



## **CORONAVIRUS:**

### **FRENCH GOVERNMENT PUBLISHES A DRAFT BILL ADAPTING THE DECISION-MAKING PROCESS FOR COMPANIES IN RESPONSE TO THE COVID-19 PANDEMIC**

The use of alternative decision-making means has been possible, for certain entities and under certain conditions, since the NRE law of 15 May 2001 (regarding means of telecommunication), the law for the confidence and modernisation of the economy of 26 July 2005 (regarding videoconference means) and the law simplifying, clarifying and updating company law of 19 July 2019 (written consultations).

However, in response to the Covid-19 pandemic, a draft bill was introduced by the Government to adapt the decision-making process of certain entities in order to ensure the continuity of their operations and activities. This draft bill would make it easier to use alternative means of decision-making as well as increase their availability for certain entities. Entities within the scope of the draft bill are companies, economic interest groupings and European economic interest groupings.

The law is intended to apply retroactively from 14 March 2020 until 31 July 2020, unless this period is extended, with 30 November 2020 being the cut-off date.

The main aspects of the bill are summarised below. If passed, the bill will affect general shareholders meetings as well as board (supervisory board and board of directors) meetings. Please bear in mind that the provisions of the bill vary depending on the type of entity concerned.

## I. General Shareholders Meeting (GSM)

Entities will exceptionally be authorised to hold their GSM without their partners, associates, shareholders and members being physically present. Depending on the type of entity, a decision of the competent authority (e.g. board, director or manager) may or may not be necessary.

That being said, the partners, associates, shareholders and members of said entities will continue to be able to exercise their rights (voting rights or the right to formulate written questions for example) in accordance with the conditions laid down by the law and the regulatory provisions specific to each type of entity.

The bill extends the possibility for partners, associates, shareholders and members to use alternative decision-making means (videoconference and telecommunication means as well as written consultation procedures).

- For entities where the use of such alternative decision-making means was already permitted, it is no longer required that the use of such means is provided for in the constitutive documents or by-laws (*statuts* or *règlement intérieur*) of the entity.
- This bill also extends the use of such alternative decision-making means to entities for which it was not previously permitted.

## II. Board meetings

The use of videoconference and other telecommunication means is both made easier and extended to allow supervisory boards and boards of directors to continue to perform their tasks and duties.

- For entities where the use of such alternative decision-making means was already permitted, it is no longer required that the use of such means is provided for in the constitutive documents or by-laws (*statuts* or *règlement intérieur*) of the entity.
- This bill also extends the use of such alternative decision-making means to entities for which it was not previously permitted.
- Any clauses in the constitutive documents and by-laws (*statuts* or *règlement intérieur*) of an entity that would prohibit the use of alternative decision-making means is neutralised.
- The use of alternative decision-making means is extended to all meetings held by board of directors or supervisory boards, including approval of the company accounts.

## III. Videoconferencing and telecommunication means

The videoconferencing and telecommunication means employed will still need to exhibit certain technical characteristics to guarantee the integrity and quality of the debates, deliberations and meetings.

It will therefore be necessary to ensure that the means employed **transmit at least the voice of the participants and allow the continuous and simultaneous retransmission of the deliberations.**

## CONTACTS



**ALINE CARDIN**  
Partner

**T** +33 1 4405 5222  
**E** [aline.cardin@cliffordchance.com](mailto:aline.cardin@cliffordchance.com)



**CEDRIC BURFORD**  
Partner

**T** +33 1 4405 5308  
**E** [cedric.burford@cliffordchance.com](mailto:cedric.burford@cliffordchance.com)



**ALEXANDRE MERLE**  
Counsel

**T** +33 1 4405 2427  
**E** [alexandre.merle@cliffordchance.com](mailto:alexandre.merle@cliffordchance.com)



**OLIVIER JOUFFROY**  
Counsel

**T** +33 1 4405 5908  
**E** [olivier.jouffroy@cliffordchance.com](mailto:olivier.jouffroy@cliffordchance.com)



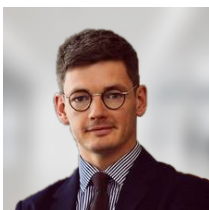
**OLIVIER PLESSIS**  
Counsel

**T** +33 1 4405 5487  
**E** [olivier.plessis@cliffordchance.com](mailto:olivier.plessis@cliffordchance.com)



**AURIANE BIJON**  
Counsel

**T** +33 1 4405 2468  
**E** [auriane.bijon@cliffordchance.com](mailto:auriane.bijon@cliffordchance.com)



**ANDREW MCCANN**  
Counsel

**T** +33 1 4405 5431

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Clifford Chance, 10 Upper Bank Street,  
London, E14 5JJ

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[E andrew.mccann](mailto:andrew.mccann@cliffordchance.com)  
[@cliffordchance.com](mailto:andrew.mccann@cliffordchance.com)