 on commercial companies, the Civil Code and the law of December 19, 2002 on the trade and companies' register and on the accounting and annual accounts of undertakings (to simplify, the "New Company Law"). This memo aims to explain this modernisation.

JULY 2016

MODERNISATION DU DROIT DES SOCIÉTÉS LUXEMBOURGEOIS

Modernisation du droit des
sociétés luxembourgeois



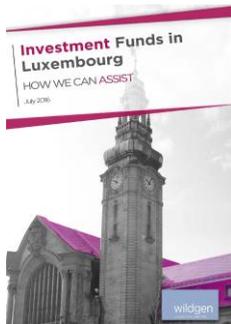
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Déposé pour la première fois il y a plus de huit ans, le Projet de Loi 5730 portant modernisation de loi du 10 août 1915 sur les sociétés commerciales a été voté le 13 juillet dernier par la Chambre des Députés. Cette loi entrera en vigueur le quatrième jour suivant sa publication au Mémorial A, laquelle devrait intervenir dans le courant du mois d'août.

Notre mémo explique cette modernisation et plus particulièrement les mesures concernant l'ensemble des sociétés ainsi que les modifications apportées au régime des sociétés anonymes et des sociétés à responsabilités limitée, formes sociales les plus communément rencontrées à Luxembourg.

JULY 2016

INVESTMENT FUNDS IN LUXEMBOURG

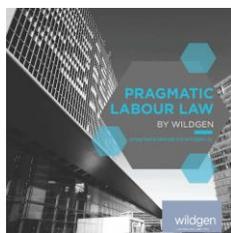


Wildgen, Partners in Law, offers a wealth of experience and a strong track record in advising on investment funds questions, becoming the alternative to the usual Luxembourg legal players.

Have a look at our investment funds brochure for more information on the services we offer in the investment funds practice in Luxembourg.

JULY 2016

PRAGMATIC LABOUR LAW BY WILDGEN



Our approach is simple: efficiency, pragmatism, and time & money saving.

Legal matters and proceedings can take a lot of time in a day-to-day management. This brochure presents how our expert lawyers can assist, advise, and represent your company, so you can focus on your business objectives and reduce the administrative legal burden.

We also offer tailor-made and dedicated packages, suitable for an always most demanding environment: the protection against employee absenteeism, and expat situation.

JUNE 2016

SECTEUR ASSURANCES – RÉTROSPECTIVE 2015

Velle juridique
Secteur Assurances
Rétrospective 2015



This memo aims to detail the 2015 main striking facts of the Insurance sector.

Ce mémo retrace les principaux faits marquants de l'année 2015 dans le secteur des Assurances.



WILDGEN'S EVENTS

15 – 17 SEPTEMBER 2016

9. ISA JAHRESKONGRESS - MALLORCA



From 15 to 17 September, **Mevlúde-Aysun Tokbag**, Partner and Member of the ISA International Network, takes part in the investment funds panel of the 9th ISA Jahreskongress in Mallorca.

As speaker, she is invited to give her expert point of view on the several topics that will be discussed during the conference.

This event is in German.

[More information on our website](#)

25 – 30 SEPTEMBER 2016

IFA 2016 70TH CONGRESS OF THE INTERNATIONAL FISCAL ASSOCIATION - MADRID



David Maria, Partner and Head of the Wildgen's Tax practice group, will attend the 70th Congress of the International Fiscal Association, to be held at the North Convention and Congress Centre Feria de Madrid, from 25 to 30 September 2016.

[More information on our website](#)

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LUXEMBOURG LAW FIRM

69, boulevard de la Pétrusse

L-2320 Luxembourg

Tel: +352 40 49 60 1

Fax: +352 40 44 09

info@wildgen.lu

www.wildgen.lu



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