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The Warsaw Stock Exchange**

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**LEGAL OPINION**

**Concerning the change of the financial year of an European Company (SE) registered in Estonia after the end of its registered financial year**

**I BACKGROUND**

Law office Eversheds Sutherland Ots & Co has been and is acting as a legal advisor to ATLANTIS SE (Estonian registry code 14633855), FON SE (Estonian registry code 14617916), INVESTMENT FRIENDS CAPITAL SE (Estonian registry code 14618005) and INVESTMENT FRIENDS SE (Estonian registry code 14617862) (hereinafter also collectively referred to as the "**Clients**" and individually the "**Client**").

Each of the Clients is an European Company (*Societas Europaea* or SE) duly registered in the Estonian Commercial Register (in Estonian: *äriregister*).

According to the information received from the Clients, you have asked the law firm that provides services to the Clients to issue a legal opinion regarding the possibility of changing the financial year of the Clients from the calendar year to 1 July to 30 June after the end of the previous (i.e. currently registered) financial year (thus extending the currently registered financial year to 18 months).

**II LEGAL BASIS**

According to Article 10 of the Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company (SE), as amended (hereinafter the "**SE Statute**"), an SE shall be treated in every Member State as if it were a public limited-liability company formed in accordance with the law of the Member State in which it has its registered office.

In accordance with Annex II of the SE Statute, the corresponding public limited-liability company referred to in Article 2(1) of the SE Statute in Estonia is "*Aktsiaselts*".

Article 53 of the SE Statute states that without prejudice to the rules laid down in section 4 of the SE Statute, the organisation and conduct of general meetings together with voting procedures shall be governed by the law applicable to public limited-liability companies in the Member State in which the SE's registered office is situated.

Pursuant to Article 61 of the SE Statute, subject to Article 62 of the SE Statute, an SE shall be governed by the rules applicable to public limited-liability companies under the law of the Member State in which its registered office is situated as regards the preparation of its annual and, where appropriate, consolidated accounts including the accompanying annual report and the auditing and publication of those accounts.

According to subsection (1) of section 13 of the Accounting Act of the Republic of Estonia, the length of a financial year is twelve months. Subsection (2) of the same section states that in the event of an

accounting entity being founded or terminated or the date of the commencement of its financial year being changed, or in other cases prescribed by law, the financial year of the accounting entity may be shorter or longer than twelve months but shall not exceed eighteen months. The financial year of an accounting entity is deemed to be a calendar year, unless otherwise provided for in the articles of association of the accounting entity or any other document regulating the activities thereof (subsection 3 of section 13 of the Accounting Act).

Section 251 of the Commercial Code of the Republic of Estonia stipulates that the beginning and end of the financial year shall be entered in the Commercial Register. It is the usual practice in Estonia (whereas such practice is followed by the Clients), that the beginning and end of the financial year are also stipulated in the articles of association.

For changing the commencement of the company's financial year (i.e. changing the financial year as a whole), the general meeting of shareholders shall adopt a resolution for amending the relevant provision of the articles of association and the management board of the company shall submit an application to the Commercial Register to enter such change in the Commercial Register.

Pursuant to section 5 of the Securities Market Act of the Republic of Estonia, an issuer is a legal person who has issued securities or has assumed an obligation to issue securities. The Clients are considered as issuers under section 5 of the Securities Market Act. Section 184<sup>10</sup> of the Securities Market Act states that an issuer is required to disclose its annual report within four months after the end of the financial year and arrange the annual report to be publicly available for at least ten years.

### III OPINION

We hereby state, based on the above provisions, and information available from the Commercial Register of the Republic of Estonia as at the date of signing this opinion, the following:

- 1) the Estonian law does not include provisions prohibiting or limiting the Clients to change the commencement of the financial year after the end of the previous (i.e. currently registered) financial year from calendar year to 1 July to 30 June, provided that after such change the length of the Clients' financial year does not exceed 18 months. Therefore, it is possible to change the financial year of the Clients from the calendar year to 1 July to 30 June after the end of currently registered financial year (thus extending the currently registered financial year to 18 months);
- 2) the absence of such prohibitions and limitations set out above apply to both changing the financial year after the end of the currently registered financial year (i.e. after 31 December) as well as to changing the financial year after the obligation to disclose the annual report has arisen (i.e. after 30 April);
- 3) the amendment of the articles of association and change of the financial year of ATLANTIS SE and INVESTMENT FRIENDS CAPITAL SE were registered in the Estonian Commercial Register (i.e. Tartu County Court's Registration Department) on 26 April 2019 and 29 April 2019, respectively. Therefore, the Estonian Commercial Register accepted the change of the financial years of both ATLANTIS SE and INVESTMENT FRIENDS CAPITAL SE with no objections to the registration. The proceedings in respect of changing the financial year of FON SE are currently ongoing in the Estonian Commercial Register, however, we have no reason to believe, that such changes will not be registered. We are on the same opinion concerning the change of the financial year of INVESTMENT FRIENDS SE, provided the general meeting of shareholders adopts such changes and the management board submits the relevant application to the Estonian Commercial Register.

In addition, we contacted the Ministry of Finance of Estonia (who is responsible for drafting the Accounting Act). The replies provided by Mr. Taivo Põrk, lawyer at the Ministry of Finance, over the phone were as follows:

- 1) the Estonian law does not include express prohibition on changing the financial year of a company after the end of its current (registered) financial year;


- 2) there are no public authorities in Estonia who would be authorised to prohibit a company to change the financial year of a company after the end of its current (registered) financial year or even after the obligation to disclose the annual report by law has arisen.

Furthermore, the Clients' Management Board have indicated to us, that the solution (i.e. changing the financial year of the Clients after the end of the current (registered) financial year) has not been questioned by any of the shareholders (all shareholders participating in the general meetings of shareholders of ATLANTIS SE, INVESTMENT FRIENDS CAPITAL SE and FON SE have voted in favour of adopting a resolution to change the financial year).

Hopefully the above explanations were of assistance upon dealing with this matter.

If you require any further information or if you have any further questions or queries relating to the above, please do not hesitate to contact us.

Kind regards,



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Maiyi Ots  
Attorney at Law  
Partner