

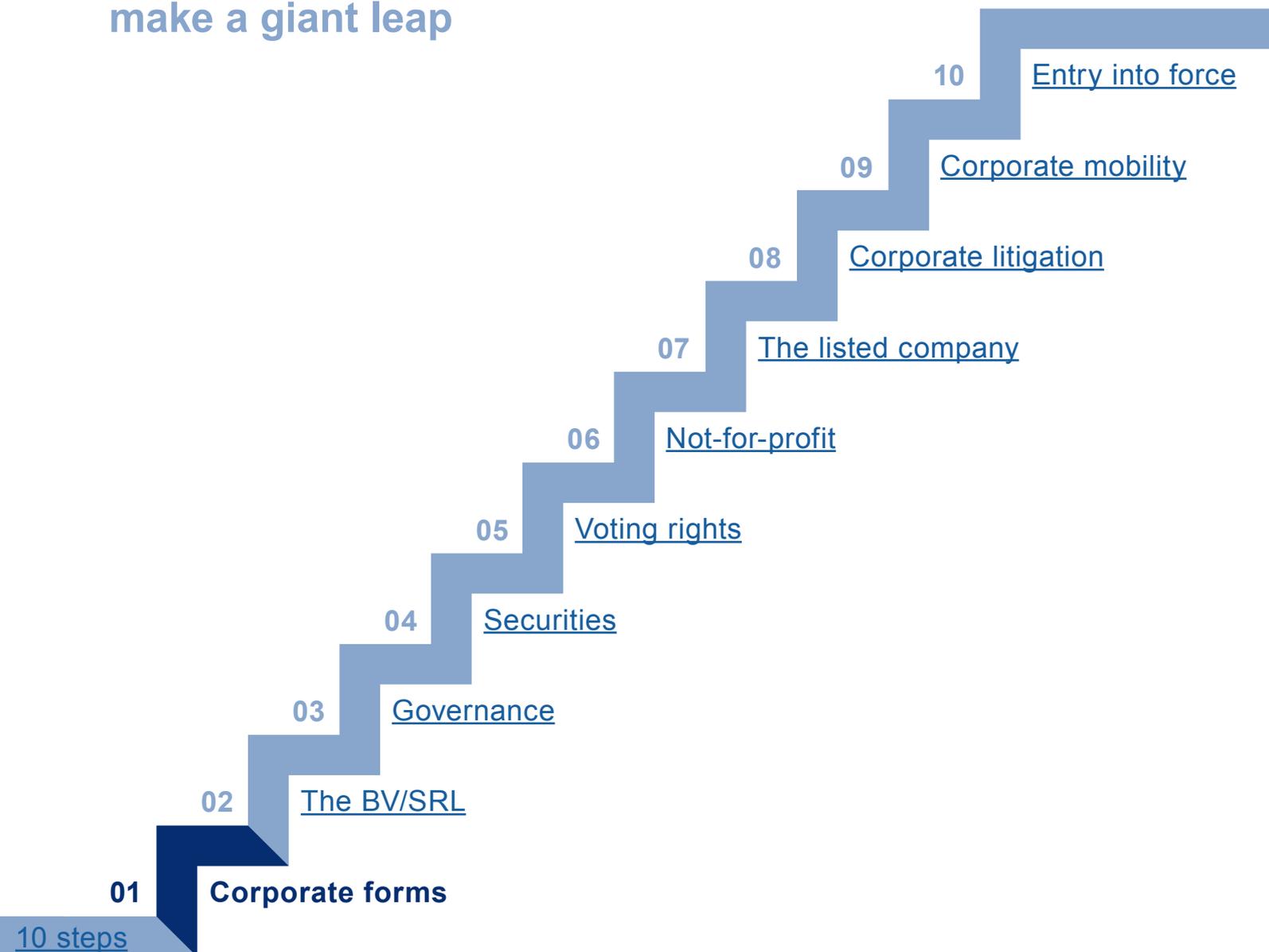
NEW CODE OF COMPANIES  
AND ASSOCIATIONS

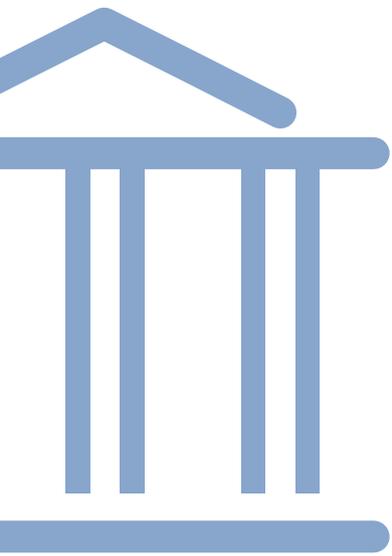
# CORPORATE FORMS: “LESS IS MORE”

01

# 10 STEPS

make a giant leap





01

# CORPORATE FORMS

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## “LESS IS MORE”

*Simplifying organisational law and making it more flexible are among the guiding principles for the new Code: users will find simple, ready-to-use rules set out while at the same time enjoying great(er) freedom to tailor any company (and the BV/SRL in particular) to their specific needs.*

The reduction of the **number of corporate forms** is one of the **cornerstones** of the efforts to simplify the Code. With a view to offering the same or even more flexibility, many of the eliminated corporate forms resurface as variants of other corporate forms.

Here is a brief overview of the major typological changes to the remaining corporate forms and their most important characteristics, the fate of the abolished corporate forms, and the timeline for companies with an abolished form to adopt a form which has survived.



## **BV/SRL** (*private limited liability company*)

The current BVBA/SPRL has undergone a change of name: this corporate form, which was already by far the most popular form for private limited liability companies, will henceforth be known as the BV/SRL. The BV/SRL is destined to remain the go-to company form and is now characterised by the absence of a legal capital and a hitherto unseen degree of flexibility. The BV/SRL's regulatory framework is light and leaves ample room for tailoring the company to anyone's needs (notable options include free transferability of shares, unlimited multiple voting rights, preference shares, and retreat/exclusion at the expense of the company's assets), while providing for the necessary safeguards to protect the rights of creditors.

The BV/SRL is a flexible company characterised by the absence of a legal capital.

The separate variants of the BVBA/SPRL for "starters" and for one single person (SBVBA/SPRL S and EBVBA/SPRLU) disappear, since neither the formation of capital nor a plurality of shareholders is required in the BV/SRL.

The main features of the BV/SRL are discussed in a separate brochure.

## **CV/SC** (*cooperative limited liability company*)

The scope of the cooperative limited liability company (CV/SC) has been narrowed. The **CV/SC will be reserved for true cooperative purposes** in the sense of the principles of the International Co-operative Alliance (ICA). The flexibility which has led to the current use of the cooperative limited liability company for all kinds of enterprises (such as liberal professions) which are not cooperative in the sense of the ICA principles (e.g. "voluntary and open membership" and "democratic member control") will be available in the BV/SRL.

The existing possibility for cooperative companies to apply for individual recognition by the Ministry of Economy as a member of the National Cooperation Council, if their articles of association meet certain conditions, is now explicitly referred to in the Code.

## **NV/SA** (*public limited liability company*)

The NV/SA has undergone a general review. Many rules have been simplified, notably the rules for acquisition of own shares. At the same time, however, there are now slightly stricter rules ensuring equal treatment of shareholders and enhanced transparency when such shares are resold. Other notable changes are the possibility for one single person to incorporate an NV/SA; the possibility to opt for either monism (a single board of directors), dualism (a supervisory board and a management board) or a sole director; the fact that ad nutum revocability of directors has become optional; and the possibility to issue shares with multiple voting rights (or double voting rights through loyalty shares in listed companies). The changes in respect of governance and voting rights are discussed in separate brochures.

The Code defines "listed companies" as companies whose shares, profit certificates or certificates related to these shares are listed, and puts an end to the previous notion of "public limited liability companies that have solicited savings from the public". A separate brochure focuses on listed companies.

## Partnerships

The Code merges the three contractual corporate forms without legal personality (the partnership, the temporary company and the secret company) into one generic corporate form without legal personality: the partnership ("*maatschap*" / "*société simple*"). It will, however, remain possible to form either temporary partnerships or secret partnerships contractually.

The general partnership (VOF/SNC) and the ordinary limited partnership (CommV/SComm) with legal personality are regulated in one common book of the Code together with the partnership.



The partnership becomes the generic corporate form without legal personality.

## Eliminated corporate forms and variants

The limited partnership with share capital (CommVA/SCA) is abolished, but the provisions regarding the NV/SA are amended in order to allow such limited partnerships to be organised as an NV/SA, e.g. with the possibility of having a sole director who can be appointed in the articles of association, who can be held jointly and severally liable if provided for by the articles of association and who can be allotted a veto for amendments of the articles, distributions or his/her resignation.

The agricultural company (LV/S.Agr.) does not, as such, survive the introduction of the Code, but is replaced by the possibility for a VOF/SNC, a CommV/SComm, a BV/SRL or a CV/SC to be recognised as an agricultural enterprise (LO/EA) by the Ministry of Economy, subject to certain conditions that will be determined by Royal Decree.

The company with a social purpose (VSO/SFS) is no longer a separate variant available for all companies with legal personality, but the Code provides for the possibility of a CV/SC whose main purpose is to create a positive social impact on man, environment or society being recognised by the Ministry of Economy as a social enterprise (SO/ES), provided that it accepts a certain dividend cap and distribution of liquidation proceeds for a social purpose and that it meets certain conditions that will be determined by Royal Decree. It will be possible for a CV/SC to combine recognition as a CV/SC with recognition as an SO/ES.

Finally, two other scarcely used corporate forms, the cooperative company with unlimited liability (CVOA/SCRI) and the (Belgian) economic interest grouping (ESV/GIE), which are both very similar to the VOF/SNC, are abolished and do not resurface as variants of other corporate forms.

## What about existing companies with a form that has been abolished?

The Code enters into force as of 1 May 2019 and will become applicable in a gradual manner.

**As of 1 May 2019 it will no longer be possible to incorporate new companies in the abolished forms.**

Existing legal entities will be subject to the Code **as of 1 January 2020**. As of that date, **mandatory provisions apply immediately**. For existing legal entities having a company form that is abolished by the Code, the mandatory provisions which apply from 1 January 2020 onwards are the provisions regarding the closest surviving form, which are the following:

- For a CommVA/SCA: the mandatory provisions of an NV/SA with a sole director
- For an LV/S.Agr. with silent shareholders: the mandatory provisions of the CommV/SComm
- For an ESV/GIE, a CVOA/SCRI and an LV/S.Agr. without silent shareholders: the mandatory provisions of the VOF/SNC
- For CVBAs/SCRLs that do not meet the conditions stated in the definition of the new CV/SC: the mandatory provisions of the BV/SRL

Existing legal entities which have a company form that the Code abolishes can convert into a surviving company form – which does not necessarily have to be the closest surviving company form. Should they fail to convert into one of the surviving company forms by **31 December 2023**, they will then be **converted by force of law** as follows:

- A CommVA/SCA becomes an NV/SA with a sole director
- A LV/S.Agr. becomes a VOF/SNC or, if there are silent shareholders, a CommV/SComm
- An ESV/GIE becomes a VOF/SNC
- A CVOA/SCRI becomes a VOF/SNC
- A CVBA/SCRL that does not meet the conditions stated in the definition of the new CV/SC becomes a BV/SRL



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