

Application for continuance of a company from Luxembourg to Jersey

Last reviewed: March 2023

This guide summarises the process by which a private limited liability company (*société à responsabilité limitée*) incorporated in Luxembourg can 'continue' or 'migrate' to become a private limited company incorporated in Jersey.

Relevant laws

The requirements for such a migration are covered in Articles 100-2 and 1300-2 of the Luxembourg law of 10 August 1915 on commercial companies, as amended, and Part 18C of the Companies (Jersey) Law 1991, as amended (the **Jersey Companies Law**).

Approval by board of managers

To commence the process, the board of managers of the company will approve, among other things, the proposed transfer of the registered office, place of effective management and central administration of the company from Luxembourg to Jersey and the convening of an extraordinary general meeting (**EGM**) of the company. The managers should approve interim accounts of the company (as at a date as close as possible to the de-registration date) to serve as a closing balance sheet in Luxembourg and an opening balance sheet in Jersey.

Approval by members

The EGM will be held in the presence of a Luxembourg notary. The notary will typically appear as each member's proxy appointed under a power of attorney by private seal. The EGM must unanimously approve the proposed transfer of the registered office, place of effective management and central administration of the company from Luxembourg to Jersey and the adoption of a new memorandum and articles of association of the company upon the continuance taking effect. If required, the EGM will also approve any proposed change of name of the company and/or changes to be made to the board of managers upon the continuance taking effect. The EGM would ordinarily also grant a discharge in favour of the departing board of managers in respect of their mandates and appoint a proxyholder in respect of any Luxembourg migration formalities. The signed minutes of the EGM will take the form of a notarial deed. The notary will typically issue a certificate confirming that all of the Luxembourg requirements in connection with the migration have been satisfied.

Application to the Jersey Financial Services Commission

The company must apply to the Jersey Financial Services Commission (the **JFSC**) for permission to continue into Jersey.

The application to the JFSC will consist of a standard company incorporation form, accompanied by, among other things, the following documentation:

1. a form C100 detailing certain information in relation to the company's activities, ownership and controllers;

2. a statement from the managers of the company confirming, among other things, that the interests of the members and creditors of the company will not be unfairly prejudiced by the proposed continuance and that the company is not undergoing any bankruptcy procedure;
3. a statement of solvency in the form required by the Jersey Companies Law signed by all the managers of the company and anyone who will become a director of the company upon the continuance becoming effective;
4. the company's constitutional documents certified to be a true copy by a Luxembourg lawyer;
5. a structure chart of the company's group;
6. a copy of the company's latest financial statements (for a period ended not more than 12 months prior to the date of the application);
7. a Luxembourg legal opinion confirming, among other things, that the company is authorised under the laws of Luxembourg to apply to continue within Jersey; and
8. any other documents and information which the JFSC may request in respect of the application.

The JFSC will typically take between 5-10 business days to review the application before issuing the Jersey certificate of continuance.

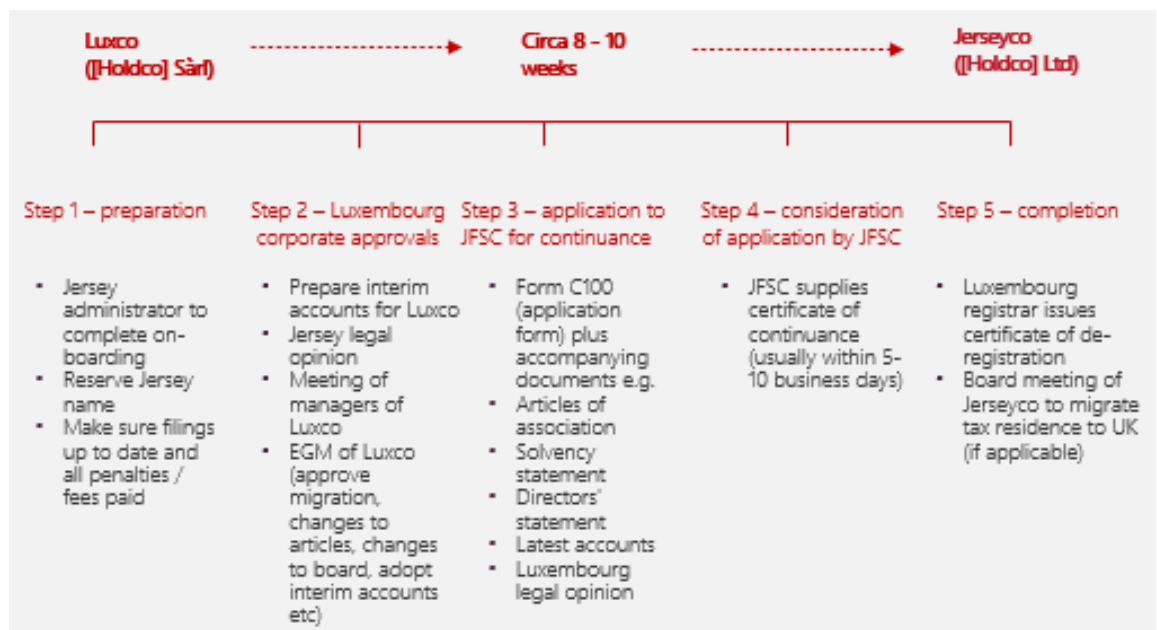
De-registration in Luxembourg

Once the JFSC have issued the Jersey certificate of continuance, the Luxembourg notary will commence the Luxembourg de-registration process. The notary will publish a de-registration announcement in the Luxembourg official gazette (*Recueil électronique des sociétés et associations*) and will submit the de-registration filing with the Luxembourg Trade and Companies Register (*Registre de Commerce et des Sociétés de Luxembourg*). The company will typically be de-registered in Luxembourg 3 business days following the making of such publication and filing and a certificate of de-registration (*certificat de radiation*) will be issued.

On completion of the continuance the company will often migrate its tax residence to the United Kingdom. The company will normally hold a board meeting to reflect this and the associated changes in its board of directors.

Timing

Subject to any tax, regulatory or other consents, filings or permissions required by the company in Luxembourg or in Jersey, the continuance process from Luxembourg to Jersey might typically take 8 to 10 weeks, though can sometimes be done more quickly. A breakdown of the timings for each step is as follows.



Effect of continuance from Luxembourg to Jersey

From a Jersey law perspective, once the JFSC has issued the Jersey certificate of continuance, the company becomes incorporated under the Jersey Companies Law and, in particular:

1. all property and rights to which the company was entitled immediately before the continuance took effect remain the property and rights of the company;
2. the company is subject to all criminal and civil liabilities, and all contracts, debts and other obligations, to which the company was subject immediately before the continuance took effect; and
3. all actions and other legal proceedings which, immediately before the continuance took effect, were pending by or against the company may be continued by or against the company.

From a Luxembourg law perspective, once the central administration of the company has been transferred outside of Luxembourg, and the de-registration with the Luxembourg Trade and Companies Register has been processed, the company will cease to be subject to the laws of Luxembourg.

Offences in relation to continuance

Any person who, in connection with the application to the JFSC, knowingly or recklessly provides to the JFSC any false, misleading or deceptive material or any document containing such information will be guilty of an offence.

Contacts

A full list of contacts specialising in Jersey Corporate law can be found [here](#).