

Luxembourg, 13th February 2015

Circular RCSL 15/2

Subject: Update to circular 09/003 with regards to the registration and publication of the permanent representative of a legal entity acting as an agent for a company.

Notes presented by the Luxembourg Trade and Companies Register ("RCS"):

- Are of a general nature and are not aimed at any particular situation applicable to any individual person or legal entity;
 - Are of a documentary nature and for information only;
 - Are solely aimed at answering a number of questions raised by "RCS" users;
 - Are of no legal value, and do not involve the liability of the "RCS";
 - Are not necessarily up-to-date, exhaustive or comprehensive ;
 - May not be used as a substitute for legal or professional advice ;
 - Only reflect the opinion of the "RCS" on a number of questions which remain subject to any interpretation issued by Courts and Tribunals.
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The present circular is issued as an update to circular 09/003, as a result of the implementation of the mandatory electronic filing with the "RCS" from the 1st of November 2014, and following the amended presentation applied to all. This document replaces circular 09/003.

In compliance with article 6.7° of the amended law of 19th December 2002 on the Luxembourg Trade and Company Register as well as the accountancy and the company annual accounts, any person appointed as permanent representative of a legal entity acting as legal agent must be registered with the Luxembourg Trade and Companies Register (hereafter referred to as "RCS") via the requisition form.

Furthermore, and as per articles 51bis and 60bis-4 of the amended law of 1915 concerning Commercial Companies, appointment and termination of the duties carried out by this representative are subject to all publication rules as per the dispositions set out in articles 9 and 11bis §1,3) of this same law.

Hence, the document for publication regarding the appointment of a permanent representative of a legal entity acting as an agent must be filed with the "RCS", as part of the company's

record. The requisition form is attached in order to register the permanent representative with the "RCS".

The requisition form must mention the name, first names, date, place of birth, work address or precise private address of the appointed permanent representative in the section on administrators/agents. Any amendments to this information must be filed with the "RCS" using a requisition form.

New "RCS" forms as introduced by the amended Grand-Ducal regulation of 22nd April 2009 revising the Grand-Ducal regulation of 23rd January 2003 enacting the amended law of 19th December 2002 on the Luxembourg Trade and Companies Register as well as the accountancy and the company annual accounts reflect the new information required by the abovementioned law of 19th December 2002. These forms are available on the "RCS" website (www.rcsl.lu).

With regards to the scope of these dispositions, the abovementioned law of 10th August 1915 stipulates that the mandatory appointment of a permanent representative only applies to legal entities acting as administrators and management board members of any European companies, and of public companies limited by shares.

Thus, mandatory filing of this information on permanent representatives of legal entities acting as agents with the "RCS" only applies to administrators and management board members of either European companies or public companies limited by shares.

Upon appointment of a permanent representative within any other type of company, registration of this representative with the "RCS" is also required as their appointment is subject to publication within the Memorial, official Journal of Companies and Associations.

With regards to all legal entities acting as representatives in a management capacity who are not members of the Executive Board and in the absence of any legal basis requiring a permanent representative to be appointed, all dispositions set out within the previous paragraph are applicable.

As a transitory measure, notification requirements will only apply to newly registered and newly renewed mandates. No spontaneous communication on permanent representatives will be required by the "RCS" upon the company's initiative; however this information will be accepted.

In the event of spontaneous communication aiming at registering a permanent representative whose identity has already been published within the Memorial, Official Journal of Companies and Associations, prior to the implementation of the law of 20th April 2009 on electronic filing with the "CRS", a copy of this publication is required as part of the filing request.

On behalf of the Manager of the Luxembourg Trade and Companies Register,

(s.) Yves Gonner
Director