

Law of 6 April 2013 on dematerialised securities and amending:

- the Law of 5 April 1993 on the financial sector, as amended;
- the Law of 23 December 1998 establishing a financial sector supervisory commission (“Commission de surveillance du secteur financier”), as amended;
- the Law of 10 August 1915 on commercial companies, as amended;
- the Law of 3 September 1996 concerning the involuntary dispossession of bearer securities, as amended;
- the Law of 1 August 2001 on the circulation of securities and other fungible instruments, as amended;
- the Law of 20 December 2002 relating to undertakings for collective investment, as amended;
- the Law of 17 December 2010 relating to undertakings for collective investment, as amended;
- the Law of 13 February 2007 relating to specialised investment funds, as amended;
- the Law of 22 March 2004 on securitisation, as amended;

(Mém. A 2013, No. 71)

as amended by:

- the Law of 22 January 2021 amending:
 - 1° the Law of 5 April 1993 on the financial sector as amended;
 - 2° the Law of 6 April 2013 on dematerialised securities.

(Mém. A 2021, No 43)

We Henri, Grand Duke of Luxembourg, Duke of Nassau,

Having heard our State Council;

With the consent of the Chamber of Deputies;

Having regard to the decision of the Chamber of Deputies of 20 March 2013 and that of the State Council of 22 March 2013 that a second vote is not required;

Ordered and order:

Chapter I – General Provisions

Article 1. For the purposes of this law, the following definitions shall apply:

1) "securities account" means an account maintained by a settlement organisation, a central account keeper or an account keeper to which securities may be credited or debited. The securities issuance account held by a settlement organisation or a central account keeper does not constitute a securities account;

(Law of 22 January 2021)

"1a) "securities issuance account" means an account held with a settlement organisation or a central account keeper in which the dematerialised securities of an issuer must exclusively be recorded. This account may be maintained and the registrations of securities may be carried out within or through secured electronic registration mechanisms, including distributed electronic ledgers or databases."

2) "CSSF" means the Commission de Surveillance du Secteur Financier;

3) "distributions" means dividends, interest, capital due and other amounts due on the securities, free delivery of securities, any other distributions made in relation to securities by an issuer or the price paid by the issuer when redeeming these securities;

4) "issuer" means any person, including a common fund which issues securities;

5) securities are "of the same description" as other securities if they are issued by the same issuer and if:

(i) they are of the same class of shares; or

(ii) in the case of securities other than capital securities, they are of the same currency and denomination and are treated as forming part of the same issue;

6) "settlement organisation" means a securities settlement system within the meaning of the law on payment services, designated as such by the Banque centrale du Luxembourg and notified to the European Commission by the Minister responsible for the financial sector and whose system operator is established in Luxembourg;

7) "winding-up proceedings" means collective proceedings involving the realisation of the assets and distribution of the proceeds of this realisation among the creditors, shareholders, partners or members, as appropriate, and implying an intervention by administrative or judicial authorities, including where the collective proceedings are terminated by a composition or other analogous measure, whether or not they are founded on insolvency or are voluntary or compulsory;

8) "account keeper" means any person authorised pursuant to the Luxembourg law to maintain securities accounts including public national or international bodies established in Luxembourg and active in the financial sector;

9) "foreign account keeper" means any person, other than the persons referred to in point (8) of this article, whose account keeping activity is submitted to a foreign law;

10) "central account keeper" means any person authorised by the Minister responsible for the CSSF as a central account keeper in accordance with the provisions of the Law of 5 April 1993 on the financial sector, as amended;

11) "securities" means in the broadest sense:

(a) capital securities issued by joint-stock companies under Luxembourg law, including shares and stock, beneficiary shares, subscription rights and common fund units;

(b) debt securities subject to Luxembourg law such as financial instruments likely to be in the form of bearer instruments and public debt instruments.

(c) For the purpose of this law, the following are not considered as securities:

– bills of exchange

– securities redeemable by number-based draws

– shares and stock issued by pension savings companies with variable capital;

12) "listed securities" means dematerialised securities admitted to trading on a regulated market or a multilateral trading facility;

13) "dematerialised securities" means an issuer's securities which are issued or converted through registration on an securities issuance account maintained by a settlement organisation or a central account keeper;

14) "account holder" means a person, a common fund or a securitisation fund in whose name a settlement organisation, a central account keeper or an account keeper maintains a securities account, whether that person is acting for its own account or for others.

(Law of 22 January 2021)

“Central account keeper, within the meaning of this law, shall mean for non-listed debt securities as referred to in the first subparagraph of letter (b) of point (11), the investment firms referred to in point (9) of the Law of 5 April 1993 on the financial sector, as amended, and the credit institutions referred to in point (12) of said law. These investment firms and credit institutions shall have control and security mechanisms and IT systems adapted for the keeping of central accounts allowing the registration of all the securities which compose each issue admitted to their transactions in a securities issuance account, the circulation of securities by transfer from one account to another, the verification that the total amount of each issue admitted to their transactions and registered in a securities issuance account is equal to the sum of the securities registered in the securities accounts of their account holders and the exercise of the rights attached to the securities registered in the securities account.”

Article 2. (1) The dematerialised securities shall only be represented by a record in the securities account.

(2) The settlement organisation or the central account keeper may however issue or request the issuer to issue certificates relating to dematerialised securities for the purposes of the international circulation of securities.

Article 3. Listed securities of the same type shall be recorded at all times in a single securities issuance account maintained by a single settlement organisation.

Non-listed dematerialised securities of the same type shall be recorded at all times in a single securities issuance account maintained by a single settlement organisation or central account keeper.

The securities issuance account shall indicate the identification elements of the securities, the quantity issued and any subsequent changes.

Chapter II - Issue and conversion in dematerialised securities

Section 1 - Issue of dematerialised securities

Article 4. Any issuer which wishes to issue capital securities in dematerialised form shall prior to the issue of securities:

- adapt its articles of incorporation or its management regulation in order to include the issue of securities in dematerialised form and the applicable rules;
- take the required measures to record the issue of all dematerialised securities of the same type with a single settlement organisation or central account keeper; and
- disclose in a national newspaper and on its website, if available, the name and address of the chosen settlement organisation or central account keeper.

Any issuer registered with the trade and companies register of the Grand Duchy of Luxembourg shall submit to the register, for the purposes of publishing in the Mémorial, Recueil des Sociétés et Associations, an extract indicating the name and address of the chosen settlement organisation or central account keeper in accordance with Article 9 of the Law of 10 August 1915 on commercial companies, as amended.

Article 5. Any issuer which wishes to issue debt securities in dematerialised form shall take the required measures to record the issue of all dematerialised securities of the same type with a single settlement organisation or central account keeper.

Article 6. The issuer shall communicate in writing to its settlement organisation or central account keeper any changes affecting the securities. The communication shall take place prior to the change and be followed by a confirmation as soon as the change is made.

Article 7. The issuer's administrative bodies are responsible for choosing the settlement organisation or central account keeper.

Section 2 - Conversion of dematerialised securities

Article 8. The issuer which wishes to convert the capital securities it issued into dematerialised securities shall amend its articles of incorporation or its management regulation in order to take into account, especially:

- (1) the issuer's ability to issue dematerialised securities;
- (2) the securities which shall be converted in dematerialised securities;
- (3) the mandatory or optional characteristic of the conversion;
- (4) the conversion procedure; and
- (5) if the conversion is mandatory, the time limit for the conversion and the sanctions in case the securities are not presented for dematerialisation within this time limit. The time limit for the conversion shall be at least 2 years.

The issuer shall also comply with the provisions of Article 4.

Article 9. (1) The bearer securities in physical possession by their holder shall be converted gradually, as they are presented for registration in the securities account of an account keeper, central account keeper or settlement organisation. The person receiving the bearer securities shall submit them to the settlement organisation or central account keeper which holds the securities issuance account and which will give them to the issuer unless provided otherwise.

The issuer shall, upon receiving and following a procedure predefined by it, destroy the bearer securities given to it. The issuer may entrust, through written agreement, the settlement organisation or central account keeper with the destruction of bearer securities.

(2) The registered securities shall be converted through record in a securities account in the name of their holder. The holder recorded in the register of registered securities shall provide the issuer with the required data relating to its account keeper or foreign account keeper and to its securities account so as to be able to credit the securities. The issuer shall transmit these data to the settlement organisation or central account keeper which shall adjust the securities issuance account and transfer the securities to the relevant account keeper. The issuer shall adapt, where applicable, its register of registered securities accordingly.

(3) The securities which are immobilised within a settlement organisation, a central account keeper or an account keeper and which may be transferred by book entry transfer, at the time when the conversion decision is published or after that date can only be delivered by the account keeper in dematerialised form at the expiry of the three-month deadline as from the date of the publication in the Mémorial of the conversion decision. The settlement organisation and the central account keeper shall transfer the bearer securities to the issuer without delay so that it applies or, where applicable, executes the procedure for the destruction of securities as laid down in paragraph 1. If the securities concerned are registered securities and the settlement organisation, the central account keeper or account keeper is recorded in the register of registered securities directly or through a third person acting on its behalf, the issuer and the registered person shall make the required changes to the register.

Article 10. The account keeper may only record the securities converted into dematerialised securities in the available section of the securities account of their holder when it received confirmation that these securities were recorded in the available section of its own securities account or in that of the account keeper at the relevant settlement organisation or central account keeper.

Article 11. (1) The voting rights attached to the securities which were not dematerialised within the timeframe set for the compulsory conversion shall automatically be suspended until their dematerialisation when the deadline expires. The distributions shall be postponed until the same date, provided that the distribution rights are not prescribed, and shall not give rise to payment of interest.

(2) The securities the voting rights of which are suspended shall not be taken into account for the calculation of the quorum and of the majorities during the general meetings. The holders of these securities shall not be admitted to these general meetings.

(3) The securities which were not converted into dematerialised securities within two years as from the date of the general meeting deciding on the compulsory conversion of the securities into dematerialised

securities may be converted by the issuer into dematerialised securities and recorded by the issuer in a securities account under its name.

The converted securities shall be recorded in the name of the issuer until the holder comes forward and gets the securities recorded in its name. The costs for opening and holding the account shall be incurred by the issuer.

The record of the securities in the securities account in the name of the issuer made pursuant to this paragraph does not make it holder of rights on these securities. Paragraphs 1 and 2 of this article shall continue to apply until the day when the securities are recorded in an account in the name of the holder.

(4) The articles of incorporation, the management regulation or the conditions for the issue of capital securities or debt securities may lay down that the securities which were not dematerialised upon request by the holder within a timeframe, which cannot be less than eight years as from the date of the general meeting deciding on the compulsory conversion of the securities into dematerialised securities, may be sold by the issuer following a three-month notice to be published in the same way as the convening of securities holders to the general meeting:

- (a) the listed securities shall be sold on a market on which they are admitted to trading;
- (b) the units of undertakings for collective investment shall be redeemed at the net asset value applicable at that time;
- (c) the securities other than those listed under (a) and (b) above shall be sold via public auction at the Luxembourg Stock Exchange (*Bourse de Luxembourg*) at a price which, as regards shares, may not be less than the fair value of these shares as set by a *réviseur d'entreprises agréé* (approved statutory auditor) who shall apply an appropriate assessment method in the light of the nature of the issuer's activities and the number of securities subject to sale. In case the range of value is determined, the price may not be less than the average value of the price range determined by the *réviseur d'entreprises* (statutory auditor).

(5) Where the shareholders have a pre-emption right over securities, the securities shall be subject to an assessment by a *réviseur d'entreprises agréé* (approved statutory auditor) according to an assessment method defined in paragraph (4)(c). If it is agreed that the pre-emption right shall be exercised at a price which is set or may be set according to a determined calculation method, then the assessment of securities shall be made in accordance with this agreement. The issuer shall present the securities for sale to the beneficiary of the pre-emption right at the set price, otherwise at the average value of the price range determined by the *réviseur d'entreprises agréé* (approved statutory auditor). The securities not sold during the pre-emption process shall be put up for public auction by the issuer pursuant to paragraph (4)(c).

(6) The auctions described in paragraphs (4)(c) and (5) shall comply with the agreement clauses laid down in the articles of incorporation.

(7) The issuer shall deposit the amounts received from the auction, after deducting the auction fees and the costs laid down in the second sub-paragraph of paragraph (3) that it paid, with the Caisse de consignation. Unless otherwise provided, these amounts shall be given, in case of bearer securities, to the person who will deposit them physically with the Caisse de consignation and, in case of registered securities, to the person who is recorded in the securities register at the time of their sale.

(8) The issuer which puts the securities up for auction in accordance with this article shall only be held liable in case of serious violation.

(9) The securities which were stopped pursuant to the Law of 3 September 1996 concerning the involuntary dispossession of bearer securities, as amended, or which were subject to legal or judicial non-availability measure notified by the issuer before the deadline set in the articles of incorporation or the terms and conditions of the debt securities for the compulsory conversion of securities into dematerialised securities may not be sold as long as they are stopped or non-available.

Article 12. The pledge, whose aspects in rem shall be governed by the Luxembourg law and which concerns registered or bearer securities, shall remain valid and shall continue to be fully effective, without any other arrangements as regards the same dematerialised securities recorded in the securities account in Luxembourg whose ongoing dispossession is conducted in respect of third parties via their record in the securities account. Where the pledged securities are recorded in a securities

account opened in the name of the pledgor, the third-party holder shall be informed in writing of the existence of the pledge when the pledged securities are recorded in the account.

Where the securities which constitute the range of this pledge are subject to compulsory dematerialisation, the pledgor and the pledgee agree on who will carry out the dematerialisation before the deadline set for that purpose. If there is no agreement or if despite agreement, the pledgor does not carry out the dematerialisation within the deadline set, only the pledgee may carry it out. Unless otherwise agreed, the securities shall be recorded in a securities account opened in the name of the pledgee. If the conversion is hastened by the pledgee, the pledgor shall assist the former if necessary.

Chapter III - Transmission of dematerialised securities

Article 13. (1) The securities recorded in the account shall be transferred by book entry transfer.

(2) The provisions of the Law of 1 August 2001 on the circulation of securities shall be applicable to dematerialised securities, unless waived by this law.

Article 14. (1) The transfers between the securities account holders held with the same account keeper shall be carried out by book transfer between these accounts.

(2) The transfer shall be made without compensation between the account keepers, via the settlement organisation or the central account keeper in case the securities accounts of the original payer and payee shall be held with different account keepers.

(3) The manual donation of dematerialised securities shall be made through book entry transfer.

Chapter IV – The issuer

Article 15. To allow the account keepers or, where applicable, the foreign account keepers to exercise their associational rights and their rights of action against the issuer or third parties, they shall issue certificates to their account holders in exchange for written certification by the latter that they hold the securities concerned for own account or act pursuant to a right granted by the holder of the securities rights. Reference shall be made of it on the certificate.

Article 16. (1) The payment of distributions to the settlement organisation or to the central account keeper discharges the issuer.

(2) The settlement organisation or the central account keeper pays these distributions on the securities accounts of the account holders relevant in its books. This payment discharges the settlement organisation and the central account keeper.

Article 17. (1) If included in its articles of incorporation or its management regulation, the issuer may, at its expense and for the purpose of identifying the securities holders for own account, request the settlement organisation or the central account keeper the name or the denomination, the nationality, the date of birth or the date of incorporation and the address of the securities holders in its books which immediately confers or may confer in the future voting rights in its own general meetings as well as the quantity of securities held by each one of them and, where applicable, the limits the securities may be subject to. The settlement organisation or the central account keeper shall provide the issuer with the identification data that it has on the securities account holders in its books and the number of securities held by each one of them.

(2) The same information on the securities holders for own account shall be gathered by the issuer throughout the account holders or other persons, whether from Luxembourg or abroad, who have a securities account in a settlement organisation or a central account keeper credited with the relevant securities.

(3) The issuer may request the persons indicated on the lists given to it to confirm that they have the securities for own account.

(4) When a person who holds an account with a central account keeper or a settlement organisation or a person who holds an account with an account keeper or a foreign account keeper does not communicate the information requested by the issuer in accordance with this article within two months as from the request or if he communicated incomplete or erroneous information relating to his quality or

the quantity of securities held by him, the issuer may suspend until settlement the voting rights up to the amount of the share of securities for which the information requested was not received.

Article 18. (1) If the conversion of the class of shares is optional, the charges for the conversion by the issuer shall be borne by the person designated in the articles of incorporation or management regulation of the issuer. If there is no indication in the articles of incorporation or the management regulation, the charges shall be borne by the issuer.

(2) If the conversion of the class of shares is compulsory, the charges for the conversion by the issuer shall permanently be borne by the latter.

Chapter V - Settlement organisation and central account keepers

Article 19. The CSSF may, through a regulation, lay down the particular accounting rules to be applied to dematerialised securities by settlement organisation, central account keepers and account keepers.

Article 20. No securities issuance account can be attached, put into receivership or blocked in any manner whatsoever by an account holder, a counterparty or a third party (other than the settlement organisation or the central account keeper).

The securities in the securities issuance account may not be subject to any compensation and shall not be included in the assets in case of winding-up proceedings.

Article 21. The account keepers shall keep the dematerialised securities they have on behalf of third parties or for their own account on securities accounts opened with a settlement organisation or a central account keeper or with one or several other institutions acting for them, directly or indirectly, as intermediaries with respect to the settlement organisation or central account keeper.

Chapter VI – Amending¹ and final provisions

Article 30. (1) In all laws and regulations, the reference to the Law of 1 August 2001 on the circulation of securities and other fungible instruments shall be indicated as the Law of 1 August 2001 on the circulation of securities.

(2) This law may be referred to in abbreviated form using the designation “law on dematerialised securities”.

¹ The amendments included in Articles 22 to 29 have not been translated.