

FLASH NEWS – July 2015

LUXEMBOURG E-ARCHIVING LAW FINALLY ADOPTED!

Long awaited and expected by professionals, the draft Law on the dematerialization and archiving of documents (the “e-Archiving Law”) has finally been adopted following a unanimous vote of the Luxembourg Chamber of Deputies on 2 July 2015.

This new law is perfectly in line with the “Governmental Program” and the “Digital Letzebuerg” initiative which aims at strengthening and consolidating Luxembourg’s leading position in ICT.

The passing of the new Luxembourg e-archiving law has been warmly welcomed by the Luxembourg government which stressed that “beyond highly secure data centers in Luxembourg and the excellent national and international connectivity of the country, this modern and pragmatic legal framework for electronic archiving represents an additional argument to attract large companies looking to centralize their electronic archives in a single country”.

The new e-Archiving Law will replace obsolete rules on e-Archiving laid down by the Grand-Ducal regulation of 22 December 1986.

Digital copies are **assumed to have the same probative value as the originals** provided that the copies have been created in accordance with specific technical conditions to guarantee authenticity and integrity.

These requirements are deemed to be met when the digitized copies are made by a new category of certified service providers, the so-called **dematerialization and preservation providers** (the “*prestataires de services de dématérialisation et/ou de conservation - PSDC*”). **PSDCs can dematerialise and/or archive digital documents for themselves as well as for third parties.** The status of PSDC is therefore of real interest for any commercial company, including in the banking sector, which has a strong IT support team.

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PSDC status requires a certification from the Luxembourg Office for Accreditation and Surveillance (“**OLAS**”) on the basis of the technical rules enacted by the Luxembourg Institute for Standardization, Accreditation, Safety and Quality of Products and Services (“**ILNAS**”). PSDCs acting for professionals of the financial sector must also be authorized by the Financial Service Regulator (the “**CSSF**”).

Provided that these requirements are met, **Luxembourg Courts can no longer deny any value to digital copies when the original still exists, nor require the provision of the originals.**

The e-Archiving Law is of great importance to Luxembourg in becoming a “first mover” in terms of the “paperless office” and Luxembourg is the first EU country to adopt a legal framework for e-Archiving, taking better account of the needs of businesses with regard to the organizational and technological realities of document archiving.

