

Revisions to company law – the essentials in a nutshell

It's finally time! The revisions to the legislation governing companies limited by shares enter into effect on 1 January 2023. Here's a selection of the **key** changes (*not a complete listing of changes*):

Share capital

- May now be denominated in the functional currency, provided accounting and financial reporting are carried out in the same currency. Resolution at the beginning of a financial year. Requires the articles of association to be amended and a resolution passed at the general meeting to be recorded by way of a public deed. *Applies mutatis mutandis to limited liability companies*
- 'Capital band' of +/-50% of the registered share capital rather than the authorised share capital. Each change within the capital band requires an amendment to the articles of association. No option to opt out of an audit

Interim dividends

- Dividends may now also be paid out of profits for the current financial year – for stock companies and for limited liability companies
- Based on interim financial statements (same principles as apply to annual financial statements)
- General requirement for interim financial statements to be audited, unless the company has opted out or all shareholders approve the interim dividend

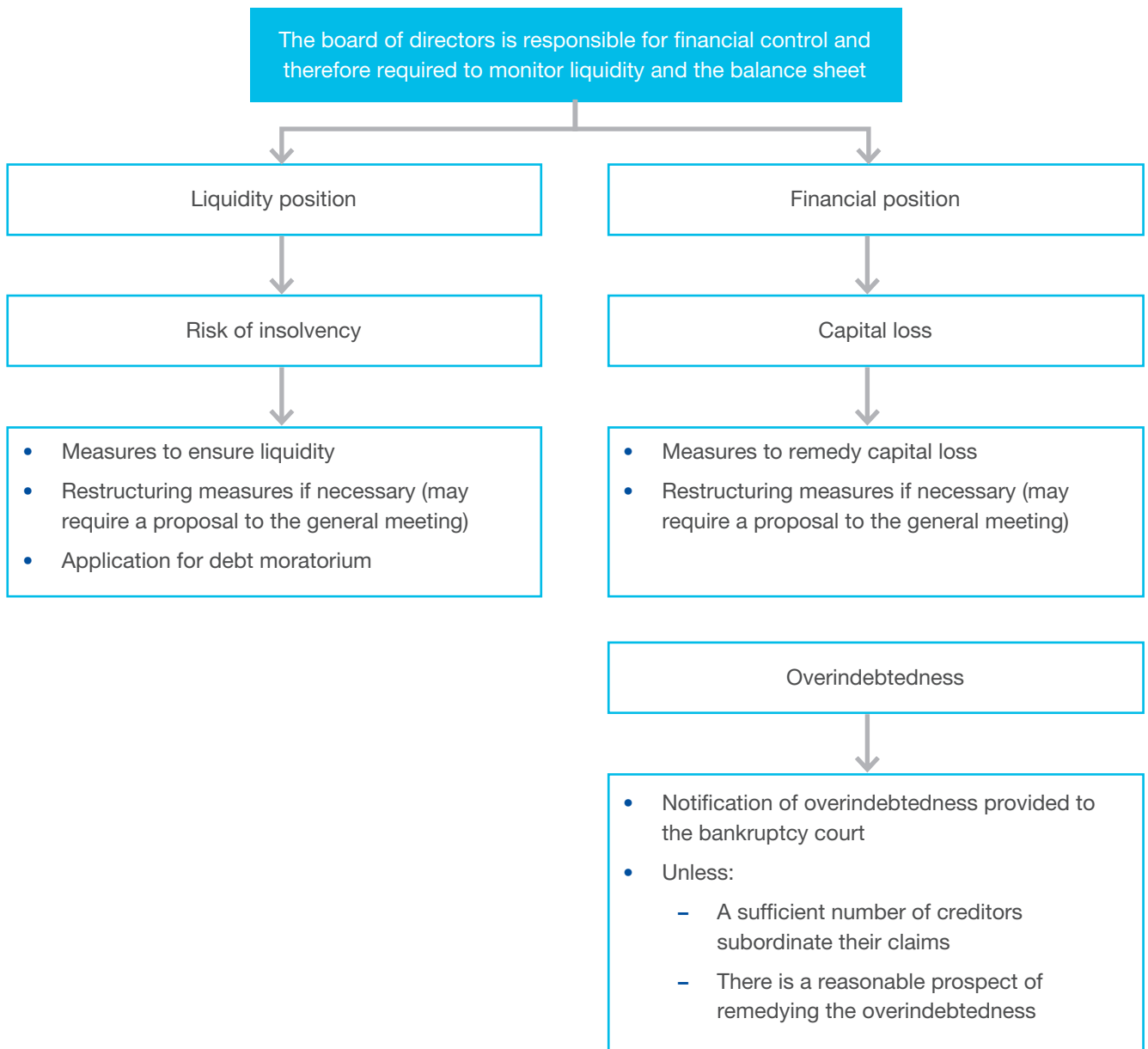
Shareholder rights and general meeting

- Adjustments to various thresholds for exercising rights of participation and control
- The general meeting may be held virtually; written or electronic resolutions are permitted. It may take place at several locations at the same time or abroad (provided there is a provision to this effect in the articles of association) – *also applies to limited liability companies*

- The general meeting may only dismiss the statutory auditor for good cause; requires a disclosure to be made in the notes to the financial statements

Board of directors

- Resolutions may be passed electronically by circulating the relevant documents and without signatures
- Duties of care and loyalty in the event of a conflict of interests (*also applies to limited liability companies*)
- Financial responsibility still rests with the board of directors; new, explicit obligations if there is a risk of insolvency (*at limited liability companies, these obligations rest with the managing directors*)
- In the event of a 'capital loss' amounting to one-half of the company's "protected equity", the most recent financial statements must undergo a limited audit by a statutory/licensed auditor before they are approved at the shareholder's meeting (general meeting in the case of a limited liability company) => **this will already apply to financial statements for the annual period ending 31 December 2022!**
- If there is good cause to suspect that the company is overindebted - based on its ability to continue as a going concern - interim financial statements must be prepared at going concern or liquidation values; these must undergo a limited audit by a statutory/licensed auditor => **this will already apply to financial statements for the annual period ending 31 December 2022!**
- *Also relevant to limited liability companies*



We would be happy to advise you on the issues of relevance to you.

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