

Q&A CNC 22/026(R)	<u>QUESTIONS / ANSWERS:</u> CURRENCY OF BOOKKEEPING AND OF PRESENTATION OF THE ANNUAL ACCOUNTS UNDER LUX GAAP AND LUX GAAP-FV REGIMES
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Context:

In line with the accounting directive 2013/34/EU¹, neither the law of 19 December 2002 on the trade and companies register as well as the bookkeeping and annual accounts of undertakings (LRCS), nor the law of 10 August 1915 on commercial companies (LSC) provide guidelines on the choice of currency for the day-to-day bookkeeping and for the presentation of annual accounts.

In contrast, the international accounting standards IFRS as adopted by the European Union (EU-IFRS regime) include the IAS 21 standard "*The Effects of Changes in Foreign Exchange Rates*", which deals with these issues by providing guidelines.

Clearly, within the annual accounts, the various elements of the balance sheet, the profit and loss account and the notes to the accounts, as well as the content of the related reports, must be presented in a single currency in order to provide a global, consistent and comparable true and fair view of the undertaking's assets and liabilities, financial position and results.

The choice of currency for the day-to-day bookkeeping and for the presentation of the annual accounts is generally made when the undertaking is set up, and any subsequent change must be extraordinary and justified². In practice in Luxembourg, it should be noted that 90%³ of undertakings filing financial data with the Trade and companies register (RCS) present annual accounts denominated in euros.

This Q&A proposes to provide answers to a number of questions relating to the currency of bookkeeping and of the presentation of annual accounts.

Questions:

- 1. How to choose the currency of day-to-day bookkeeping and of presentation of annual accounts?**
- 2. Does the currency of the share capital have an influence on the choice of currency for day-to-day bookkeeping and for the presentation of the annual accounts?**
- 3. What are the difficulties when the share capital is denominated in a currency other than the euro?**
- 4. Which source should be used to identify exchange rates?**
- 5. What information should be disclosed in the notes to the accounts?**

¹ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of companies, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC.

² See: Q&A CNC 21/024 "*Changes in accounting policies, measurement basis and estimates under LUX GAAP and LUX GAAP-FV*".

³ Analyses 4/2020. « *La Centrale des bilans: un état des lieux décennal* », Institut national de la statistique et des études économiques (STATEC), p. 14.

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1. How to choose the currency of day-to-day bookkeeping and of presentation of the annual accounts?

LRCS is silent regarding the currency to be used for day-to-day bookkeeping and for the presentation of the annual accounts.

In this context, it is accepted in practice that an undertaking organised under Luxembourg law is free to choose the currency that suits it best, taking into account, where appropriate, the following factors⁴:

- the environment in which the company operates, generates and spends its cash;
- the currency that influences its economic activity;
- the currency that influences its staff, purchases and other costs; and
- the currency in which funds from financing activities are generated.

In accordance with well-established practice, an undertaking organised under Luxembourg law may freely select a legal tender currency of its choice for its day-to-day bookkeeping and for the presentation of its annual accounts, provided that the currency is fully convertible and freely usable and that it is issued or guaranteed by a central bank or by a public authority. By way of example, crypto-currencies do not currently meet these characteristics, which seems to exclude – at the time of publication of this Q&A – the use of a crypto-currency (e.g. Bitcoin) by a Luxembourg undertaking for its day-to-day bookkeeping or for the presentation of its annual accounts.

2. Does the currency of the share capital influence the choice of currency for day-to-day bookkeeping and for the presentation of the annual accounts?

Although accounting law is silent regarding the currency to be used for day-to-day bookkeeping and for the presentation of the annual accounts, the prevailing practice in Luxembourg consists of aligning the currency used for the day-to-day bookkeeping and for the presentation of the annual accounts with the currency in which the share capital is denominated.

It should be noted, however, that while Luxembourg tax law⁵ seems to recommend the use of the currency of the share capital for the preparation of tax returns, this is not the case under Luxembourg accounting law.

As the law currently stands, there is no provision in accounting law that requires the alignment of the currency of the share capital with the currency in which the day-to-day books are kept and the annual accounts are presented. As a result, undertakings are free to use a currency for their day-to-day bookkeeping and for the presentation of their annual accounts that differs from the currency of their share capital.

⁴ Factors inspired by IAS 21 "The effects of changes in foreign exchange rates", paragraph 9.

⁵ See: Circular from the Director of the Direct Tax Administration L.G. - A no.60 dated 6 July 2018.

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3. What are the difficulties when the share capital is denominated in a currency other than the euro?

The LSC provides for the minimum share capital in euros of several legal forms of companies (e.g.: €30 000 for the SA, €12 000 for the S.à.r.l.) without, however, providing any further information regarding the possibility to denominate the share capital in a currency other than the euro. Given the silence of the texts, it seems possible to denominate the share capital in a currency other than the euro.

When a share capital currency other than the euro is chosen, compliance with the minimum share capital (in euros) should be checked regularly, at least every year when the annual accounts are drawn up. A change in the exchange rate could result in the share capital denominated in a currency other than the euro falling below the minimum share capital in euros. This situation would then have to be corrected immediately to ensure compliance with the minimum share capital in euros.

4. Which source should be used to identify exchange rates?

LRCS does not impose any specific requirements concerning the exchange rates to be used in order to convert amounts denominated in currencies other than the currency in which the day-to-day books are kept and the annual accounts are presented.

In this respect, while Luxembourg tax law^{6/7} recommends the use of the European Central Bank ("ECB") rates, there is nothing that prevents a Luxembourg undertaking from applying – from an accounting law perspective – exchange rates from another source, provided that these are reasonably consistent with those published by the ECB.

In accordance with general accounting principles, it is important to emphasise that companies are durably committed to their choice of accounting policy with regard to the source of exchange rates, in order to comply with Article 51, paragraph 1, point b) LRCS, which states that "*accounting policies and measurement bases may not be modified from one financial year to the other*"⁸.

5. What information should be disclosed in the notes to the accounts?

In a context where LRCS does not require any information on currencies and conversion rules in the annual accounts, CNC is of the opinion that it is appropriate to rely on the general principles, in particular on the true and fair view objective referred to in article 26, para. 3 LRCS as well as on the principle of clarity (transparency) referred to in article 26, para. 2 LRCS.

⁶ See: article 37 of the amended law of 12 February 1979 on value added tax states that:

" 1. Where the elements used to determine the taxable amount on imports are denominated in a foreign currency, the exchange rate shall be determined in accordance with the provisions of the Community law in force for calculating customs value.

2. Where the elements used to determine the taxable amount of a transaction other than an import of goods are denominated in a currency other than the euro, the exchange rate applicable is that of the last selling rate determined by reference to the rate published by the Luxembourg Central Bank or by an approved banking institution on the basis of the rate set by the European Central Bank, or published by the European Central Bank, at the time when the tax becomes payable".

⁷ See: Circular from the Director of the Direct Tax Administration L.G. - A no.60 dated 6 July 2018.

⁸ See: Q&A CNC 21/024 "Changes in accounting policies, measurement basis and accounting estimates under LUX GAAP and LUX GAAP-FV", which explains under what circumstances it is possible to change accounting policies and measurement basis and what the consequences are.

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CNC notes that, in practice, the currency in which the day-to-day books are kept and the annual accounts are presented is generally explicitly mentioned in the notes to the annual accounts⁹. It also appears automatically on the eCDF forms relating to the standard chart of accounts (PCN), the balance sheet (abridged or unabridged) and the profit and loss account (abridged or unabridged).

Conclusion:

There is no legal requirement for undertakings to keep their day-to-day books and to present their annual accounts in a specific currency, for example the euro as legal tender in Luxembourg or the currency in which their share capital is denominated. In this context, undertakings are free to determine the currency in which their day-to-day books are kept and their annual accounts are presented, provided that the currency is legal tender and is fully convertible and freely usable and that it is issued or guaranteed by a central bank or by a public authority.

In this respect, CNC points out that the true and fair view objective referred to in Article 26, para. 3 LRCS and the principle of clarity (transparency) referred to in Article 26, para. 2 LRCS must prevail as regards the currency of day-to-day bookkeeping and of presentation of annual accounts, a clear and fair information having to be disclosed in the notes to the annual accounts.

Disclaimer

This document – provided as a courtesy – is an unofficial translation of the French original document entitled “Devisé de tenue de comptabilité et d'établissement des comptes annuels en régimes LUX GAAP et LUX GAAP-JV”. In case of discrepancy in interpretation, the French version shall prevail.

The “questions and answers” published by the “Commission des normes comptables (CNC)” (Accounting Standards Board):

- are of a general nature and do not refer to the specific situation of any natural or legal person;
- are 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;
- do not prejudice the tax implications that may arise from the accounting treatments mentioned.

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

⁹ A generic note on currencies and on conversion rules is generally included in the notes to the annual accounts under the note dedicated to accounting policies and measurement bases.