



Luxembourg to revamp the corporate cross-border restructuring regime

While freedom of establishment is one of the core principles of the European Union law, a set of harmonized and comprehensive rules on cross-border mobility of EU entities has long been lagging behind, leaving it mostly to the Court of Justice of the European Union to interpret the scope and content of the freedom of establishment rule. To make amends, in 2017 and in late 2019 the European institutions came up with two directives aimed at providing for a uniform EU-wide legal framework for corporate cross-border restructuring projects (notably, the Directive (EU) 2019/2121 as amended by the Directive (EU) 2019/2121), with the transposition deadline by EU member states set for 31 January 2023.



With the ball now in the EU member state side of the court, yesterday the Luxembourg government published a draft law to transpose the provisions of the above directive as closely as possible into Luxembourg law introducing a new special regime dedicated to EU cross-border mergers and de-mergers into the Luxembourg law of 10 August 1915 on commercial companies, as amended, while seeking to preserve the attractiveness and competitiveness of Luxembourg as a preferred jurisdiction for EU company owners.

Furthermore, the draft law intends to open up the new restructuring regime (including both local and cross-border merger and de-merger operations) to Luxembourg special limited partnerships (*société en commandite spéciale*), which were previously ineligible for participation in such operations on the basis of the lack of separate legal personality.

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