

Q&A CNC 20/020	<u>QUESTIONS / ANSWERS:</u> IMPACTS OF THE COVID-19 PANDEMIC ON THE ANNUAL AND CONSOLIDATED ACCOUNTS FOR THE FINANCIAL YEAR 2019 (*) OF LUXEMBOURG UNDERTAKINGS AND GROUPS
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Context:

The Covid-19 pandemic is a global health crisis of an exceptional scale. In order to stop the spread of the virus, containment measures have been taken by governments, leading to the temporary closure of undertakings or significant reductions in their activity.

The health crisis is accompanied by a global economic and financial crisis that directly affects Luxembourg undertakings and groups subject to the obligation to draw up and publish annual and consolidated accounts.

In view of the difficulties caused by the health crisis and the impossibility for business to follow its usual course, delays are potentially to be expected in drawing up and filing the annual and consolidated accounts for financial years that have recently ended or will soon end (see question 1).

In addition, the uncertainties surrounding the economic and financial consequences of the health crisis on the activity and financial position of undertakings and groups raise a number of accounting issues, particularly in relation with the assumptions for presenting the annual and consolidated financial accounts (see questions 2. and 4.), the impact on the valuation / measurement of assets and liabilities (see question 3.), the nature of the information to be provided in the notes to the accounts (see question 5.) and the development prospects to be presented in the management report (see question 6.).

In this context, the purpose of this document is to provide Luxembourg undertakings and groups with a useful insight into certain accounting implications of the Covid-19 pandemic.

Questions:

This Q&A proposes to provide answers to the following 6 questions:

1. Approval, filing and publication of the annual accounts and consolidated accounts for the financial year 2019: are the deadlines extended?
2. Covid-19 pandemic: event originating in the financial year 2019 or subsequent event not giving rise to an adjustment?
3. Valuation / measurement of assets and liabilities at the end of the financial year 2019: taking into account the consequences of the spread of Covid-19?
4. Going concern principle: consequences in the event of significant doubt or even definitive questioning at the time of closing the accounts for the financial year 2019?
5. Subsequent events: obligation and content of the information to be provided in the notes to the accounts?
6. (Consolidated) management report: should information on the development of the business, the main risks and uncertainties and the foreseeable development of the undertaking or group cover the consequences of the Covid-19 pandemic?

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Answer(s):

N.B.: With the exception of question 1, which relates to annual and consolidated accounts regardless of the accounting framework under which they have been drawn up, questions 2 to 5 only relates to annual and consolidated accounts drawn up under LUX GAAP and LUX GAAP – FV.

1. Approval, filing and publication of the annual accounts and consolidated accounts for the financial year 2019: are the deadlines extended?

Yes, the deadlines are extended by 3 months.

More specifically, the law of 22 May 2020 extending the deadlines for filing and publishing annual accounts, consolidated accounts and related reports during the state of crisis¹, extended the deadline for filing and publishing annual accounts, consolidated accounts and related reports during the state of crisis by 3 months:

- the deadline for submitting the annual accounts, consolidated accounts and related reports to the General Meeting (art. 1500-2, point 2° LSC);
- the deadline for filing the annual accounts and the trial balance of accounts presented in accordance with the standard chart of accounts (PCN) with the Trade and companies register (RCS) (art. 75 LRCS);
- the deadline for publication of the annual accounts and related reports² in the *Recueil électronique des sociétés et associations* (RESA) (art. 79 (1) LRCS);
- publication of the consolidated accounts and related reports³ (art. 1770-1 (1) LSC);
- publication in the RESA of the report (individual or consolidated) on payments made to governments (art. 72septies LRCS and art. 1760-4 LSC)⁴.

¹ Law of 22 May 2020 extending the deadlines for filing and publishing annual accounts, consolidated accounts and related reports during the state of crisis, Official Journal of the Grand Duchy of Luxembourg, Mémorial A, N° 467 of 29 May 2020, doc. parl. 7541.

² The reports relating to the annual accounts refer to :

- management report;
- declaration on corporate governance;
- non-financial report;
- the approved statutory auditor's report ("réviseur d'entreprises agréé") on the audit of the annual accounts.

³ The reports relating to the consolidated financial statements refer to:

- consolidated management report;
- consolidated non-financial report;
- the approved statutory auditor's report ("réviseur d'entreprises agréé") on the audit of the consolidated accounts.

⁴ This publication of the report on payments made to governments must usually take place within 12 months of the financial year to which the report refers.

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In view of the above, the annual or consolidated accounts for the **financial year ending 31 December 2019** of an undertaking falling within the scope of the general accounting law^{5/6}, must:

- be submitted to the General Meeting for approval no later than on 30 September 2020, i.e. 9 months after the balance sheet date, instead of the usual 6-month period expiring on 30 June 2020;
- be filed with the RCS and, where applicable, published⁷ in the RESA no later than on 31 October 2020, i.e. 10 months after the end of the financial year, instead of the usual 7-month period expiring on 31 July 2020.

In this respect, it should be noted that the annual general meeting of undertakings⁸ may be convened on a date that is within 9 months of the end of the financial year⁹, notwithstanding any provision to the contrary in the articles of association¹⁰. In addition, the general meeting may be held without a physical meeting even if the articles of association do not provide for this possibility¹¹.

Furthermore, the 3-month extension applies not only to the annual and consolidated accounts for the year ended 31 December 2019, but also to the accounts:

- for which the deadline for filing and publication had not expired on the date of declaration of the state of crisis, i.e. 18 March 2020;
- relating to a financial year ending on the date on which the state of crisis ends, i.e. 24 June 2020 at the latest.

⁵ General accounting law refers to:

- annual accounts: Title II of the amended law of 19 December 2002 on the Trade and companies register as well as the bookkeeping and annual accounts of undertakings (LRCS);
- consolidated accounts: Title XVII of the amended law of 10 August 1915 on commercial companies (LSC).

⁶ For undertakings in the financial sector covered by a sector-specific accounting law (e.g. credit institutions covered by the Banking Accounting Law of 17 June 1992, insurance and reinsurance companies covered by the Insurance Accounting Law of 8 December 1994), extension measures have also been introduced by the following law:

- Law of 12 May 2020 extending certain time limits provided for in the sector-specific laws of the financial sector during the state of crisis, Official Journal of the Grand-Duchy of Luxembourg, Mémorial A, N° 386 of 12 May 2020, doc. parl. 7540.

⁷ For undertakings subject to publication of annual accounts as referred to in article 77 of the LRCS.

⁸ Undertakings within the meaning of article 8 of the Commercial Code, including commercial companies, European Economic Interest Groupings (EEIGs) and Economic Interest Groupings (EIGs), comprising those of the regulated financial sector (e.g. credit institutions, insurance and reinsurance companies).

⁹ In accordance with article 3 of the aforementioned law of 22 May 2020 extending the deadlines for filing and publishing annual accounts, consolidated accounts and related reports during the state of crisis:

"Art. 3. *The annual general meeting of the companies referred to in Article 8 of the Commercial Code may be convened on a date falling within a period of nine months after the end of its financial year.*"

¹⁰ According to the preparatory work relating to draft bill of law 7541 (doc. parl. 7541/04), the aforementioned Article 3 is intended to ensure consistency with the Grand Ducal regulation of 20 March 2020 introducing measures concerning the holding of meetings in companies and other legal persons, by extending the date for holding the annual general meeting beyond 6 months and beyond 30 June 2020 as initially provided, notwithstanding any provision to the contrary in the articles of association. Article 1 para. 3 of said regulation states that "*notwithstanding any provision of the articles to the contrary, any company is authorised to convene its annual general meeting on the later of (i) a date falling within a period of six months after the end of its financial year or (ii) a date falling within a period extending to 30 June 2020.*"

¹¹ In accordance with Article 1 paragraph 1 of the Grand Ducal Regulation of 20 March 2020 introducing measures concerning the holding of meetings in companies and other legal persons. It should be noted that Article 1 paragraph 1 of draft bill of law 7566 extending the measures concerning the holding of meetings in companies and other legal persons is intended to extend the application of said measures after the end of the state of crisis, with the Grand Ducal Regulation of 20 March 2020 ceasing to have effect on 24 June 2020 at the latest.

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Consequently, annual or consolidated accounts **with a closing date between 18 August 2019 and 24 June 2020** are covered by the 3-month extension measures.

By way of illustration, it should be noted that the deadlines for filing the annual accounts for the **financial year ending 31 August 2019** had not expired when the crisis was declared on 18 March 2020¹². These annual accounts are therefore eligible for the 3-month extension and must be filed with the RCS by 30 June 2020 at the latest.

Similarly, the annual accounts for a **financial year ending on 31 May 2020** can also benefit from the extension measures, as the closing date falls before the anticipated end date of the state of crisis on 24 June 2020. These accounts must therefore be filed with the RCS by 31 March 2021 at the latest.

Lastly, it should be noted that the increase in fees for filing financial data with the RCS applicable in the event of late filing of annual and consolidated accounts has been adjusted to reflect the 3-month extension of the filing deadlines applicable to annual and consolidated accounts relating to financial years ending between 18 August 2019 and 24 June 2020. For accounts relating to these financial years, the increase in filing fees will only be taken into account once the 10-month period (7 usual months + 3 months of extension) has expired. The increase will then be applied according to the usual progressive scale¹³.

2. Covid-19 pandemic: event originating in the 2019 financial year or subsequent event not giving rise to an adjustment?

From an accounting point of view, and without prejudice to a distinct assessment made by the administrative or management body on the basis of the specific situation¹⁴ of the undertaking or group, it seems accepted that the Covid-19 pandemic constitutes a post balance sheet event at 31 December 2019, which does not give rise to an adjustment but that its impact, if significant, must be mentioned in the notes to the accounts.

Although a regional epidemic of pneumonia was observed in Wuhan, China, at the end of 2019 and was reported to the World Health Organization (WHO) by the Chinese authorities on 31 December 2019, there is now a relative consensus that the outbreak of the Covid-19 epidemic did not acquire an international dimension until the 1st quarter of 2020, and that this international spread of the virus is at the root of the economic crisis affecting the global, European and Luxembourg economies.

¹² The 7-month period provided for in article 75 of the LRCS will in principle expire on 31 March 2020, i.e. after the date on which the state of crisis was declared.

¹³ Filing fees increased, for accounts relating to financial years ending between 18 August 2019 and 24 June 2020, to an amount of :

- € 50 when the filing is made during the 11th month (8 + 3 months) following the end of the financial year;
- € 200 when the filing is made between the 12th month (9 + 3 months) and the 14th month (11 + 3 months) following the end of the financial year;
- € 500 when the filings made on or after the 15th month (12 + 3 months) following the end of the financial year.

¹⁴ A Luxembourg undertaking or group with activities or a supply chain in China already affected on 31 December 2019 by the then regional epidemic of the new, as yet unidentified virus, could consider – due to the specific circumstances of its situation – that this is an event giving rise to an adjustment within the accounts for the financial year 2019.

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In this respect, it is reminded that:

- the new Coronavirus was not isolated until 7 January 2020;
- On 30 January 2020, the WHO declared the outbreak of COVID-19 to be a public health emergency of international concern and issued temporary recommendations;
- On 11 March 2020¹⁵ the WHO described the outbreak of Covid-19 as a pandemic (i.e. the worldwide spread of a new disease), prompting the countries concerned to take emergency health measures;
- in Luxembourg, a state of crisis was declared by Grand Ducal Regulation on 18 March 2020¹⁶ and extended for a further 3 months by the law of 24 March 2020¹⁷.

In light of the foregoing, CNC is of the opinion that¹⁸:

- the outbreak of the Covid-19 epidemic constitutes a post-balance sheet event at 31 December 2019, i.e. an unfavorable event that occurred between the balance sheet date and the date on which the annual or consolidated accounts were closed,
- the international spread of the virus and its impact on the global, European and Luxembourg economies indicates a new situation that has arisen after the closing date of 31 December 2019;
- this subsequent event does not constitute an event that should give rise to an adjustment of the accounts at 31 December 2019 (see question 3), with the exception of cases where the going concern status of the undertaking or group is definitively compromised (see question 4);
- if material, the impact of this event must be disclosed in the notes to the accounts for the year ended 31 December 2019 (see question 5) and, where applicable¹⁹, in the (consolidated) management report (see question 6).

3. Valuation / measurement of assets and liabilities at the end of financial year 2019: taking into account the consequences of the Covid-19 pandemic?

No, the valuation / measurement of assets and liabilities at the end of the financial year 2019 should only reflect events and conditions that arose during the financial year ended. However, as the global spread of Covid-19 is an event that occurred after the closing date as of 31 December 2019 (see question 2), its consequences should generally²⁰ not be reflected in the valuation / measurement of assets and liabilities at that balance sheet date.

¹⁵ Keynote speech by the WHO Director General at the press briefing on COVID-19 – 11 March 2020 (<https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>)

¹⁶ Grand-Ducal Regulation of 18 March 2020 introducing a series of measures to combat Covid-19. Official Journal of the Grand Duchy of Luxembourg, Mémorial A, No 165 of 18 March 2020.

¹⁷ Law of 24 March 2020 extending the state of crisis declared by the Grand-Ducal regulation of 18 March 2020 introducing a series of measures to combat Covid-19. Official Journal of the Grand-Duchy of Luxembourg, Mémorial A, No. 178 of 24 March 2020.

¹⁸ An assessment of the undertaking's specific circumstances and their impact on the annual or consolidated accounts must be carried out in advance by management under the supervision of the body responsible for drawing up the accounts.

¹⁹ For undertakings other than small undertakings benefiting from the exemption and whose legal form is covered by the obligation to draw up a management report (see question 6.).

²⁰ With the exception of situations where:

- the going concern is definitively compromised when the accounts are closed (see question 4);
- the administrative or management body considers that the then regional epidemic of the new virus constitutes – in view of the specific situation of the undertaking or group – a subsequent event giving rise to an adjustment because it has contributed to confirming a situation that already existed at the end of the financial year (see question 2.).

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CNC notes that, in application of the principle of prudence set out both in the accounting directive 2013/34/EU (art. 6 para. 1 point c) ii)) and under LUX GAAP and LUX GAAP – FV (art. 51 (1) c) bb) LRCS), "*account must be taken of all liabilities" which have arisen in the course of the financial year concerned or in a previous financial year, even if such liabilities become apparent only between the date of the balance sheet and the date on which it is drawn up*".

In view of the above, CNC is of the opinion that since the worldwide spread of Covid-19 is considered to be a post-balance sheet event at 31 December 2019 indicating a new situation that arose after the balance sheet date, it cannot be required – except in specific or exceptional cases²¹ – that the economic consequences related to the pandemic be reflected in the valuation / measurement of the assets and liabilities of the undertaking or group at 31 December 2019.

By way of illustration and not as a limitation, CNC therefore considers that undertakings and groups with a financial year ending on 31 December 2019 are not required to reconsider the measurement of the following assets and liabilities²²:

- impairment of intangible assets (including goodwill), property, plant and equipment and financial assets;
- impairment of current assets, including stocks inventories, receivables and securities,
- provisions (e.g. costs related to under-activity);
- assets and liabilities measured at fair value.

Although the consequences of the Covid-19 pandemic should not be reflected in the valuation / measurement of assets and liabilities at 31 December 2019 – unless the going concern principle is definitively called into question (see question 4) or a distinct valuation / measurement is made by the administrative or management body (see question 2) – information on the impact of this event must nevertheless be provided in the notes to the accounts for the year ended 31 December 2019 when it is both unfavorable and material (see question 5) and, where applicable²³, in the (consolidated) management report (see question 6).

²¹ See: supra 20.

²² Except as explained in the notes to the accounts in the event that the Covid-19 pandemic, as a subsequent event not giving rise to an adjustment, has a material impact on these assets and liabilities.

²³ See: supra 19.

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4. Going concern principle: consequences in the event of significant doubt or even definitive questioning at the time of closing the accounts for the financial year 2019?

In the event of significant doubt – assessed at the time of preparation of the accounts²⁴ – as to the ability of the undertaking or group to continue as a going concern, it is the responsibility of the administrative or management body to determine whether the going concern assumption can be maintained and, if so, to consider the appropriateness of disclosing in the notes to the accounts the significant judgements enabling it to reach this conclusion. In situations where the going concern assumption appears to be definitively compromised at the time the accounts are closed, the going concern assumption cannot be maintained and the accounts must then be prepared in accordance with a more appropriate set of accounting conventions, for example on a liquidation basis.

CNC points out that, pursuant to Article 51 (1) of the LRCS, "[t]he measurement of the items shown in the annual accounts (...) a) the undertaking is presumed to be carrying on its business as a going concern". The parliamentary preparatory work state in this respect that "[i]n accordance with this principle, the annual accounts of an undertaking are those of a going concern which is continuing in operation for the foreseeable future. The valuation / measurement of assets and their depreciation according to their useful economic life are based on this principle. The annual accounts are therefore not those of an undertaking in liquidation"²⁵.

Considering the exceptional scale of the Covid-19 pandemic and its impact on the global economy, it is the responsibility of the administrative or management body of the undertaking or group to determine, when closing the annual and consolidated accounts at 31 December 2019, whether:

- there are no significant uncertainties about the undertaking's or group's ability to continue as a going concern: in this case, the going concern assumption may be maintained but – in the event of significant doubt – CNC strongly recommends that undertakings and groups disclose in the notes to the accounts the significant judgements made in order to justify maintaining the going concern assumption;
- the going concern basis is permanently compromised such that the administrative or management body intends to, or has no realistic alternative but to, liquidate or cease the business of the undertaking or group: in this case, the going concern assumption cannot be maintained and the accounts of the undertaking or group as at 31 December 2019 should be prepared in accordance with a more appropriate set of accounting conventions, for example on a liquidation basis.

²⁴ In view of the 3-month extension to the deadlines for approving and filing accounts, the annual or consolidated accounts of certain undertakings or groups for the financial year ending 31 December 2019 will often be closed 8 to 9 months after the end of the financial year, so that more precise information will be available on the quantitative impact of the Covid-19 pandemic on their business and, in particular, on their ability to continue operating in the reasonable future.

²⁵ Draft bill of law n°2657 adapting the amended law of 10 August 1915 on commercial companies to Directive 78/660 of the Council of the European Communities of 25 July 1978, ordinary session 1982-1983, comments on the articles, article 235, p.42.

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5. Subsequent events: obligation and content of the information to be provided in the notes to the accounts?

A distinction needs to be made between the situation of medium-sized and large undertakings and groups on the one hand, and that of small undertakings on the other.

5.1. The case of medium-sized and large undertakings and groups: an obligation to disclose information in the notes to the accounts?

Yes, for the vast majority of medium-sized and large undertakings and groups, the Covid-19 pandemic is a material subsequent event requiring disclosure in the notes to the accounts.

CNC points out that Article 65 (1) 18° LRCS requires that the notes to the annual accounts include information on "[t]he nature and financial effect of material events arising after the balance sheet date which are not reflected in the profit and loss account or in the balance sheet". Article 1712-19 point 19 LSC also requires that such subsequent events be disclosed in the notes to the consolidated accounts.

In this context, and considering that the worldwide spread of Covid-19 constitutes:

- an event occurring after the balance sheet date of 31 December 2019 (see question 2) that does not give rise to an adjustment unless the going concern principle is definitively called into question (see question 4);
- an event likely to have a significant impact on a majority of undertakings and groups due to the partial or even total paralysis of certain sectors of the economy as a result of containment measures;

CNC is of the opinion that medium-sized and large undertakings and groups preparing annual or consolidated accounts under LUX GAAP or LUX GAAP – FV are required to disclose in the notes information on the nature and financial impact (where this can be reliably estimated) of the subsequent event.

In this respect, it should be noted that the LUX GAAP and LUX GAAP – FV regimes do not provide any details as to the nature, scope and extent of the information to be disclosed in the notes to the accounts. In this context, it seems possible or even appropriate to refer to the IFRS – EU regime and more specifically to IAS 10 "Events after the balance sheet date" (see IAS 10 paragraphs 21 and 22).

By way of illustration, qualitative and quantitative information can be provided on:

- operational activities: impact on sales and operating cash flow, interruption of production, disruption of supply chains, unavailability of staff, losses on contracts, etc.
- financing activities: breach of bank covenants and consequences (e.g. immediate repayment), temporary government aid (advances, guarantees), group financial support, renegotiation of debt repayment schedules, difficulties in raising funds, suspension of dividend payments, etc.
- investment or divestment activities: delays in development plans, permanent closures of establishments, plants or sales outlets, restructuring plans, etc.
- the value of assets and liabilities: impairment of intangible assets (including goodwill), property, plant and equipment and financial assets, impairment of current assets (inventories, trade receivables, securities), impact on assets and liabilities measured at fair value, etc.

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Considering that the annual and consolidated accounts for the financial year 2019 are likely to be filed and published later than usual due to extraordinary circumstances and the extension measures provided for by law, it is important that the information provided in the notes to the accounts regarding the nature and impact of subsequent events is relevant²⁶ in order to enable users to have a proper understanding of the development of the business between the year-end date of 31 December 2019 and the date on which the accounts are closed, which – in some cases – will not be until 8 to 9 months later.

5.2. The case of small undertakings: primacy of the true and fair view requirement (art. 26 LRCS) or of the statutory exemption (art. 66 LRCS)?

In view of the extraordinary nature and potentially significant impact of the Covid-19 pandemic on the activities of small businesses and their ability to continue as a going concern, CNC strongly recommends that they include a note on significant events after the end of the financial year in the notes to their annual accounts.

The situation of small undertakings differs from that of medium-sized and large undertakings and groups in that simplification measures have been provided for by the legislator in order to reduce the administrative burden on them. The purpose of article 66 LRCS is to exempt small undertakings within the meaning of article 35 LRCS from the obligation to include in the notes to the accounts the information provided for in article 65 (1) 18° LRCS relating to significant subsequent events.

CNC notes, however, that the simplification measures provided for small undertakings do not exempt them from the general requirement of a true and fair view set out in Article 26 (3) LRCS²⁷ and its two consequences:

- (i) the obligation to provide additional information when the application of the provisions of accounting legislation is not sufficient to give a true and fair view (art. 26 (4) LRCS)²⁸;
- (ii) the obligation to derogate from the provisions of accounting legislation when, in extraordinary cases, the application of these provisions proves to be contrary to the objective of a true and fair view (art. 26 (5) LRCS)²⁹.

In view of the above, and given the extraordinary nature and potentially significant impact of the Covid-19 pandemic on the activities of small businesses and their ability to continue as a going concern, CNC strongly recommends that they include in the notes to their annual accounts a note on significant events after the end of the financial year and their impact on the undertaking, thereby giving priority to the supreme requirement of a true and fair view ("*true and fair view override*") over the principle of statutory exemption for the purposes of administrative simplification.

²⁶ In this context, it is important to provide information in the notes to the accounts that reflects the specific circumstances of the undertaking or group at the balance sheet date, and to avoid "providing boiler-plate disclosures" on the pandemic and the global crisis, which would have very little informational value for users.

²⁷ Art. 26(3) LRCS: "The annual accounts shall give a true and fair view of the undertaking's assets, liabilities, financial position and results".

²⁸ Art. 26(4) LRCS: "Where the application of the provisions set out hereafter would not be sufficient to give a true and fair view within the meaning of paragraph (3), additional information must be given".

²⁹ Art. 26(5) LRCS: "Where in exceptional cases, the application of a provision of this Chapter is incompatible with the obligation laid down in paragraph (3) above, that provision must be derogated from in order to give a true and fair view within the meaning of paragraph (3)".

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(*) For illustrative purposes, the financial year ending 31 December 2019 is used as an example in this Q&A, as the majority of Luxembourg undertakings and groups have a financial year based on the calendar year. In substance, however, the financial year 2019 refers to any financial year for which the deadline for filing with the RCS had not expired when the state of crisis was declared on 18 March 2020, i.e. in practice any financial year ending on or after 18 August 2019 (see question 1). Unless expressly stated otherwise (see the questions), this Q&A does not cover accounts relating to financial years ending on or after 1st January 2020.

Without prejudice to the above, CNC would like to remind that it is the collective responsibility of the members of the administrative, management and supervisory bodies of an undertaking – whatever its size – to ensure that the accounts are prepared in accordance with the requirements of the law (art. 69^{ter} LRCS³⁰). In this context, it is important for the bodies to be able to determine their position in the light of both the exemption in article 66 LRCS and the true and fair view requirement in articles 26 (3), (4) and (5) LRCS.

6. (Consolidated) management report: should information on the development of the business, the main risks and uncertainties and the foreseeable development of the undertaking or group cover the consequences of the Covid-19 pandemic?

Yes, the (consolidated) management report provides a valuable tool enabling the administrative or management body to inform its shareholders, partners and other stakeholders about the consequences of the Covid-19 pandemic on the development of the business, the financial position and the results, as well as the main risks and uncertainties facing the undertaking or the group and their foreseeable development.

Under article 68 of the LRCS, "*the management report (...) must at least contain a fair review of the development of the undertaking's business, its results and its position, together with a description of the principal risks and uncertainties it faces.*" This statement shall consist of a balanced and comprehensive analysis (...) commensurate with the size and complexity of the business. In addition, "[t]he report shall also include information on: (...) b) the foreseeable development of the undertaking". Similar provisions apply to groups in the context of the preparation of the consolidated management report provided for in article 1720-1 LSC.

In view of the above, CNC is of the opinion that the (consolidated) management report will generally provide a valuable and complementary tool to the information presented in the annual and consolidated accounts, enabling the administrative or management body to inform its shareholders, partners and other stakeholders about the consequences of the Covid-19 pandemic on the development of the business, the financial position and the results, as well as about the principal risks and uncertainties facing the undertaking or the group and their foreseeable evolution.

Without calling into question the foregoing, CNC notes that small undertakings referred to in Article 35 LRCS as well as the legal forms not covered by the accounting directive 2013/34/EU (e.g. cooperative societies) are not required by law to prepare a management report. In this respect, CNC reiterates that any undertaking wishing to do so may draw up a management report and make it available to the public by whatever means it deems most appropriate. Failing this, appropriate information should be provided in the notes to the annual accounts filed (see question 5.2.).

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³⁰ Art. 69^{ter} LRCS: "*The members of the administrative, management and supervisory bodies of an undertakings acting within the competences assigned to them by law the company have collectively the duty to ensure that the annual accounts, the management report and, when published separately, the corporate governance statement and the report referred to in Article 68bis, paragraph (5) to Article 69bis are drawn up and published in accordance with the requirements of this law and, where applicable, in accordance with the international accounting standards adopted in accordance with Regulation (EC) No 1606/2002*".

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Disclaimer

This document – provided as a courtesy – is an unofficial translation of the French original document entitled “Incidences de la pandémie de Covid-19 sur les comptes annuels et consolidés de l’exercice 2019 des entreprises et groupes luxembourgeois”. In case of discrepancy in interpretation, the French version shall prevail.

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- are of a general nature and do not refer to the specific situation of any natural or legal person;
- are intended to contribute to the development of accounting doctrine in accordance with Article 73(b) of the amended Law of 19 December 2002 on the trade and companies register, as well as on the bookkeeping and annual accounts of undertakings;
- only represent the opinion of the GIE CNC on a number of doctrinal and interpretative issues.

The administrative or management bodies of undertakings remain responsible in accordance with general law for any decisions taken based on this document.