

FICHE TECHNIQUE

MAIN LUXEMBOURG BUSINESS ENTITIES

UP TO DATE FOLLOWING THE LUXEMBOURG COMPANY LAW REFORM OF 10 AUGUST 2016

Author: **Yann PAYEN** – Director at Wildgen (yann.payen@wildgen.lu)

Date: March 2017

Introductory notes: what types of business entities to incorporate in Luxembourg?

The company law reform voted on 10 August 2016—almost a century after the promulgation of the first edition of the 1915 company law (the “Law 1915”)—and enforced starting 23 August 2016, had the primary objective of addressing the needs of an economy that is increasingly globalised and centred on finance. Thus, the reform maintains and strengthens the position of the Grand Duchy as a proactive financial and investment hub in Europe. For this purpose, the legislator ‘modernised’ the main types of Luxembourg business entities, using a highly pragmatic approach in line with the precept underlying this area of law since its beginnings: *contractual freedom between shareholders, legal certainty for third parties*.

All of the business entities have key characteristics and differences that make them more or less suitable depending on a wide range of factors: the types of activities to be carried out, the nature of the shareholding, the geographical origin of the shareholders, the type of financing sought, etc. For instance, public limited companies (*sociétés anonymes*) or partnerships limited by shares (*sociétés en commandite par actions*), both of which are highly regulated types of companies, should be considered in cases involving public offerings or the listing of shares or where control over the management is of prime importance. However, these company types are not always convenient for structuring acquisitions or for group reorganisation projects, where flexibility is essential. For these kinds of transactions, private limited companies (*société à responsabilité limitée*) are generally preferred.¹ To complete this toolbox, a new type of company, the simplified public company (*société par actions simplifiée*), has been introduced in the Luxembourg market as a tailor-made vehicle for investors. While some practitioners seem skeptical of the utility of this simplified type of company, the possibility for the shareholders to freely organise—around the chairperson—the company’s governance structure, together with the possibility of freely determining the political and economic rights that can be attached to its shares, potentially makes this business form an attractive vehicle for supporting private equity or joint venture transactions.

In parallel to the above, the legislator has also attempted to promote local entrepreneurship by passing, on 23 July 2016, the law establishing simplified private limited companies (*sociétés à responsabilité limitée simplifiées*). This variant of the classic private limited form—characterised by a very low degree of sophistication—was designed only so that natural persons who wish to develop and test innovative business ideas can create an ad hoc company in a timely and cost-efficient way, with a symbolic financial contribution (i.e., EUR 1 as the minimum starting capital), while benefiting from limited liability.

Disclaimer: *The comparative table below is purely for informational purposes and does not constitute legal advice. Its sole aim is to provide an overview of the main Luxembourg business entities’ features. The information herein (i) is of general nature and is not intended to address the specific circumstances of any individual or entity; and (ii) is not necessarily exhaustive or up to date and cannot, therefore, serve as a basis for future decision making. Also, in this comparative table, some Luxembourgish legal concepts are expressed in English terms followed by their original French wording. However, the Luxembourgish legal concepts concerned may not have the same meaning as the concepts described by the English terms, as they are governed by the laws of a different jurisdiction. Wildgen cannot be held liable for errors or omissions that might appear in this document or for any loss or damage arising from the use of the information contained in this document.*

¹ Limited partnerships (*sociétés en commandite*) and special limited partnerships (*sociétés en commandite spéciale*) are also commonly used in the private equity and fund industries.

TYPE OF COMPANY	Public Limited Company <i>Société Anonyme</i> (SA)	Partnership Limited by Shares <i>Société en commandite par actions</i> (SCA)	Simplified Limited Company <i>Société par Actions Simplifiée</i> (SAS)	Private Limited Company <i>Société à Responsabilité Limitée</i> (Sàrl)	Simplified Private Limited Company <i>Société à Responsabilité Limitée Simplifiée</i> (Sàrl - S) (in force as from 16 January 2017)
Legal regime	Art. 23 to 100 of the Law 1915 (Section IV of the Law 1915)	Art. 101 to 112 of the Law 1915 (Section V of the Law 1915) General reference to rules governing SA made in Art. 103 of the Law 1915.	Art. 101-18 to 101-26 of the Law 1915 (Section IVbis of the Law 1915) General reference to rules governing SA made in Art. 101-18 of the Law 1915.	Art. 179 to 202 of the Law 1915 (Section XII of the Law 1915)	Art. 202-1 to 202-6 of the Law 1915 (Section XIIbis of the Law 1915) General reference to rules governing Sàrl made in Art. 202-1 of the Law 1915.
Constitutive documents – articles of association	Notary deed to be published in <i>extenso</i> in the <i>Recueil Électronique des Sociétés et Associations</i> (“RESA”) ¹ .				Notary or private deed to be published in <i>extenso</i> in the RESA ^{1bis} .
Amendment to articles of association	Amendment to the articles of association require approval by a vote of two-thirds of the shareholders representing at least half of the share capital. If the quorum is not reached at the first meeting, a second meeting may be held which no longer requires a minimum quorum ² .	Amendment to the articles of association require approval of the unlimited shareholders (<i>associés commandités</i>) ³ .	Quorum and majority rules for amending the statutory provisions are to be determined by the articles of association ⁴ .	Amendment to the articles of association require approval of the shareholders representing three-quarters of the corporate capital ⁵ .	
Duration	Limited or unlimited, as provided in the articles of association.				The Sàrl-S has been designed as a transitory form vehicle, i.e. until its capital or non-distributable reserves reach EUR 12,000 in which case it shall be transformed into Sàrl ⁶ .
Minimum share capital	EUR 30,000 – fully subscribed – paid in to at least 25% at the subscription date ⁷ .			EUR 12,000 – fully subscribed – fully paid in ⁸ .	Between EUR 1 and EUR 12,000 – fully subscribed – fully paid in ⁹ .
Local currency or other	Any freely convertible currency.				
Authorised share capital	Permitted ¹⁰ (with or without preferential subscription rights) ¹¹ .			Permitted to the extent that the shares so created are issued to existing shareholders or to third parties approved by the general meeting ¹² .	

TYPE OF COMPANY	Public Limited Company <i>Société Anonyme</i> (SA)	Partnership Limited by Shares <i>Société en commandite par actions</i> (SCA)	Simplified Limited Company <i>Société par Actions Simplifiée</i> (SAS)	Private Limited Company <i>Société à Responsabilité Limitée</i> (Sàrl)	Simplified Private Limited Company <i>Société à Responsabilité Limitée Simplifiée</i> (Sàrl - S) (in force as from 16 January 2017)
Type of contributions	<p>In cash or in kind or by way of incorporation of available reserves/profits/premium¹³. Contributions in kind are in principle subject to a valuation report form an independent auditor (<i>réviseur d'entreprises agréé</i>).</p> <p>Contribution of claim held against the company may be regarded as contribution in cash by way of set-off provided that the claim consists of money and is certain, liquid and due and payable (if one of these conditions is not fulfilled, the claim contributed is to be treated as a contribution in kind, thus requiring an independent auditor report)¹⁴.</p> <p>Conversion of convertible bonds or other convertible debt instruments is also be considered as a deferred contribution in cash (except when these bonds/debt instruments have been subscribed in consideration of in kind payment)¹⁵.</p>			<p>In cash or in kind (contributions in kind do not require a valuation report form an independent auditor)¹⁶.</p> <p>Sweat contributions (<i>apports en industrie</i> being contribution of work, service or expertise) are also permitted but are not part of the share capital - i.e. shares issued in consideration of such sweat contribution are not representative of the share capital but may enjoy political and/or economic rights such as beneficiary shares (<i>parts bénéficiaires</i>)¹⁷.</p>	
Type of shares	Registered shares, bearer shares or dematerialized shares ¹⁸ .			Registered shares only ¹⁹ .	
Non-voting shares	Permitted - non-voting shares may even represent more than 50% of the share capital and are vested with financial rights as feely determined in the articles of association ²⁰ .			Not Permitted	
Issue of shares below par value of existing shares	Permitted - the possibility to issue shares with no mention of nominal value for a subscription price below the par value of the existing shares is however subject to certain formalities such as the delivery of an <i>ad hoc</i> report by an independent auditor ²¹ .			No specific provisions in section XII of the Law 1915. Practitioners however generally consider that Sàrl should be authorized to issue shares below the par value of the existing shares under the same regime as provided for SA.	This variant of Sàrl form has not been designed to make use of such a sophisticated mechanism.
Shares with different nominal value	Permitted ²²			This variant of Sàrl form has not been designed to make use of such a sophisticated mechanism.	
Tracking and alphabet shares	Permitted ²³			This variant of Sàrl form has not been designed to make use of such a sophisticated mechanism.	
Redeemable shares (<i>actions rachetables</i>)	Permitted ²⁴			This variant of Sàrl form has not been designed to make use of such a sophisticated mechanism.	

TYPE OF COMPANY	Public Limited Company <i>Société Anonyme</i> (SA)	Partnership Limited by Shares <i>Société en commandite par actions</i> (SCA)	Simplified Limited Company <i>Société par Actions Simplifiée</i> (SAS)	Private Limited Company <i>Société à Responsabilité Limitée</i> (Sàrl)	Simplified Private Limited Company <i>Société à Responsabilité Limitée Simplifiée</i> (Sàrl - S) (in force as from 16 January 2017)
Beneficiary shares (<i>parts bénéficiaires</i>)	Permitted ²⁵				This variant of Sàrl form has not been designed to make use of such a sophisticated mechanism.
Shares without consideration (<i>actions gratuites</i>)	Permitted ²⁶			Not Permitted	
Transfer of shares	Freely transferable unless otherwise provided in the articles of association (except for unlimited shares of the general partner of SCA).			Prior approval of at least three-quarters of the shares required in case of transfer to non-shareholders unless the articles of association provide for a reduced majority not lower than half of the shares ²⁷ . An exit mechanism (e.g. repurchase of the shares by the company or the existing shareholders) is however to be provided in the articles of association in case a contemplated transfer of shares to a third party is not approved by the general meeting ²⁸ .	
Statutory restrictions on the transferability of the shares	Permitted under certain conditions: <ul style="list-style-type: none"> - lock-up clauses (<i>clauses d'inaliénabilité</i>) are valid provided that they are limited in time²⁹. - approval or preemption statutory mechanisms (<i>mécansimes d'agrément ou de préemption</i>) are also valid to the extent that the duration of the approval or preemption process does not exceed 12 months as from the notification of the approval request or the exercise of the preemption right³⁰. Any transfer of shares performed in violation of these statutory restrictions shall be null and void.			No specific provisions in section XII of the Law 1915. Practitioners however generally consider that statutory restrictions on the transferability of the shares should be valid.	This variant of Sàrl form has not been designed to make use of such a sophisticated mechanism.
Voting rights	Each share benefits from voting rights that are proportionate to their nominal value, with one vote being allocated to the share which represents the lowest proportion (e.g. EUR 1 shares entitle their holders to one vote per share, EUR 2 shares to two votes per share, EUR 3 shares to three votes per share, etc.) ³¹ . The articles of association may however provide that all shares, irrespective their nominal value, give right to one vote only.			One share – one vote rule ³² .	
Voting arrangements	Permitted to the extent that they (i) are in line with the corporate interest of the company and (ii) do not consist for the shareholders to take instructions from or to approve in advance the proposals made by the company, a subsidiary or their corporate bodies ³³ . Although not being mentioned in the Law 1915, it makes no doubt that such kind of voting arrangements must be limited in time.				This variant of Sàrl form has not been designed to make use of such a sophisticated mechanism.

TYPE OF COMPANY	Public Limited Company <i>Société Anonyme</i> (SA)	Partnership Limited by Shares <i>Société en commandite par actions</i> (SCA)	Simplified Limited Company <i>Société par Actions Simplifiée</i> (SAS)	Private Limited Company <i>Société à Responsabilité Limitée</i> (Sàrl)	Simplified Private Limited Company <i>Société à Responsabilité Limitée Simplifiée</i> (Sàrl - S) (in force as from 16 January 2017)
Suspension and waiver of voting rights	Permitted - the management body of the issuing company may suspend the voting rights of defaulting shareholders - i.e. who are in default of their obligations under the articles of association/deed of subscription or deed of commitment - under conditions and formalities to be specified in the articles of association / shareholders may also waive to exercise their voting right, temporarily or on a permanent basis ³⁴ .				This variant of Sàrl form has not been designed to make use of such a sophisticated mechanism.
Division of the property of the shares between the bare-owner (<i>nu-proprétaire</i>) and the usufructuary (<i>usufruitier</i>)	Permitted - under the default regime set forth in Art. 1852bis of the Civil Code, i.e. “ <i>unless otherwise provided by the articles of association</i> ”, the voting right shall be with the bare owner, except for decisions in relation to the allocation of profits where it is reserved to the usufructuary / the usufructuary shall be entitled to the profit which the company decides to distribute ³⁵ .				This variant of Sàrl form has not been designed to make use of such a sophisticated mechanism.
Redemption of shares	Permitted under certain conditions set forth in Art. 49-2 and <i>seq</i> of the Law 1915 – in particular, the redemption of shares cannot result in the net assets of the company falling below the amount of the subscribed capital plus the reserves which may not be distributed under law or by virtue of the articles of association ³⁶ . In other words, the company shall have sufficient funds (in the sense of distributable reserves) to proceed with such redemption.			Permitted under certain conditions set forth in Art. 182 of the Law 1915 – in particular, the redemption of shares cannot result in the nominal value (or aggregate par value) of the shares held by the shareholders (other than the issuing company) becoming lower than EUR 12,000 ³⁷ . A Sàrl with minimum share capital of EUR 12,000 should therefore not be able to redeem its own shares. When shares so redeemed are to be cancelled, the articles may authorize the managers to proceed directly with capital reduction before a notary ³⁸ .	This variant of Sàrl form has not been designed to make use of such a sophisticated mechanism.
Financial assistance	Specific regime which prohibits in principle SA, SCA and SAS to directly or indirectly advance funds, grant loans or provide security with a view to the acquisition of their own shares by a third party, except where (<i>inter alia</i>) the financial assistance: <ul style="list-style-type: none"> - is provided at fair market conditions / arm’s length terms³⁹; - is approved by the general meeting of shareholders deliberating under the same quorum and majority conditions as for amendment to the articles of association^{39bis}; and - does not result in the reduction of the net asset of the company below the amount of the subscribed capital plus the reserves which may not be distributed under law or by virtue of the articles of association^{39ter}. 			No specific regime under section XII of the Law 1915 but it is not crystal clear whether Art. 168 of the Law 1915 - which provides, <i>inter alia</i> , that managers who make loans or advances using company funds or provide security with the view to acquire shares in the company in violation of Art. 49-6 and 49-7 of the Law 1915, may be subject to penalty - is fully applicable to Sàrl.	

TYPE OF COMPANY	Public Limited Company <i>Société Anonyme</i> (SA)	Partnership Limited by Shares <i>Société en commandite par actions</i> (SCA)	Simplified Limited Company <i>Société par Actions Simplifiée</i> (SAS)	Private Limited Company <i>Société à Responsabilité Limitée</i> (Sàrl)	Simplified Private Limited Company <i>Société à Responsabilité Limitée Simplifiée</i> (Sàrl - S) (in force as from 16 January 2017)
Number of shareholders	Minimum of one shareholder / no maximum limit ⁴⁰ .	Minimum of one limited shareholder (<i>associé commanditaire</i> whose liability is limited to the capital subscribed) and one unlimited shareholder (<i>associé commandité</i> who is indefinitely, jointly and severally liable for the obligations of the SCA) / no maximum limit ⁴¹ .	Minimum of one shareholder / no maximum limit ⁴² .	Minimum of one shareholder / no more than 100 ⁴³ .	While section XIIbis of the Law 1915 is silent on this matter, we believe that Sàrl-S has been designed in practice for a (very) small number of shareholders.
Resident shareholders requested	No such requirement				Again, section XIIbis of the Law 1915 does not contain a specific provision on this matter but considering the very purpose of this vehicle (i.e. to promote local entrepreneurship), we may expect in practice that Sàrl-S will mainly be incorporated by Luxembourg or border residents.
Type of shareholders	Individuals or legal entities				Individuals only ⁴⁴
Minority shareholder(s)' rights	<p>Recognition of <i>action ut singuli</i> whereby minority shareholder(s) representing at least 10% of the voting rights entitled to be exercised can bring claim against members of the board of directors having defaulted in their duties, on behalf of the company⁴⁵.</p> <p>Minority shareholders have also the right to address written questions to the management body with respect to company and affiliates' operations and even petition the president of the district court to have independent experts appointed to investigate on this matter, in the absence of answer from the management body⁴⁶.</p>		<i>Action ut singuli</i> is not opened to minority shareholder(s) but possibility to request independent investigation on certain company and affiliates' operations ⁴⁷ .		
Shareholders' ordinary meeting	At least one per year (no specific quorum requirement for ordinary resolutions which are taken at simple majority, unless otherwise provided in the articles of association) ⁴⁸ .		No obligation to hold a general meeting unless otherwise provided in the articles of association.	At least one per year if more than 60 members. If less, decisions may be taken by means of written resolutions (no specific quorum requirement for ordinary resolutions which are taken at simple majority, unless otherwise provided in the articles of association) ⁵⁰ .	

TYPE OF COMPANY	Public Limited Company <i>Société Anonyme</i> (SA)	Partnership Limited by Shares <i>Société en commandite par actions</i> (SCA)	Simplified Limited Company <i>Société par Actions Simplifiée</i> (SAS)	Private Limited Company <i>Société à Responsabilité Limitée</i> (Sàrl)	Simplified Private Limited Company <i>Société à Responsabilité Limitée Simplifiée</i> (Sàrl - S) (in force as from 16 January 2017)
			Decisions may indeed be taken by means of circular resolutions (quorum and majority requirements are to be determined in the articles of association) ⁴⁹ .		
Annulment of shareholders' meeting	General meetings are subject to action for annulment under limited conditions set forth in Art. 12 septies of the Law 1915 ⁵¹ .				
Liability of shareholders	Limited to subscribed capital ⁵² .	Limited to subscribed capital for the limited shareholder(s). Unlimited (indefinite, joint and several) liability for the unlimited shareholder(s) ⁵³ .	Limited to subscribed capital ⁵⁴ .	Limited to subscribed capital ⁵⁵ .	Limited to subscribed capital except for individuals who are shareholders in several Sàrl-S (such individuals are deemed to be joint and several guarantors of the Sàrl-S in such a case) ⁵⁶ .
Management – representative body	Board of directors (<i>conseil d'administration</i>) ⁵⁷ composed of three members at least (who can be either individuals or legal entities ^{57bis}) for one-tier SA (<i>structure moniste</i>) / Management board (<i>directoire</i>) ⁵⁸ composed of two members at least (who can be either individuals or legal entities) and supervisory board (<i>conseil de surveillance</i>) ⁵⁹ composed of three members at least (who can be either individuals or legal entities) for two tier SA (<i>structure dualiste</i>). A single director may be appointed in case the share capital is entirely held by a single shareholder ⁶⁰ .	Either by one or several general partners (<i>gérants commandités</i> , who can be either individuals or legal entities) appointed amongst the unlimited shareholders or by one or several managers (who can be either individuals or legal entities) ⁶¹ .	Management organization to be determined in the articles of association with the mandatory appointment of a chairperson (<i>président</i> , who can be either an individual or a legal entity) who is the only body entitled to represent the SAS vis-à-vis third parties ⁶² .	One or several managers (<i>gérants</i> , either individuals or legal entities) who can form a board of managers (<i>collège de gérance</i>) if provided in the articles of association ⁶³ .	One or several managers who must be individuals ⁶⁴ .
Resident directors requested	Not legally required but should be considered for substance purposes or if application for a business license.				

TYPE OF COMPANY	Public Limited Company <i>Société Anonyme</i> (SA)	Partnership Limited by Shares <i>Société en commandite par actions</i> (SCA)	Simplified Limited Company <i>Société par Actions Simplifiée</i> (SAS)	Private Limited Company <i>Société à Responsabilité Limitée</i> (Sàrl)	Simplified Private Limited Company <i>Société à Responsabilité Limitée Simplifiée</i> (Sàrl - S) (in force as from 16 January 2017)
Liability of directors/managers	Directors (for one tier SA) ⁶⁵ and members of the management board and supervisory board (for two tier SA) ⁶⁶ are liable for damages resulting from (i) any misconduct in the management of the company's affairs and (ii) from the violation of the Law 1915 or the statutory provisions of the SA.	Same regime as the one applicable to directors of SA in case the SCA is managed by managers who are not unlimited shareholders ⁶⁷ .	Same regime as the one applicable to directors of SA ⁶⁸ .	Same regime as the one applicable to directors of SA ⁶⁹ .	
Rules of conflict of interest	Any director of one tier SA ⁷⁰ and any member of the management board and supervisory board of two tier SA ⁷¹ having a direct or indirect patrimonial interest conflicting with that of the company in a transaction subject to the approval of the management body, must disclose it and abstain from taking part in the deliberations relating to this transaction. Where it is not possible to obtain sufficient quorum of directors/members of the management board or supervisory board because of a conflict of interest, the management body may refer the decision on the transaction/matter to be considered to the general meeting.	No specific regime provided in section V of the Law of 1915 so that same regime as the one applicable to directors of SA.	In case the chairperson has a direct or indirect patrimonial conflict of interest with the company with regard to a transaction, mention of the same shall be made in the minutes recording the decision on this transaction ⁷² .	Same regime as the one applicable to directors of SA ⁷³ .	
Delegation of management	Management of the company's affairs may be delegated to a general director (<i>directeur général</i>) or to a management committee (<i>comité de direction</i>) to the extent that such delegation does not extend to the determination of the company's general policy ⁷⁴ .	No specific regime provided in section V of the Law of 1915 so that same regime as the one applicable to SA.	Possibility for the chairperson to delegate part of his management's powers to executive officers (<i>directeurs</i>) ⁷⁶ .	Day-to-day management may be delegated to one or several managers, officers or agents ⁷⁷ .	

TYPE OF COMPANY	Public Limited Company <i>Société Anonyme</i> (SA)	Partnership Limited by Shares <i>Société en commandite par actions</i> (SCA)	Simplified Limited Company <i>Société par Actions Simplifiée</i> (SAS)	Private Limited Company <i>Société à Responsabilité Limitée</i> (Sàrl)	Simplified Private Limited Company <i>Société à Responsabilité Limitée Simplifiée</i> (Sàrl - S) (in force as from 16 January 2017)
	Day-to-day management (<i>gestion journalière</i>) may also be delegated to one or several directors, officers, managers or agents ⁷⁵ .				
Interim dividends	Permitted if so provided in the articles of association and under the conditions that interim accounts (which shall not date back more than two months from the day the decision to distribute interim dividends is taken) are drawn-up and show that funds for distribution are sufficient ⁷⁸ . The statutory or independent auditor of the company (if any) shall verify the satisfaction/fulfillment of these conditions.				
Annual Accounts	Approval of the annual accounts (balance sheet, profit and loss account and notes to the accounts) must take place within six months following the end of the financial year and filing of the same within one month with the Luxembourg Trade and Companies Register ⁷⁹ .				
Auditing requirement : statutory auditor (<i>commissaire</i>) vs independent auditor (<i>réviseur d'entreprises agréé</i>)	One or several statutory auditor(s) (or a supervisory board for the SCA) when less than two of the criteria below (the “ Criteria ”) are met or one or several independent auditor(s) when at least two of the Criteria are exceeded during at least two consecutive accounting periods ⁸⁰ . <u>Criteria:</u> - balance > EUR 4,400,000 - profits > EUR 8,800,000 - employees > 50 If these Criteria are fulfilled, the independent auditor(s) are appointed <i>in lieu</i> of the statutory auditor(s) ⁸¹ .			When less than 60 members, no statutory auditor is required. When 60 members or more, one or several statutory auditor(s) are to be appointed ⁸² . When at least two of the Criteria are exceeded during at least two consecutive accounting periods, one or several independent auditors are required. The latter will then replace the possibly required statutory auditor(s) ⁸³ .	
Material Losses – Art. 100 of the Law of 1915	Applicable - in case of material losses, the management body must convene the general meeting within a period not exceeding two months from the time at which these losses were or should have been ascertained, to decide whether the company is to be dissolved or not ⁸⁴ . The management body must furthermore explain in a specific report to be submitted to the shareholders the origins of these losses and make proposals regarding the continuation of the company's activities ⁸⁵ .			Not applicable	
Authorized activities	Any type of commercial and non-commercial activities			Any type of commercial and non-commercial activities except those in relation to insurance, capitalization and savings sectors ⁸⁶ .	Only activities subject to business license under the law of 2 September 2011 (e.g. commercial, craft and industrial activities) ⁸⁷ .

TYPE OF COMPANY	Public Limited Company <i>Société Anonyme</i> (SA)	Partnership Limited by Shares <i>Société en commandite par actions</i> (SCA)	Simplified Limited Company <i>Société par Actions Simplifiée</i> (SAS)	Private Limited Company <i>Société à Responsabilité Limitée</i> (Sàrl)	Simplified Private Limited Company <i>Société à Responsabilité Limitée Simplifiée</i> (Sàrl - S) <u>(in force as from 16 January 2017)</u>
Special license requested	Yes, if commercial or financial services activities (subject to CSSF monitoring) are carried out. No, in case of civil, holding or family wealth management activities only.				Yes ⁸⁸
Listing of shares/equity instruments	Permitted		Not permitted ⁸⁹		
Listing of bonds/debt instruments	Permitted		Permitted (except for convertible bonds and/or debt instruments giving access to share capital) ⁹⁰		Sàrl-S has clearly not been designed to proceed with bonds public issue or listing.
Tax regime	SA, SCA, SAS, Sàrl and Sàrl-S having their registered office in Luxembourg-city and which are fully taxable, are subject to an aggregate corporation tax burden which amounts to 27,08% in 2017.				
Fiscal transparency	No				
Change of nationality	May be decided by the general meeting under the same quorum and majority conditions as required for amending the statutory provisions of a SA ⁹¹ .	Required in principle the unanimous vote of the unlimited shareholders and/or the general partner(s) ⁹² .	May be decided by the general meeting under the quorum and majority conditions determined in the articles of association ⁹³ .	May be decided by the general meeting under the same quorum and majority conditions as required for amending the statutory provisions of a Sàrl ⁹⁴ .	
Simplified dissolution regime (without liquidation)	Applicable to companies having a single shareholder ⁹⁵ but under the conditions to obtain certain clearance certificates from the tax and social authorities ⁹⁶ . Under this simplified dissolution process, assets and liabilities of the dissolved company are transferred - by effect of law - to the sole shareholder ⁹⁷ .				

FOOTNOTES

^{1-1bis} Art. 4 and 8 of the Law 1915.	² Art. 67-1 (2) of the Law 1915.	³ Art. 111 of the Law 1915.	⁴ Art. 101-24 of the Law 1915.
⁵ Art. 199 of the Law 1915.	⁶ Art. 202-4 of the Law 1915.	⁷ Art. 26 (1) 2) of the Law 1915.	⁸ Art. 182 (1) of the Law 1915.
⁹ Art. 202-4 of the Law 1915.	¹⁰ Art. 32 (2) of the Law 1915.	¹¹ Art. 32-3 (5) of the Law 1915.	¹² Art. 199 of the Law 1915.
¹³ Art. 26 (4) of the Law 1915.	¹⁴ Art. 32-1 (5) of the Law 1915. While the Law 1915 is silent on this matter, practitioners are of the opinion that the same regime should be applicable <i>mutatis mutandis</i> to claims contributed to Sàrl.	¹⁵ Art. 32-4 of the Law 1915.	¹⁶ Art. 183, 184 and 202-4 (for the Sàrl-S) of the Law 1915.
¹⁷ Art. 183 (3) of the Law 1915.	¹⁸ Art. 37 (1) of the Law 1915.	¹⁹ Art. 185 of the Law 1915.	²⁰ Art. 45 and 46 of the Law 1915.
²¹ Art. 32 (6) and (7) of the Law 1915. Such a possibility could prove useful for companies having financial difficulties, to attract new investors by offering them discounted subscription price.	²² Art. 37 (for the SA) and 182 (for the Sàrl) of the Law 1915. A question remains whether, under this possibility, a company may issue shares in different currencies.	²³ Art. 1853 of the Civil Code. This type of shares, which track the performance of specific activities or assets, is often used in to structure private equity deals.	²⁴ Art. 49-8 (for the SA) and 182 (2) (for the Sàrl) of the Law 1915. These are shares that can be redeemed at the option of the issuing company or the holder, under the terms and conditions set out in the articles of association.
²⁵ Art. 37-1 (for the SA) and 182 (1) (for the Sàrl) of the Law 1915. Beneficiary shares are not representing the share capital but can be statutorily vested with political and economic rights as the one attached to shares (and even more as the legal doctrine agrees to consider that a plural voting right can be attached to these instruments).	²⁶ Art. 32-3 (5bis) of the Law 1915. This possibility to offer free shares to the employees and management of the issuing company and/or its affiliates (if provided in the articles of association) is deemed to ease the implementation of incentive schemes within group of companies.	²⁷ Art.179 and 189 (1) of the Law 1915.	²⁸ Art. 189 (1), (3) and (5) of the Law 1915.
²⁹ Art. 37 (2) of the Law 1915.	³⁰ Art. 37 (2) of the Law 1915.	³¹ Art. 67 (4) of the Law 1915. This proportional vote mechanism could be used to implement private-equity, joint venture or listed structures where founders or key shareholders have a dominant votingpower.	³² Art. 195 of the Law 1915. It must however be noted that majority requirements at general meetings of Sàrl are based on capital participation (see Art. 194 and 199 of the Law 1915).
³³ Art.67bis (for the SA) and 195bis (for the Sàrl) of the Law1915.	³⁴ Art.67 (8) (for the SA) and 195 (for the Sàrl) of the Law 1915.	³⁵ Art.1852bis of the Law 1915. With regard to the allocation of voting rights between the bare-owner and the usufructuary, we believe that the possibility for the articles of association to provide for a different split than the one foreseen in Art. 1852bis may not be extended to deprive the usufructuary of any right to vote. Indeed the later should in any case be entitled to decide on the distribution of profits. On the other hand, it should be possible to confer all voting rights to the usufructuary.	³⁶ Art.49-2 (1) 2) of the Law 1915.
³⁷ Art.182 (3) of the Law 1915.	³⁸ Art.182 (7) of the Law 1915.	³⁹ Art. 49-6 (1) a) of the Law 1915.	^{39bis} Art. 49-6 (1) b) of the Law 1915. At this occasion, the management body shall submit to the shareholders a report explaining the purpose and benefits for the company in entering into the financial assistance transaction, the terms and conditions of this transaction, the risks for the company's solvability and the price at which the third party is to acquire the shares. This report shall be filed with the RCS for publications purposes in the RESA.
^{39ter} Art. 49-6 (1) c) of the Law 1915.	⁴⁰ Art. 23 (1) of the Law 1915.	⁴¹ Art. 102 of the Law 1915.	⁴² Art. 101-18 of the Law 1915.
⁴³ Art. 179 and 181 of the Law 1915.	⁴⁴ Art. 202-2 (1) of the Law 1915.	⁴⁵ Art. 63bis of the Law 1915.	⁴⁶ Art. 154 of the Law 1915.

47	Art. 154 of the Law 1915.	48	Art. 70 of the Law 1915.	49	Art. 101-24 of the Law 1915.	50	Art. 193 of the Law 1915.
51	Art. 12septies of the Law 1915. Any action for the annulment of a general meeting must be initiated within six months of the meeting.	52	Art. 23 (1) of the Law 1915.	53	Art.102 of the Law 1915.	54	Art. 101-18 of the Law 1915.
55	Art. 178 of the Law 1915.	56	Art. 202-2 (2) of the Law 1915.	57	Art. 51 of the Law 1915.	57bis	Where a legal entity is appointed as director, it must designate a permanent representative exercising director's duties (see Art. 51bis of the Law 1915).
58	Art. 60bis-2 of the Law 1915.	59	Art. 60bis-14 of the Law 1915.	60	Art. 51 of the Law 1915.	61	Art. 107 of the Law 1915. Unlike for the SA, there is no obligation for managers that are legal entities to designate permanent representative.
62	Art. 101-20 and 101-21 of the Law 1915. Where a legal entity is appointed as chairperson, it must designate a permanent representative exercising chairperson's duties (see Art. 101-22 of the Law 1915).	63	Art. 191 and 191bis of the Law 1915. In case a manager is a legal entity, there is no need for it to designate a permanent representative.	64	Art. 202-6 of the Law 1915.	65	Art. 59 of the Law 1915.
66	Art. 60bis-16 of the Law 1915.	67	Art. 107 of the Law 1915.	68	Art. 101-23 of the Law 1915.	69	Art. 192 of the Law 1915.
70	Art. 57 of the Law 1915.	71	Art. 60bis-18 of the Law 1915.	72	Art. 101-25 of the Law 1915.	73	Art. 191bis (6) of the Law 1915.
74	Art. 60-1 (for one tier SA) of the Law 1915. General director and members of the management committee are subject to same liability and conflict of interest rules as the ones applicable to directors.	75	Art. 60 (for one tier SA) and 60bis-8 (for two-tier SA) of the Law 1915. Persons entrusted with the day-to-day management of the company are subject to same liability and conflict of interest rules as the ones applicable to directors.	76	Art. 101-21 of the Law 1915. Executive officers are subject to same liability and conflict of interest rules as the ones applicable to the chairperson.	77	Art. 191bis (4) of the Law 1915.
78	Art. 72-2 (for the SA, SCA and SAS) and 198bis (for Sàrl and Sàrl-S) of the Law 1915.	79	Art. 70 of the Law 1915 and 79 of the Law 2002.	80	Art. 69 (2) of the Law 2002.	81	Art. 69 (1) of the Law 2002.
82	Art. 200 of the Law 1915.	83	Art. 69 (2) of the Law 2002.	84	Art. 100 § 1 of the Law 1915.	85	Art. 100 § 2 of the Law 1915.
86	Art. 180 of the Law 1915.	87	Art. 202-3 of the Law 1915.	88	Sàrl-S can indeed only carry out activities for which a business license is required under the law of 2 September 2011, which license must be obtained prior the incorporation of the S.à r.l. – S.	89	Art. 101-19 (for SAS) and 188 (for Sàrl) of the Law 1915.
90	Art. 11ter of the Law 1915 to be read in conjunction with Art. 101-19 (for SAS) and 188 (for Sàrl) of the Law 1915. .	91	Art. 67-1 (1) of the Law 1915.	92	Art. 111 of the Law 1915.	93	Art. 101-24 of the Law 1915.
94	Art. 199 of the Law 1915.	95	Art. 1865bis § 1 of the Civil Code.	96	Art. 141 (2) of the Law 1915 – these certificates are to be obtained from (i) the <i>Centre d'informatique, d'affiliation et de perception des cotisations commun aux institutions de sécurité sociale</i> , (ii) the <i>Administration des contributions directes</i> and (iii) the <i>Administration de l'enregistrement et des domaines</i> .	97	Art. 1865bis § 4 of the Civil Code – the recognition of this automatic effect is expected to make this solution more efficient and secure in the context of reorganization or restructuring of group companies.