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## SHAREHOLDERS' RIGHTS IN LISTED COMPANIES

Public takeover bids often leave minority shareholders with a sense of asymmetry and loss of control. Luxembourg law, however, adopts a different approach: rather than eroding their prerogatives, it establishes a structured framework designed to preserve shareholders' ability to access information, express their views and exert influence, including in cross-border contexts and in the case of recommended offers.

### Three key takeaways

#### Luxembourg anchoring of shareholders' rights

Even where a company's shares are admitted to trading on a foreign regulated market, fundamental shareholders' rights (governance, thresholds, control mechanisms, exit rights) remain governed by Luxembourg law as the law of the company's seat.

#### A recommended offer does not neutralise protections

Enhanced transparency, equal treatment of shareholders, freedom to decide on the merits of the offer and the primacy of the company's corporate interest continue to apply in full, under the supervision of the competent authorities and, where appropriate, the courts.

#### Collective action as a condition for real influence

Most of the most effective governance levers (calling a general meeting, adding items to the agenda, requesting a postponement, influencing governance structures) are subject to statutory thresholds. Coordination among minority shareholders therefore becomes a decisive factor in the effective exercise of these rights.

This memorandum provides a structured and practical overview of the mechanisms designed to protect minority shareholders under Luxembourg takeover law. It is intended as a basis for reflection and analysis in a field where collective strategy often proves just as decisive as the legal rule itself

Following recent announcements relating to a so-called recommended public takeover bid, a number of questions have arisen regarding the actual scope of minority shareholders' rights and the level of protection afforded to them.

This note aims to provide practical guidance to help (minority) shareholders navigate the applicable legal framework, identify the rights available to them and understand the levers that may be activated in this context.

## 1. A DUAL YET STRUCTURED LEGAL ARCHITECTURE

### 1.1. Luxembourg: an intrinsically international corporate law system

Luxembourg corporate law is, by its very nature, open and internationalised. This characteristic stems from Luxembourg's position as an international legal and financial centre, where companies very frequently display foreign elements, whether in terms of their shareholding structure, their activities or the markets on which their securities are listed.

Luxembourg applies the theory of the real seat, pursuant to which a company is subject to Luxembourg law insofar as its real seat—understood as the effective centre of management and operations—is located in Luxembourg. It follows that a company whose real seat is situated in Luxembourg is governed, for all matters falling within the scope of corporate law, by the law of 10 August 1915 on commercial companies, as amended (the **Law 1915**), irrespective of the regulated market on which its securities are admitted to trading.

In this context, the fundamental rules relating to corporate governance, shareholders' rights, control thresholds, as well as mandatory squeeze-out and sell-out mechanisms remain governed by Luxembourg law, even where the securities of a Luxembourg company are admitted exclusively to trading on a foreign regulated market. This principle forms the cornerstone of the analysis, including in situations with a strong cross-border dimension.

### 1.2. Listed companies: overlap of national and European rules

Where the securities of a Luxembourg company are admitted to trading on a regulated market in another Member State, the applicable legal framework becomes more complex as a result of the combined application of: (i) Luxembourg law; (ii) the rules of the Member State in which the company's securities are admitted to trading; and (iii) European Union law.

This overlap is not, however, unstructured or arbitrary. It is governed by clearly defined rules on the allocation of competences, deriving both from Luxembourg law and from European directives and regulations.

### 1.3. Public takeover bids: combined application of the Luxembourg takeover law and the law of the Member State of listing

In the field of public takeover bids, the allocation of competences is governed by the Luxembourg law of 16 May 2006 on takeover bids (the **Takeover Law**), which transposes the European Takeover Directive. The Takeover Law draws a distinction based on the place where the securities of the target company are admitted to trading. In this respect, several scenarios must be distinguished.

1.3.1. Where the target company has its registered office in Luxembourg **and** its securities are admitted to trading on a regulated market in Luxembourg, the *Commission de surveillance du secteur financier* (CSSF) is the competent authority for supervising the bid, and the Takeover Law applies in full.

1.3.2. By contrast, where the target company has its registered office in Luxembourg, **but** its securities are admitted to trading on a **regulated market in another Member State**, the competent authority for supervising the bid is the authority of the Member State on whose regulated market the securities are admitted to trading.

1.3.3. Where the securities of the target company are admitted to trading on regulated markets **in more than one Member State**, the competent authority is that of the Member State on whose regulated market the securities were first admitted to trading.

1.3.4. If the securities of the target company were admitted to trading **simultaneously** for the first time on regulated markets in several Member States, the listed company must determine which of the competent authorities of those Member States will supervise the bid, and must inform the relevant regulated markets and supervisory authorities from the first day of trading.

### 1.3.5. Allocation of applicable rules in cross-border situations

In the situations referred to in sections 1.3.2 to 1.3.5 above, the Takeover Law establishes a functional allocation of the applicable rules, which may be summarised as follows: matters relating to the conduct of the bid — including, in particular, (a) the consideration offered, especially the price, (b) the bid procedure, (c) information relating to the bidder's decision to launch a bid, (d) the content of the offer document, and (e) the modalities for disclosure of the bid — are governed by the rules of the Member State of the competent authority, namely the Member State on whose regulated market the securities are admitted to trading.

**By contrast, Luxembourg law remains fully applicable** to all matters relating to the information to be provided to the employees of the target company and to matters falling within company law, including in particular the percentage of voting rights conferring control, exemptions from the obligation to launch a bid, and the conditions under which the administrative or management body of the target company may take actions capable of frustrating the bid.

### CONCLUSION

These rules ensure that, while market discipline and the bid procedure legitimately fall within the competence of the Member State of listing, the fundamental rights of shareholders — as such — remain anchored in the company law of the Member State of the registered office. This framework guarantees that shareholders of a Luxembourg target company are not deprived of the core protections afforded by Luxembourg law solely as a result of a foreign listing, while at the same time ensuring coherence and legal certainty for market transactions conducted within a harmonised European framework.

### 1.4. The Market Abuse Regulation: a directly applicable European framework

With regard to market abuse rules, the situation is different. Regulation (EU) No 596/2014 on market abuse is a European regulation and is therefore directly applicable, without any need for national transposition. It applies uniformly to all companies whose financial instruments are admitted to trading on a regulated market within the European Union.

Its application is nevertheless supervised by the competent authority of the Member State of the relevant market, while national authorities — in Luxembourg, the *Commission de surveillance du secteur financier* (CSSF) — are vested with investigative, cooperation and sanctioning powers, in accordance with the applicable national implementing provisions and published administrative practice.

Accordingly, in a cross-border context: (i) the substantive rules are European in nature; and (ii) operational supervision is coordinated between national authorities, depending on the place of listing and the cooperation mechanisms provided for under EU law.

### **1.5. The Luxembourg Transparency Law: linkage to the issuer's home Member State**

The transparency obligations applicable to listed companies are based on the Luxembourg law of 11 January 2008 on transparency requirements for issuers (the **Transparency Law**), that applies to issuers for which Luxembourg qualifies as the home Member State, irrespective of the regulated market on which their shares are admitted to trading.

In particular, it provides for (i) the notification and publication of major shareholding thresholds; (ii) the disclosure of the total number of voting rights and share capital; and (iii) compliance with the principle of equal treatment of shareholders as regards access to information. The decisive criterion is therefore not the place of listing, but the issuer's connection to Luxembourg as its home Member State.

### **1.6. A protective framework for shareholders**

This legal architecture, although sometimes perceived as complex, pursues a clear objective: to prevent any dilution of shareholders' rights in a cross-border context. It ensures that (i) market discipline and the conduct of the offer are governed by the rules of the relevant market, while (ii) the fundamental rights of shareholders, as such, remain firmly anchored in the company law of the issuer's home Member State.

## **2. A recommended offer does not extinguish minority shareholders' rights**

The fact that a public takeover bid is described as "recommended" — i.e. supported by the board of directors or the supervisory board of the target company — may give rise to the perception that the transaction enjoys a presumption of legitimacy and, correlatively, that the position of minority shareholders is weakened. Such an interpretation does not, however, reflect the applicable legal framework.

The friendly or recommended nature of a public takeover bid is legally neutral as regards the application of the fundamental principles governing shareholder protection. These principles remain fully applicable, including in particular: (i) the principle of equal treatment of shareholders belonging to the same class; (ii) the right to benefit from any subsequent improvement in the price or the terms of the offer, including for shareholders who have already tendered their shares; and (iii) the protective mechanisms applicable in the event of a competing offer, which may, under the conditions laid down by law, allow shareholders to withdraw a prior acceptance.

Moreover, the support expressed by the company's governing bodies for the transaction cannot be dissociated from the obligations imposed on them under company law. In this respect, the members of the administrative or management bodies remain required, at every stage of the process, to take their decisions in the corporate interest of the company, understood as its own autonomous interest, and not in the interest of a particular shareholder or group of shareholders.

This requirement constitutes one of the cornerstones of the protection of minority shareholders. It implies that the assessment of a recommended offer must be based on an objective, loyal and well-informed analysis of the transaction, taking into account not only its financial aspects but also its strategic, social and governance implications.

In other words, the endorsement of a public offer by the company's governing bodies does not neutralise either the procedural safeguards provided for under takeover law or the obligations incumbent upon them under Luxembourg company law — in particular the duty to act in the corporate interest, to comply with the law and the articles of association, and to exercise their mandate with due care — all of which remain fully applicable irrespective of the recommended nature of the offer.

### **3. Transparency and information: a strengthened framework**

The recommendation of a public takeover bid by the governing bodies of the target company has neither the purpose nor the effect of reducing the transparency obligations applicable to the transaction. On the contrary, the legal framework governing public offers — combining takeover law (including the Takeover Law), the Law 1915 and the Transparency Law — results in reinforced disclosure requirements vis-à-vis the market and shareholders.

The applicable transparency regime is based not only on the above-mentioned statutory and regulatory rules, but also, where applicable, on specific provisions contained in the articles of association of the target company, adopted in addition to the statutory framework in order to ensure an enhanced level of information for the public and shareholders. Such statutory provisions may therefore strengthen, without replacing them, the information mechanisms provided for by law, in a logic of investor protection and sound corporate governance.

In this context, shareholders benefit from broader access to key information, relating in particular to the terms and characteristics of the offer, the reasoned position of the governing bodies, changes in the shareholding structure, notifications of threshold crossings, and the impact of the transaction on the company's governance and control.

These disclosure obligations, which apply irrespective of whether the offer is recommended, are intended to ensure that shareholders have access to information that is sufficient, accurate and up to date, enabling them to assess the transaction on an informed basis.

Transparency thus constitutes a central instrument for the protection of minority shareholders, allowing them to retain, throughout the offer process, a level of information that is useful and necessary for the effective exercise of their rights.

By way of example, the maintenance of a regular, useful and relevant level of information is notably ensured through the obligations to notify and publish significant shareholding threshold crossings under Luxembourg transparency legislation. Such notifications enable shareholders to monitor, in near real time, changes in the shareholding structure and the dynamics of control during the offer, and thereby to acquire a sufficient level of insight to assess the progress of the transaction and determine, in full knowledge of the facts, the position they consider appropriate to adopt at the time of their choosing.

### **4. Governance rights that remain fully effective**

Irrespective of the offer itself, minority shareholders remain free to exercise their rights within the central institutional forum of the general meeting, which continues to serve as the natural venue for debate, oversight and, where appropriate, for exerting pressure on the company's management bodies.

#### **4.1. Right to attend and participate**

The first, and undoubtedly most fundamental, right of a shareholder is the right to participate in the general meeting. The general meeting constitutes the natural and privileged forum in which shareholders may not only exercise their political rights, but also express their views, influence the company's decisions and, where appropriate, stimulate debate on strategic and governance choices, as well as question the company. It is at this level that shareholders' collective power over the company and its governing bodies is exercised.

Participation in the general meeting is naturally subject to shareholder status and proof thereof. For companies whose securities are admitted to trading on a regulated market, the Luxembourg law of 24 May 2011 on the exercise of certain rights of shareholders in listed companies (the **SRD II Law**)<sup>1</sup> applies the record date mechanism: shareholder status is determined at midnight (Luxembourg time) on the fourteenth day preceding the general meeting, irrespective of any subsequent transfers of securities.

The company may also provide for certain organisational formalities intended to ensure the orderly conduct of the meeting, such as prior registration requirements, the use of a prescribed form or the notification of participation within a given timeframe. However, such formalities must remain reasonable and proportionate: they may not be designed or applied in a manner that unduly restricts access to the general meeting or makes the effective exercise of the right to participate excessively difficult for shareholders.

## **4.2. Right to convene a general meeting**

In addition to the right to participate in a general meeting convened by the company's governing bodies, shareholders also have a specific right to trigger the holding of a general meeting themselves, provided that certain conditions are met. This right constitutes a particularly structuring governance lever, as it enables shareholders to compel the management bodies to convene a meeting and to debate matters that they would not have spontaneously placed on the agenda.

It is the general regime of the Law 1915 that provides for this right, stipulating that one or more shareholders representing at least 10% of the share capital may require the convening of a general meeting, while specifying the items to be included on the agenda. This 10% threshold applies regardless of whether the company is listed and has not been reduced by the SRD II Law.

The Law 1915 further strictly regulates the exercise of this right: the competent bodies are required to convene a general meeting to be held within one month of receipt of a valid request from shareholders representing at least one tenth of the share capital. Failing such convening within the prescribed period, the requesting shareholders have an effective judicial remedy, namely the right to apply to the President of the District Court sitting in commercial matters and ruling as in summary proceedings, for the appointment of a representative entrusted with convening the general meeting.

In practice, this right to convene a meeting constitutes a legitimate instrument of pressure available to significant minority shareholders, or to minorities capable of acting collectively. The prospect of a general meeting convened at the initiative of shareholders—and the public debates that follow—is capable of exerting tangible influence on the conduct of the company's administrative or management bodies, particularly in sensitive contexts such as a public takeover bid.

## **4.3. Right to add items to the agenda and to submit draft resolutions**

As a general rule, the Law 1915 grants shareholders holding, individually or collectively, at least 10% of the share capital the right to request the inclusion of items on the agenda of a general meeting and, accordingly, to submit draft resolutions, subject to specific procedural requirements and statutory deadlines.

However, the SRD II Law significantly strengthens this regime by lowering the required threshold to 5% of the share capital for listed companies. This right constitutes a particularly effective governance lever: it enables organised minority shareholders to force the public discussion of

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<sup>1</sup> Luxembourg law of 24 May 2011 on the exercise of certain rights of shareholders in listed companies, transposing Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies (commonly referred to as the Shareholders' Rights Directive I), as subsequently amended by the law of 1 August 2019, which transposes Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement (commonly referred to as the Shareholders' Rights Directive II).

sensitive matters, to structure the debate at general meeting level and, where appropriate, to formally submit alternative positions to those proposed by the company's governing bodies.

#### **4.4. Right to request an adjournment**

In addition to the right to convene a general meeting or to influence its agenda, shareholders also benefit from the right to request the adjournment of a general meeting that has already been convened. This right is grounded in the general regime of the Law 1915, which provides that one or more shareholders holding, individually or jointly, at least 10% of the share capital may require the adjournment of the general meeting for a period of four weeks.

Such a request results in the postponement of the general meeting, and any resolutions adopted during the initial session are annulled and deprived of legal effect. It should be emphasised that this right of adjournment has not been subject to any specific adjustment under the SRD II Law. Unlike other governance rights—such as the right to add items to the agenda or to submit draft resolutions—the legislator has not lowered the applicable threshold for listed companies. Accordingly, even where a company's shares are admitted to trading on a regulated market, the right to request an adjournment remains subject to the 10% share capital threshold provided for under the Law 1915.

In practice, this mechanism represents an important tactical tool for significant minority shareholders or those capable of coordinating their actions: it allows decision-making to be deferred, creates additional time for reflection and debate, and may, where appropriate, rebalance the power dynamics in sensitive situations, notably in the context of a public takeover bid.

#### **4.5. Right to ask questions**

The right to participate in a general meeting entails, for each shareholder, an individual right to ask questions, inherent to shareholder status and expressly enshrined by the SRD II Law for shareholders whose securities are admitted to trading on a regulated market.

Any shareholder is entitled to ask questions relating to the items included on the agenda of the general meeting, and the company is under an obligation to respond. This right constitutes an essential instrument of transparency and oversight, enabling shareholders to obtain meaningful clarifications regarding the resolutions submitted to their vote, the position of the company's governing bodies and, more broadly, the governance issues debated at general meeting level.

In principle, the exercise of this right is limited to matters appearing on the agenda, in order to preserve the orderly and efficient conduct of the meeting. However, in complex situations—particularly where a major transaction is underway—it may be accepted that questions which depart marginally from the strict wording of the agenda but are directly linked to the circumstances of the case and to the practical implications of the proposed resolutions, may nevertheless be admissible. Such an approach ensures a useful and informed debate, without unduly extending the agenda or opening new formal discussions outside the statutory framework.

In practice, the right to ask questions—far from being merely symbolic—provides shareholders, and especially minority shareholders, with a direct means of challenging the company's governing bodies during the meeting, thereby contributing to the quality of shareholder dialogue and to the effectiveness of oversight exercised through the general meeting.

#### **4.6. Right to have remarks recorded in the minutes of any general meeting**

In addition to their active participation in discussions and voting, shareholders also benefit from the right to have their remarks formally recorded in the minutes of the general meeting. This right contributes directly to the protection of their interests, as it ensures an accurate record of the

conduct of the meeting, the positions expressed and, where applicable, any reservations raised by shareholders.

In practical terms, shareholders may request that specific statements, objections or positions be expressly reflected in the minutes, prior to their closing and signature by the meeting bureau. This faculty is of particular importance where sensitive resolutions are adopted or where disagreements arise as to the procedure followed or the substance of the resolutions.

The ability to have remarks formally recorded in the minutes thus constitutes a key legal safeguard, notably for evidentiary purposes and for the subsequent exercise of rights or remedies. It helps ensure that relevant factual elements or objections are not omitted from the official record of the meeting, which constitutes authoritative evidence of how the meeting was conducted.

#### **4.7. Right to consult the minutes of any general meeting and the attendance list**

Shareholders also have the right to consult the minutes of general meetings, as well as the attendance list, these documents constituting the official records evidencing the conduct of the meetings, the resolutions adopted and the identity of shareholders present or represented.

Access to these documents enables shareholders to verify the regularity of the convening of the meeting and the quorum, compliance with applicable majority requirements, and the proper recording of votes and interventions. It further provides essential traceability in the event of subsequent challenges, in particular where the validity of resolutions or the conformity of the procedure followed is at issue.

In practice, access to the minutes and the attendance list represents a central tool of control and proof, allowing shareholders—and especially minority shareholders—to safeguard their rights and, where appropriate, to precisely document any irregularity or breach capable of supporting a subsequent action or request.

#### **4.8. Acting collectively to exert influence**

Taken individually, minority shareholders hold genuine rights, but the practical exercise of those rights often remains limited. Aside from the right to participate in the general meeting, to ask questions or to have remarks recorded, most of the governance mechanisms available are subject to the attainment of minimum shareholding thresholds, making them difficult to activate for retail investors acting alone.

The common denominator of all the rights examined above lies in the possibility of exercising them collectively. The applicable thresholds—whether set at 5% or 10% of the share capital—may be reached by one or more shareholders acting in concert or coordinating their actions, without any single shareholder being required to hold the relevant stake individually.

In this context, the ability of minority shareholders to organise and act collectively is a decisive factor. By joining forces, they may access high-impact governance tools—such as convening a general meeting, adding items to the agenda, submitting draft resolutions or requesting an adjournment—and thereby exert more meaningful influence over corporate governance and the decisions of the company's governing bodies.

In practice, such collective dynamics may transform a dispersed minority position into a structured force of influence, capable of altering the balance of power, imposing public debate and, where appropriate, compelling the company's bodies to justify, adjust or reconsider certain strategic orientations. In sensitive situations such as a public takeover bid, the ability of minority shareholders to coordinate may thus constitute an essential vector of expression, negotiation and protection of their interests.

By way of example, the right to add items to the agenda and to submit draft resolutions referred to above may prove to be a particularly powerful tool in the hands of shareholders capable of acting collectively, given its direct implications for corporate governance.

Under the Law 1915, members of the administrative body may be removed by the general meeting at any time, *ad nutum* and by a simple majority, this being a rule of public policy from which the articles of association may not derogate.

In a context where the shareholding structure may be largely dispersed—as is frequently the case for companies whose shares are admitted to trading on a regulated market and characterised by a significant free float—minority shareholders capable of coordinating and reaching the applicable legal thresholds may, through concerted action, activate multiple governance levers: convening a general meeting, adding items to the agenda, submitting draft resolutions and seeking their adoption.

Among these levers, the removal of incumbent members of the administrative body and the proposal of new board appointments stand out as particularly powerful governance tools. Without prejudging the outcome of such votes, the mere inclusion of these matters on the agenda of a general meeting may exert significant pressure on the company's governing bodies and materially influence their conduct, especially during sensitive phases in the company's life, such as a public takeover bid.

#### **4.9. Information rights**

The right to information constitutes a cross-cutting foundation for the exercise of shareholders' rights. It conditions their ability to participate meaningfully in discussions, to vote in an informed manner and, where appropriate, to challenge decisions taken.

To this end, the company is required to make available to shareholders, in accordance with the forms and time limits prescribed by law, all information necessary for the preparation of the general meeting, including in particular the agenda, explanatory documents, draft resolutions and any other relevant information enabling shareholders to assess the scope and implications of the decisions submitted for approval. These obligations arise both from the Law 1915 and from the regime applicable to listed companies and are further reinforced in sensitive contexts such as a public takeover bid.

The right to information is not limited to formal disclosure. It aims to ensure that information provided is complete, accurate and intelligible, thereby enabling shareholders to exercise effective oversight over the company's governing bodies. It also serves as a tool of traceability and protection, insofar as it allows potential deficiencies or irregularities in the decision-making process to be identified, which may subsequently form the basis for requests for clarification, formal reservations or legal actions.

Thus understood, the right to information appears not only as an autonomous right, but as a structuring lever underpinning the effective exercise of all governance rights, in particular for minority shareholders.

#### **4.10. The primacy of the company's corporate interest and protection against frustrating actions**

Beyond the governance rights expressly granted to shareholders, Luxembourg law affords minority shareholders an additional layer of structural protection.

Under the general regime stemming from the Law 1915, the members of the administrative and management bodies are required to take all decisions in the corporate interest of the company. This

principle permeates the exercise of management powers as a whole and constitutes a permanent benchmark, irrespective of any specific transaction.

This principle is expressly reiterated and reinforced, in the specific context of public takeover bids, by the special regime established under the Takeover Law. In its provisions relating to the general principles applicable to takeover bids, the law requires the administrative or management body of the offeree company to act in the interest of the company as a whole and prohibits it from depriving holders of securities of the opportunity to decide freely on the merits of the offer. As a result, the governing bodies may, in this context, only adopt measures that are compatible with the shareholders' freedom of decision. Any breach of these obligations may give rise to the liability of the directors or managers concerned.

## **5. Mandatory squeeze-out and sell-out rights: exit mechanisms as ultimate protection**

In addition to the governance rights and procedural safeguards outlined above, the Takeover Law also provides for specific mechanisms of mandatory squeeze-out and sell-out, which constitute the ultimate layer of protection for minority shareholders following a public takeover bid.

These provisions are designed to address situations in which, as a result of a takeover bid, the shareholding structure becomes highly unbalanced. On the one hand, the squeeze-out mechanism allows the majority shareholder, subject to certain conditions, to acquire the shares still held by minority shareholders in exchange for a fair consideration. On the other hand, the sell-out mechanism grants the remaining minority shareholders the right to require the offeror to purchase their shares, thereby enabling them to avoid being trapped in a company that has become almost entirely controlled.

The Takeover Law frames these mechanisms with specific rules intended to ensure the fairness of the price offered, which are implemented under the supervision of the *Commission de surveillance du secteur financier* (CSSF). This supervisory role helps ensure that any compulsory or requested exit of minority shareholders takes place under fair and transparent financial conditions.

Taken together, these mechanisms pursue a common objective: preventing minority shareholders from being locked into an unfavourable de facto situation characterised by reduced liquidity or a structural loss of influence. They reflect the legislator's intention to strike, at the end of the takeover process, a balance between the efficiency of the transaction and the protection of minority shareholders' interests, by guaranteeing, depending on the circumstances, either a right to exit or a regulated and compensated exit.

## **6. Available remedies remain in place**

Beyond the substantive and procedural rights outlined above, minority shareholders retain access to a range of remedies designed to ensure the effective enforcement of those rights. These mechanisms act as an essential complement to the overall protection framework, by allowing potential breaches of the applicable rules to be sanctioned.

Without claiming to be exhaustive, such remedies may notably take the form of challenges against certain decisions of the competent authorities, actions grounded in company law, or, in specific circumstances, liability claims. They also include all judicial remedies available before the competent courts, including urgent proceedings such as summary proceedings (*référé*) and their various forms, which may be used to put an end to a disturbance, prevent imminent harm, or secure the immediate enforcement of shareholders' rights.

These remedies are not designed to obstruct or paralyse market transactions, but rather to ensure compliance with the applicable legal framework and the effective exercise of shareholders' rights, particularly in sensitive contexts such as public takeover bids. The practical modalities of their implementation, which are numerous and highly dependent on the circumstances of each case, fall outside the scope of this note.

## CONCLUSION

The Luxembourg legal framework applicable to public takeover bids is firmly rooted in a protective approach towards minority shareholders. By combining a structured body of company law, the rigorous transposition of European directives, and a specific regime governing takeover bids, the legislator has sought to ensure that market openness and the cross-border nature of transactions do not result in a dilution of investors' rights.

The foregoing analysis demonstrates that these rights are neither theoretical nor merely declaratory. They are embodied in a coherent set of governance, transparency, information and protection mechanisms, some of which may be exercised individually, but whose full effectiveness is most clearly revealed when they are exercised collectively.

In this context, the ability of shareholders — and in particular retail investors — to coordinate and act in concert is a decisive factor. The aggregation of voting rights not only enables legal thresholds to be reached, but, more importantly, transforms a dispersed minority into a genuine force of expression and influence, capable of structuring debate, placing issues on the agenda and, where appropriate, shaping the decisions of the corporate bodies.

Ultimately, Luxembourg law does not deprive minority shareholders of effective means of action in the context of a public takeover bid, including a recommended offer. Still, these tools must be understood, exercised methodically and, above all, approached with the awareness that their effectiveness lies less in their accumulation than in their strategic and collective deployment.

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This memorandum is published for purely informational and general purposes. It does not constitute legal advice and cannot replace a specific analysis taking into account the particular circumstances of each situation.

Public takeover offers and the protection of minority shareholders are matters of current and particularly sensitive practical relevance. This memorandum is intended as a first analytical framework.

For any questions or assistance, please do not hesitate to contact our partner Pierre-Alexandre DEGEHET ([pierre-alexandre.degehet@kleyrgrasso.com](mailto:pierre-alexandre.degehet@kleyrgrasso.com)).



Pierre-Alexandre DEGEHET

Partner

T +352 227 330 – 738

E [pierre-alexandre.degehet@kleyrgrasso.com](mailto:pierre-alexandre.degehet@kleyrgrasso.com)

[www.kleyrgrasso.com](http://www.kleyrgrasso.com)

KLEYR\_GRASSO

7 rue des Primeurs

L-2361 Strassen (Luxembourg)