



# INVESTMENT MANAGEMENT IN LUXEMBOURG



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IN LUXEMBOURG

# PRACTICE OVERVIEW

*Representing the second largest fund market in the world, just after U.S., Luxembourg is the point of reference for asset managers, investment advisors, credit institutions and investors for the implementation of their investment vehicles. The Luxembourg fund sector combines the most important global distribution centre, covering more than 70 countries throughout the world, with an active and dynamic environment enabling the country to always be at the forefront of the implementation of all European directives relating to the investment industry.*

## Our expertise

Being actively involved in the definition and transformation of the Luxembourg fund and regulatory landscape, we have a strong expertise in all areas of investment funds law, ensuring the required support to all our clients for the definition, organisation and delivery of their investment projects.

Our engine is made of pro-active, competent and reliable lawyers, able to understand a client's needs and anticipate their future expectations.

BSP investment funds practice ranges from the more standardised regulated vehicles, such as UCITS (SICAV, FCP), SIF, SICAR and RAIF, to unregulated funds and securitisation vehicles; from the set-up of management companies and Alternative Investment Fund Managers, to the restructuring of complex groups of funds.

We can provide expertise and resources required for the success of your initiative in many areas such as plain vanilla mutual funds, real estate, private equity and venture capital funds, loan origination and loan participation funds, distressed debt funds and carbon funds.

*Outperforming major international law firms in Luxembourg, BSP is ranked (by assets) as a top-tier independent Luxembourg law firm by Monterey Insight, in the provision of legal services to domestic funds.*

## Our integrated approach

Our capability for providing integrated banking, corporate, regulatory and tax, advice make us able to stand out in the market as a true partner for our clients, delivering a unique full service approach.

# REPRESENTATIVE MATTERS

*The lawyers of BSP have led the successful completion of many prominent local and cross-border transactions. Examples include:*

## AIF

- **Assistance to various private equity houses** in order to determine whether their structures fall within the scope of AIFMD.
- **Numerous advice related to AIMFD** to existing and in the course of establishment AIFs.
- Assistance to both EU and non EU AIFMs in relation to regulatory **reporting requirements under AIFMD**.
- Advice to a number of clients in the **marketing a non EU AIF in Luxembourg**. Assistance with the registration process under AIFMD with the CSSF.
- **Establishment of numerous SIFs, SICARs and RAIFs** and assistance in the drafting of the fund documentation and service provider agreements, handling of the CSSF application process, advice in relation to the Luxembourg aspects of the leverage facility to be entered into by the funds and assistance with the AIFMD passport notification process allowing the marketing of the funds' shares throughout Europe.
- Assistance with **bridge financing facilities** and listing the fund's shares on the Luxembourg Stock Exchange
- Assistance with the **establishment of parallel funds in the form of SIFs, SICARs** and unregulated partnerships to co-invest in private equity assets with offshore partnerships established and operated by the same promoter.

## UCITS

Regular assistance to leading asset managers with regard to legal issues relating to UCITS, including:

- Launch of UCITS funds investing in **cat bonds**;
- Launch of UCITS funds investing in **financial derivative instruments** such as **volatility indices**;
- Cross-border and local mergers of funds under **UCITS IV regulations**;
- Assistance in complying with the UCITS requirements.
- Advice with regards to the **setting-up of master/feeder structures** within the UCITS framework, including the first UCITS master/feeder structure set up in Luxembourg to invest in Renminbi CNH denominated securities.
- **Launch of a UCITS fund of hedge funds** in the amount of EUR 100 million.
- Advice to a major European bank in the **setting-up of a Global Macro Portfolio** to be invested in by a Luxembourg UCITS fund.
- On-boarding of an existing multi-manager fund platform and **launch of the first class of shares ever to be listed by a Luxembourg UCITS fund on the Open-end CIVs segment of the ETFplus market of the Borsa Italiana**.

## ManCos/AIFMD

- Advice to several management companies with respect to the structure and procedures to adopt in order to have their **UCITS license** and their **AIFM super license**. Drafting the various procedures and policies needed to get the license and assistance with the application and approval process at the local regulator.
- Advice to European leading financial services groups in the context of a **re-organisation of their management companies in Europe**. BSP distinguished itself by dealing with the **regulatory, tax, corporate and accounting** issues in Luxembourg and also in third countries where the parent companies are located.
- Assistance to a management company of hedge funds with respect to its **application for registration under AIFMD**.
- **Impact analysis of AIFMD on the remuneration** received by management companies and their advisors active in real estate.

## WHAT OTHERS SAY

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"Clients praise the "very reactive and friendly approach" offered by BSP."

### IFLR 1000 - 2017

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Bonn Steichen & Partners provides "very professional legal advice with great responsiveness and deep insight into the practice of investment funds establishment and operations". Evelyn Maher "has a great deal of experience in both private equity funds establishment and operations".

### The Legal 500 EMEA - 2020

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Clients appreciate the department's well-rounded service: "they are responsive and reliable".

### Chambers Europe - 2020

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# ABOUT BSP

BSP is an independent full-service law firm based in Luxembourg.

We are committed to providing the very best legal services to our domestic and international clients in all aspects of Luxembourg business law.

Talented and multilingual, our teams of lawyers work side by side with our clients to help them reach their objectives and support them with tailor-made legal advice, creating in the process professional relationships based on mutual trust and respect.

Building on the synergy of our different professional experiences and the richness of our diverse cultural background, we stand ready to meet our clients' legal needs, no matter how challenging they are.

For more information please browse through our site [bsp.lu](http://bsp.lu) or contact us at [mail@bsp.lu](mailto:mail@bsp.lu).

Our practice areas include:

AML Compliance | Bank Lending, Structured Finance & Securitisation | Banking & Financial Services | Capital Markets | Corporate and M&A | Data Protection & Privacy | Dispute Resolution | Employment, Compensations & Benefits | Insolvency & Restructuring | Intellectual Property & General Commercial | Investment Management | Private Equity | Private Wealth & Business Planning | Real Estate & Construction | Startup & Fintech | Tax

## RELATIONSHIP CONTACTS

BSP approachable lawyers have the background, skills and knowledge to give clients the best possible representation. We constantly strive to provide legal representation and advice driven by integrity, excellence and dedication; qualities which our clients appreciate about us as a firm and also as individual trusted advisors.



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**SIF**

SPECIALISED INVESTMENT FUND



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# SIF - Specialised Investment Fund

Law of February 13<sup>th</sup> 2007

SIF	
Investors	Well Informed Investors
Eligible Assets	Unrestricted (except for retail SIF)
Regulatory Approval	Yes
Service Providers	AIFM, Depositary, Administrative Agent, Auditor
Reporting	Annual Audited Accounts, CSSF Monthly Reporting, AIFMD Reporting
Risk Diversification Limits	Maximum 30% in securities of the same issuer
Variable Capital	Yes
Entity Type	FCP SICAV/SICAF: SA, SCA, SàRL, SCoSA, SCS, SCSp The entities may be open-ended or close-ended
Compartments	Yes
Listing	Possible <u>but</u> restriction to Well Informed Investors can be an obstacle to listing in certain jurisdictions
Net Wealth Tax	No
Income Tax	No
Withholding Tax	No
Annual Subscription Tax	0.01% on NAV Exemption for some types of funds
Access to Double Tax Treaties	FCP: no SICAV/SICAF: limited to some double tax treaties



# SICAR

INVESTMENT COMPANY IN RISK CAPITAL



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# SICAR - Investment Company in Risk Capital

Law of June 15<sup>th</sup> 2004

SICAR	
Investors	Well Informed Investors
Eligible Assets	Risk Capital only
Regulatory Approval	Yes
Service Providers	AIFM, Depositary, Administrative Agent, Auditor
Reporting	Annual Audited Accounts, CSSF Monthly Reporting, AIFMD Reporting
Risk Diversification Limits	None
Variable Capital	Yes
Entity Type	SA, SCA, SàRL, SCoSA, SCS, SCSp The entities may be open-ended or close-ended
Compartments	Yes
Listing	Possible <u>but</u> restriction to Well Informed Investors can be an obstacle to listing in certain jurisdictions
Net Wealth Tax	Yes (less than EUR 5,000)
Income Tax	Fully taxable at normal rate (corporate income tax and municipal business tax) <u>but</u> exemption of income derived from transferable securities and income from cash held for a maximum period of one year prior to its investment in risk capital
Withholding Tax	No
Annual Subscription Tax	No
Access to Double Tax Treaties	Generally yes (except SCS and SCSp)



# RAIF-SIF

RESERVED ALTERNATIVE INVESTMENT FUND –  
SPECIALISED INVESTMENT FUND



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# RAIF-SIF - Reserved Alternative Investment Fund – Specialised Investment Fund

*Law of July 23<sup>rd</sup> 2016*

RAIF-SIF	
Investors	Well Informed Investors
Eligible Assets	Unrestricted
Regulatory Approval	No
Service Providers	AIFM, Depositary, Administrative Agent, Auditor
Reporting	Annual Audited Accounts, AIFMD Reporting
Risk Diversification Limits	Maximum 30% in securities of the same issuer
Variable Capital	Yes
Entity Type	FCP SICAV/SICAF: SA, SCA, SàRL, SCoSA, SCS, SCSp The entities may be open-ended or close-ended
Compartments	Yes
Listing	Possible <u>but</u> restriction to Well Informed Investors can be an obstacle to listing in certain jurisdictions
Net Wealth Tax	No
Income Tax	No
Withholding Tax	No
Annual Subscription Tax	0.01% on NAV - Exemption for some types of funds
Access to Double Tax Treaties	FCP: no SICAV/SICAF: limited to some double tax treaties



# RAIF-SICAR

RESERVED ALTERNATIVE INVESTMENT FUND –  
INVESTMENT COMPANY IN RISK CAPITAL



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# RAIF-SICAR - Reserved Alternative Investment Fund – Investment Company in Risk Capital

Law of July 23<sup>rd</sup> 2016

RAIF-SICAR	
Investors	Well Informed Investors
Eligible Assets	Risk Capital only
Regulatory Approval	No
Service Providers	AIFM, Depositary, Administrative Agent, Auditor
Reporting	Annual Audited Accounts, AIFMD Reporting
Risk Diversification Limits	None
Variable Capital	Yes
Entity Type	SA, SCA, SàRL, SCoSA, SCS, SCSp The entities may be open-ended or close-ended
Compartments	Yes
Listing	Possible <u>but</u> restriction to Well Informed Investors can be an obstacle to listing in certain jurisdictions
Net Wealth Tax	Yes (less than EUR 5,000)
Income Tax	Fully taxable at normal rate (corporate income tax and municipal business tax) but exemption of income derived from transferable securities and income from cash held for a maximum period of one year prior to its investment in risk capital
Withholding Tax	No
Annual Subscription Tax	No
Access to Double Tax Treaties	Generally yes (except SCS and SCSp)



# UCITS

UNDERTAKINGS FOR COLLECTIVE INVESTMENT  
IN TRANSFERABLE SECURITIES



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# UCITS - Undertakings for Collective Investment in Transferable Securities

Law of December 17<sup>th</sup> 2010

UCITS	
Investors	Unrestricted but must be available to the public
Eligible Assets	Transferable securities, money market instruments, bank deposits, UCITS, other UCI, financial derivatives, ancillary liquid assets
Regulatory Approval	Yes
Service Providers	Manco if not self-managed SICAV, Depository, Administrative Agent, Auditor
Reporting	Monthly and annually
Risk Diversification Limits	<ul style="list-style-type: none"> <li>• Maximum 10% in transferable securities and money market instruments of the same issuer</li> <li>• Maximum 20% in deposits with the same entity</li> <li>• Maximum 10% risk exposure to a counterparty for OTC derivatives</li> <li>• Maximum 20% in one UCITS/UCI</li> </ul>
Variable Capital	Yes
Entity Type	FCP; SICAV:SA; SICAF:SA, SCA, SàRL, SCoSA
Compartments	Yes
Listing	Possible
Net Wealth / Income / Withholding Tax	No
Annual Subscription Tax	<ul style="list-style-type: none"> <li>• 0.05% of NAV</li> <li>• Except 0.01% for (i) money market funds and funds investing in deposits and (ii) sub-funds or classes of securities reserved to institutional investors</li> <li>• Exemptions for special institutional money market funds, pension funds, exchanged traded funds, microfinance funds and funds investing in other funds already subject to subscription tax</li> </ul>
Access to Double Tax Treaties	FCP: no SICAV/SICAF: limited to some double tax treaties