



Luxembourg
Investment Vehicles

May 2014

“

With regard to excellence, it is not enough to know, but we must try to have and use it.

”

Aristotle, Nicomachean Ethics

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THE LUXEMBOURG FUND INDUSTRY

KEY ADVANTAGES OF LUXEMBOURG

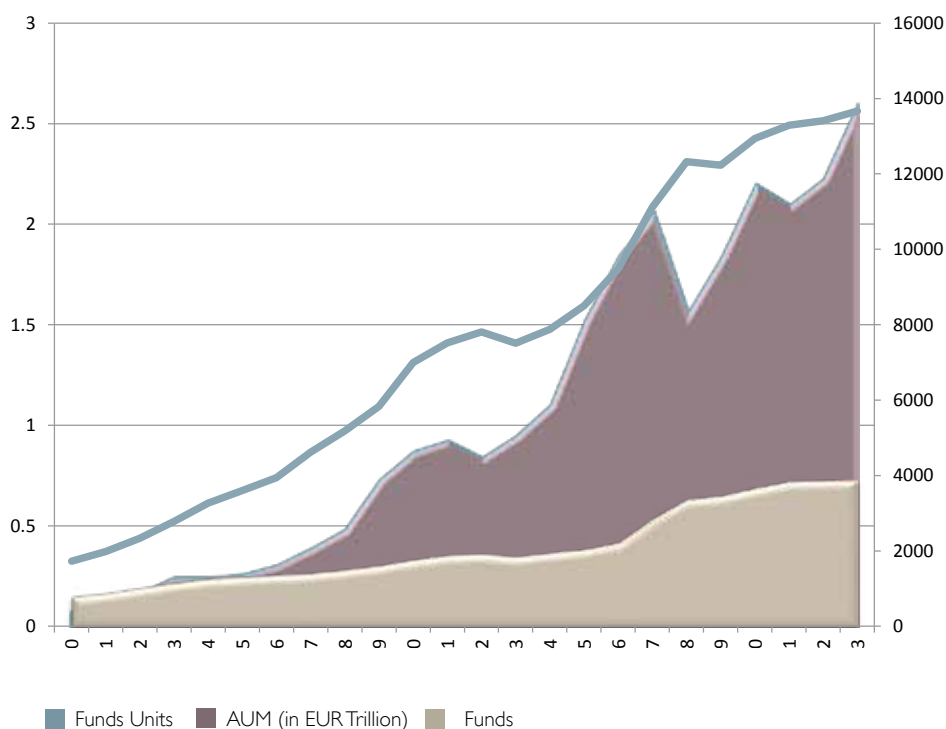
Luxembourg has imposed itself over the years as a leading financial centre with its wide range of investment funds. With a political and legal framework focused on business development, its industry is well-prepared for the up-coming challenges of a market always more regulated.

The political stability from which it benefits, as well as its constant economic growth, make Luxembourg the country with the highest gross domestic product per capita in the world and the lowest public debt.

Thanks to its quality as a member of the EU and to its legal environment which constantly adapts to fit new market trends, its competitive taxation, its multilingual and experienced workforce, Luxembourg has become a key place for the setting-up and management of financial products.

In addition to such a fund-friendly environment, the regulations on the fight against money-laundering and the unceasing work from the legislator to promote Luxembourg as a fully-regulated on-shore location have greatly contributed to the attractiveness of the country.

UCIs Development in Luxembourg



Data: CSSF at 31st January 2013

LUXEMBOURG, A GLOBAL PLAYER IN THE FUND INDUSTRY

On December 31st 2013 nearly EUR 2.6 trillion of assets and more than 3,900 funds were domiciled in Luxembourg.

“Luxembourg is the second largest investment fund domicile in the world after the United States.”

Since 2007 and the successful creation of the SIF regime, Luxembourg has witnessed a significant increase in the number of legal vehicles used for alternative investments.

With over 140 banks coming from all over the world, among which more than 70 offer their custodian and administrative services to funds, 380 local management companies, 17 alternative investment fund managers to date and a wide range of law firms and auditors, Luxembourg has proven itself capable of responding to a large variety of investors' demands thanks to the competence, effective skills and experience in the fund industry.

The attractiveness of Luxembourg is grounded on the fact that both legal and regulatory developments are not only business-led but are also considered in a context of global growth. Such developments are constantly inspired by consultations amongst the major fund actors, the Government and the local regulator.

An example of this permanent adaptation to suit macro and microeconomic advancements is the existence in Luxembourg of seven different legal structures, allowing promoters to create a sharply tailored structure for each contemplated investment, varying according to the targeted investor and the planned investments.

Depending on the elected vehicle for the investment, same may benefit from a lighter supervision, a more flexible structure or a tax-friendly treatment.

Of course, the protection of investors being of paramount importance for the Luxembourg fund industry, in all cases, vehicles targeted to retail investors undergo a stricter supervision process than those addressed to institutional, experienced or well-informed investors.



INVESTMENT VEHICLES

UCITS

The most successful vehicles allowing for the offering of units to retail investors are the Undertakings for Collective Investment in Transferable Securities (UCITS), which literally became a brand of “safe” investment for retail investors.

Indeed, funds that meet the criteria set by the 2010 Law may be sold to the public in any EU country (provided notification requirements are complied with).

Originally created to facilitate cross-border distribution within Europe, UCITS have become trusted vehicles even outside Europe, particularly in growing markets in Asia and South America.

Since the transposition in the late 80’s in Luxembourg of the first European directive implementing a harmonised framework for funds tailored for retail investors, Luxembourg has not only witnessed the growing interest for UCITS but has also played a major role in the development of same.

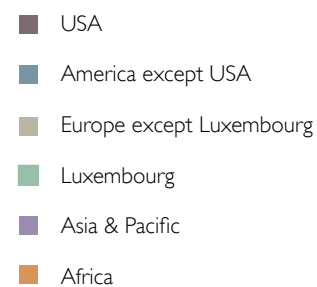
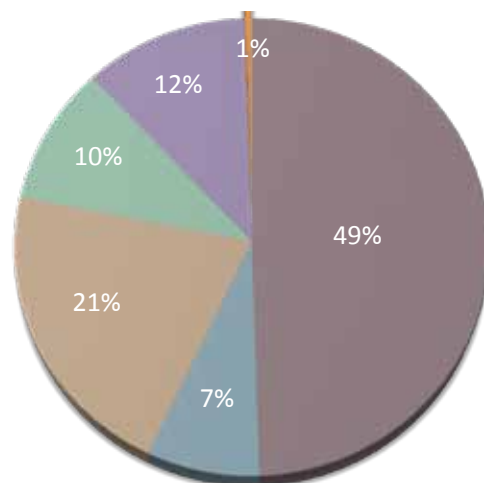
Luxembourg positioned itself as the first mover in the transposition of the UCITS IV Directive through its early transposition into national law with the 2010 Law which gained full effect on July 1st 2011.

Through the ambitious regulatory work performed by the Government, together with the local regulatory authority, the *Commission de Surveillance du Secteur Financier* and the main associations active in the Luxembourg fund sector, the country has been able to pass with flying colours the transposition process, managing to provide the elements and support needed by the industry.

The efficient transposition of the UCITS’ passport as well as of the KIID, has strongly contributed to the positioning of Luxembourg as a leading investment fund centre. Indeed, with a market share of approximately 31.8% of all UCITS, Luxembourg has become the biggest centre for retail investment in Europe.

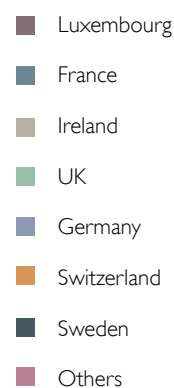
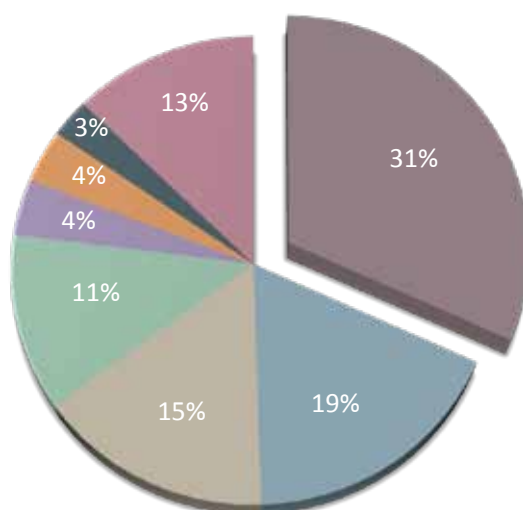
“Luxembourg positioned itself as the first mover in the transposition of the UCITS IV Directive.”

UCITS/Mutual Funds Assets under Management worldwide 2013



Data: ALFI

UCITS Assets under Management in Europe 2012



Data: ALFI

The following features of UCITS branded funds make them perfectly suited to retail investors seeking a balance between liquidity of their assets, security and return:

- strict supervision by the CSSF;
- units are redeemable at least twice a month;
- units can also be listed on a stock exchange;
- European passport, which allows them to be sold everywhere in the EU;
- wide risk-spreading of the assets.

ALTERNATIVE PRODUCTS

Usually set up as UCIs, SIFs or SICARs, alternative structures find, through such legal vehicles, a flexible frame to be further coupled to the choice of a legal form (SICAV, SICAF, FCP).

In addition to funds directly investing in target investments, such structures allow the vehicles to be organised as umbrella funds, master-feeder funds or funds of funds and offer the possibility of being listed on the Luxembourg Stock Exchange.

Although SIF and SICAR structures are dedicated to Well-Informed Investors, the diversity of schemes they permit provide promoters with the possibility to create the structure best suited to the contemplated alternative investment.

Alternative products will need to consider whether they fall within the scope of the AIFMD as implemented into Luxembourg law by the AIFM Law. In such case they must designate an external manager or become an internally managed AIF. The AIFM Law provides for a lighter regime for AIFMs whose assets under management fall below certain thresholds.

Those AIFMs falling under the full scope of the AIFMD may benefit from the marketing passport to offer the units/shares of the AIFs they manage to professional investors throughout the EEA.

The UCI

Undertakings for Collective Investment (UCIs) are governed by Part II of the 2010 Law, and as they do not qualify as harmonised UCITS, they allow an exposure to alternative assets. Pursuant to the AIFM Law UCIs automatically qualify as AIFs.

UCIs may be of corporate or contractual form and may be created as closed-ended vehicles. They may also reserve the sale of units to the public in non EU countries.

The marketing of these types of funds to retail investors is permissible in Luxembourg. UCIs undergo stricter supervision from the CSSF than SIFs or SICARs.

UCIs shall comply with mandatory rules relating to the management of conflicts of interest, risk management and reporting.

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The marketing of Undertakings for Collective
Investment to retail investors is permissible
in Luxembourg.
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The SICAR

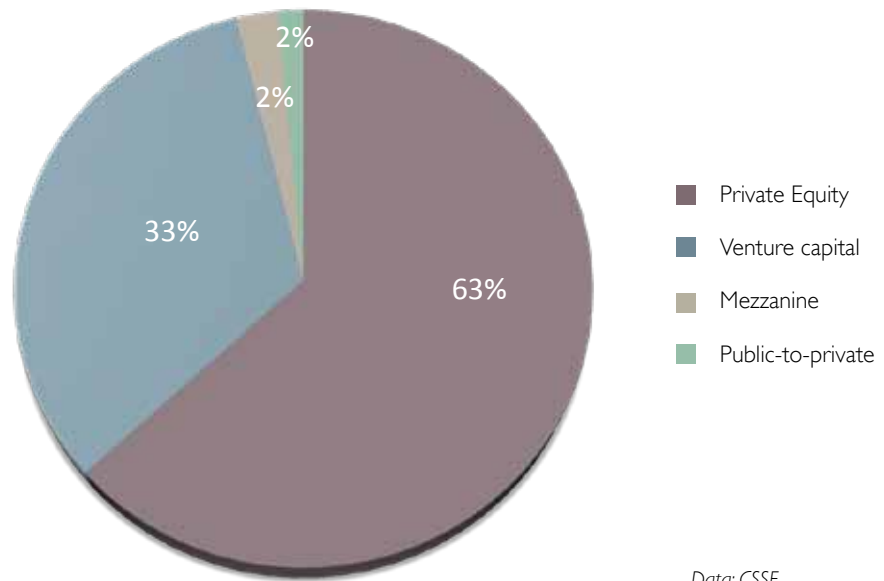
The investment company in risk capital or *Société d'Investissement en Capital à Risque* (SICAR) was introduced in Luxembourg by the 2004 Law. This corporate investment structure, tailored for private equity and venture capital investments, differs from the SIF, insofar as it allows for the concentration of holdings in a single project and is not subject to diversification rules.

SICARs have been specifically designed for investments in risk capital.

Through this vehicle, a private equity fund may follow all of its planned investment strategies under the supervision of the CSSF, such as:

- leveraged buyouts,
- venture capital,
- growth capital,
- distressed investments,
- mezzanine capital,
- real estate.

SICAR Investment Policies 2012



Data: CSSF

In 2012, 8 years after the implementation of the law regulating the SICARs, there were 224 traditional SICARs and 52 umbrella SICARs comprising 113 compartments.

The SIF

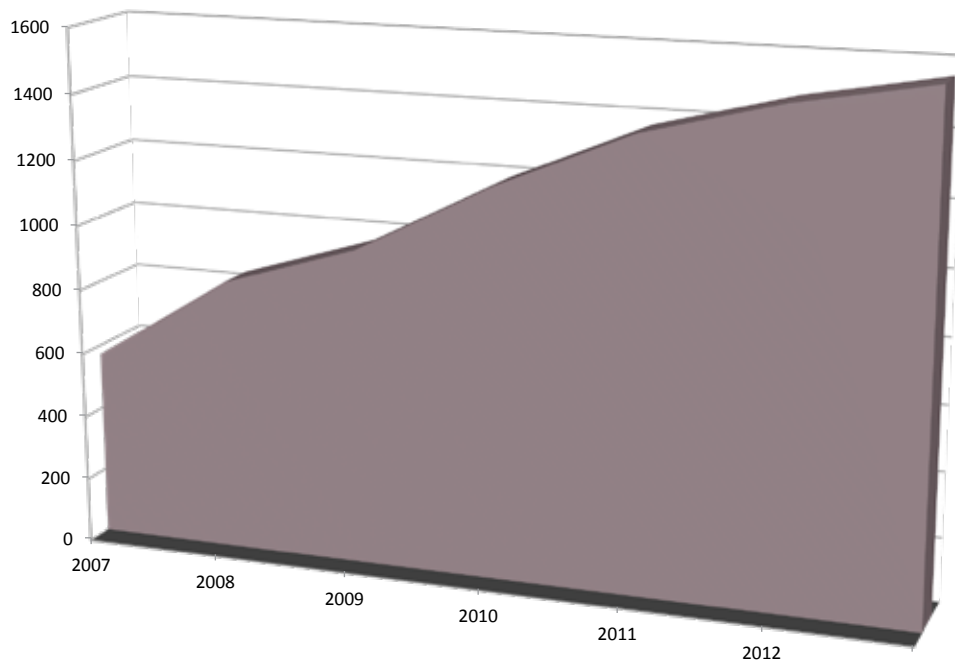
After the creation, through the 2007 Law, of a vehicle allowing investment in any type of assets, even in “specialised” ones (such as, for example, art, wine, wood), coupled with an adaptable regulatory framework, initiators may easily find in Specialised Investment Funds (SIFs) a vehicle that fits all investment designs.

SIFs may be of corporate or contractual form and the only limit to investments arises from the principle of risk spreading which is applicable to SIFs (contrary to SICARs).

SIFs benefit from a tax-friendly regime. At the level of the investors, when they are not domiciled or resident in Luxembourg, they are not subject to capital gains, income or withholding tax.

SIFs are obliged to implement a risk management process and a conflict of interest policy, which shall be approved by the CSSF prior to their launch. They may also benefit from sub-fund cross-investments.

Number of SIFs since Enactment of the 2007 Law



Data: CSSF

The SOPARFI

The *Société(s) de Participations Financières* (SOPARFIs) are common private vehicles under the form of an ordinary commercial company subject to Luxembourg company law.

Indeed, one of the main distinctions between the SOPARFIs and SIFs, SICARs or UCIs is that SOPARFIs benefit from a total absence of regulation or regulatory supervision (unless they fall within the scope of the AIFMD).

As unregulated vehicles, SOPARFIs provide maximum flexibility regarding the investment policy while giving to the investors the possibility to take advantage of Luxembourg tax treatment.

As participation companies, they may opt for any company form available pursuant to company law. The most common forms are SA, SàRL and SCA.

The SOPARFI's success is grounded on the fact that the structure is entitled to benefit from Luxembourg double taxation treaties, signed with over 60 countries. Provided that all criteria are met, SOPARFIs will benefit from an income tax exemption on dividends, capital gains and liquidation proceeds derived from qualifying participations. The structure may also further pay dividends to qualifying recipients free of withholding tax.

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The SOPARFIs have turned Luxembourg into a hub for private equity investment.

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The SV

The Luxembourg law of March 22nd 2004, as amended, on securitisation creates a dedicated, yet flexible, legal environment in which the participants in a securitisation are able to pick and choose the features they want to apply to each individual structure.

The law provides a favourable framework for structuring a securitisation, for example through the use of compartments and tranching, or by offering a wide range of possibilities to originators, arrangers and investors in terms of deciding on such essential matters as the assets they wish to securitise, the techniques for transferring the risks to the vehicle and the form of vehicle along with its financing.

The tax environment retains all of its traditionally attractive features, but securitisation undertakings enjoy further specific tax advantages:

- absence of withholding tax on dividend payments,
- VAT exemption of management fees,
- wealth tax exemption,
- investment fund-type income tax exemption available if the fund structure is chosen.

Generally speaking, from a regulatory perspective, only vehicles that issue securities to the public on a continuous basis are subject to prior authorisation and supervision by the CSSF. Regulation of securitisation in Luxembourg is therefore kept to a minimum in all other cases, including:

- a one-off issuance of securities to the public, or
- the continuous issuance of securities not available to the public.

However in certain cases a securitisation structure may fall within the scope of the AIFMD and thus its manager could be subject to regulatory requirements.

The SPF

A *Société de Gestion de Patrimoine Familial* (SPF) can be set up in the form of any capital company existing under Luxembourg law but by contrast, it cannot be set up in the form of a transparent entity, such as a partnership.

The object of a SPF is limited to the acquisition, holding and management of financial assets excluding any business activity.

SPFs do not benefit from the Luxembourg double tax treaties and hence do not either fall under the respective information exchange provision of the relevant double tax treaty.

The tax authority in charge of the supervision of the SPFs is the *Administration de l'Enregistrement et des Domaines* which may only use its powers in

order to verify that the conditions set forth under the law in order to qualify as a SPF are met at all times.

The SPF regime benefits from full exemption from both corporate income tax and net wealth tax and benefits from a nominal subscription tax, but same is restricted to capital companies held by private investors only.

The SPF is not limited in terms of the financial assets it may hold, which thus opens up wide investment opportunities for private investors via a SPF.

Hence, the new SPF regime can be considered as an extremely adapted alternative for private wealth and asset management purposes.

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The SPF is an alternative for private wealth and asset management purposes.

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LEGAL FORMS

The FCP

The *Fonds Commun de Placement* (FCP) is an unincorporated contractual structure.

Each FCP is governed by its management regulations which lay down the investment policy of the fund.

Lacking any legal personality, FCPs must be managed and administered by a management company. The management company is itself an entity regulated by the CSSF. Unitholders of FCP structures usually do not have any voting rights and have hence no power of decision on the management of the FCP.

FCPs may issue several classes of units and may also be structured as umbrella funds.

This contractual form allows the initiators a great flexibility, though at the same time it is suitable for almost all types of investments. UCIs, SIFs and UCITS may adopt this form.

The SICAV

The *Société d'Investissement à Capital Variable* (SICAV) is the most commonly used form for corporate investment structures.

As indicated in its name the SICAV has a variable capital which is always equal to its net assets. When adopting this kind of structure a fund may hence increase or reduce its share capital automatically upon issue or redemption of shares thus avoiding the need for a general meeting of shareholders.

Although the term "SICAV" is reserved to UCIs, SIFs and UCIT, the SICAR may adopt a variable capital structure.

The SICAF

The *Société d'Investissement à Capital Fixe* (SICAF) being a company with a fixed share capital the variation of its capital is subject to company law provisions.

The SICAF can take any form allowed by Luxembourg company law.

UCIs, SIFs, SICARs and UCITS may have a fixed capital but generally it is not practical or usual for UCITS.

FRAMEWORK FOR INVESTMENT VEHICLES IN LUXEMBOURG

Unregulated			
	SOPARFI	SPF	SV
Eligible Investors	Unrestricted	Individual investors Private estate management entities Intermediaries acting on behalf of individual investors or private estate management entities	Unrestricted
Eligible Assets	Unrestricted	Financial assets only No controlling activity over investments	Securitisation of risks linked to any types of assets No active management of assets
Risk Diversification	No	No	No
Supervision and Approval Process by the CSSF	No	No	No, unless issue of securities to the public more than 3 times a year in which case before launch approval of: <ul style="list-style-type: none"> • constitutional documents • directors/managers/ shareholders/originator • documentation • type of transactions contemplated
Reporting to the CSSF (outside scope of AIFMD)	No	No	Yes, for regulated vehicles
Management Company Requirement	No	No	Securitisation funds: yes Securitisation companies: no
Luxembourg Service Providers Requirement	No (unless it falls under the scope of AIFMD)	No	Administrative agent Custodian if it falls under AIFMD
European Passport	No (unless it falls under the scope of AIFMD)	No	No (unless it falls under the scope of AIFMD)

Regulated

Lightly regulated		Regulated	
SIF	SICAR	UCITS	UCI
Well-Informed Investors	Well-Informed Investors	Unrestricted but must be available to the public	Unrestricted but must be available to the public
Unrestricted	Investments in securities /assets representing risk capital	Transferable securities, money market instruments, bank deposits, UCITS, other undertakings for collective investment, financial derivatives, ancillary liquid assets	Unrestricted
Maximum 30% in securities of the same issuer; subject to derogation	No	<ul style="list-style-type: none"> • Maximum 10% in transferable securities and money market instruments of the same issuer • Maximum 20% in deposits with the same entity • Maximum 10% risk exposure to a counterparty for OTC derivatives • Maximum 20% in one UCITS/ another undertaking for collective investment 	Maximum 20% in securities of the same issuer; subject to derogation
Before launch, approval of: <ul style="list-style-type: none"> • constitutional documents, prospectus and agreements with main service providers • directors/managers • investment manager; if any • choice of depositary and auditor 	Before launch, approval of: <ul style="list-style-type: none"> • constitutional documents, prospectus and agreements with main service providers • directors/managers • investment manager; if any • choice of depositary and auditor 	Before launch, approval of: <ul style="list-style-type: none"> • constitutional documents, prospectus, KIID and agreements with main service providers • directors/managers • investment manager; if any • choice of depositary and auditor 	Before launch, approval of: <ul style="list-style-type: none"> • promoter • constitutional documents, prospectus and agreements with main service providers • directors/managers • investment manager; if any • choice of depositary and auditor
Monthly and annually	Twice a year as at 30 June and 31 December	Monthly and annually	Monthly and annually
FCP: yes SICAV/SICAF: no	No	FCP: yes SICAV/SICAF: no/conducting persons for self-managed SICAV/SICAF	FCP: yes SICAV/SICAF: no
Depositary Administrative agent	Depositary Administrative agent	Depositary Administrative agent	Depositary Administrative agent
Yes (if the AIFM is fully AIFMD compliant)	Yes (if the AIFM is fully AIFMD compliant)	Yes	Yes (if the AIFM is fully AIFMD compliant)

FRAMEWORK FOR INVESTMENT VEHICLES IN LUXEMBOURG

	Unregulated		
	<i>SOPARFI</i>	<i>SPF</i>	<i>SV</i>
Calculation of NAV	No (unless it falls under the scope of AIFMD)	No	No (unless it falls under the scope of AIFMD)
Listing	Possible	No	Possible
Entity Type	SA, SCA, SàRL, SCoSA	SA, SCA, SàRL, SCoSA	SA, SCA, SàRL, SCoSA or securitisation fund.
Minimum Share Capital/Net Assets Requirements (outside the scope of AIFMD)	SA/SCA: EUR 31,000 SàRL: EUR 12,500 (SCoSA: no minimum requirement)	SA/SCA: EUR 31,000 SàRL: EUR 12,500 (SCoSA: no minimum requirement)	For securitisation companies: SA/SCA: EUR 31,000 SàRL: EUR 12,500 (SCoSA: no minimum requirement) No minimum capital for securitisation funds
Share Capital Fixed/Variable	Fixed	Fixed	Fixed
Segregated Assets	No	No	Yes
Financial Reports/ Audited Reports	Annual report (audited report under specific circumstances)	Annual report (audited report under specific circumstances)	Audited annual report
Tax Regime			
Income tax	Fully taxable at a rate of 29.22% (corporate income tax and municipal business tax) 100% exemption for dividends, liquidation proceeds and capital gains from qualifying participations 80% exemption for income deriving from qualifying IPs	No	Securitisation funds: no Securitisation companies: fully taxable at a rate of 29.22% (corporate income tax and municipal business tax) but deductibility of payments made to investors
Subscription tax	No	0.25% of share capital, share premium and debt exceeding 8 times the share capital plus share premium, with a maximum of EUR 125,000 per year	No

Regulated			
Lightly regulated		Regulated	
SIF	SICAR	UCITS	UCI
Yes, at least once a year	Yes, at least once a year	Yes, on each day there are subscriptions or redemptions and at least twice a month	Yes, on each day there are subscriptions or redemptions and at least once a month, subject to derogation
Possible	Possible	Possible	Possible
FCP SICAV/SICAF: SA, SCA, SàRL, SCoSA, SCS, SCSp	SA, SCA, SàRL, SCoSA, SCS, SCSp	FCP SICAV: SA SICAF: SA, SCA, SàRL, SCoSA	FCP SICAV: SA SICAF: SA, SCA, SàRL, SCoSA
EUR 1,250,000 to be reached within 12 months following the authorisation	EUR 1,000,000 to be reached within 12 months following the authorisation	EUR 1,250,000 to be reached within 6 months following the authorisation	EUR 1,250,000 to be reached within 6 months following the authorisation
Fixed or variable	Fixed or variable	Fixed or variable	Fixed or variable
Yes Cross-investments allowed under certain conditions	Yes	Yes Cross-investments allowed under certain conditions	Yes Cross-investments allowed under certain conditions
Audited annual report	Audited annual report	Audited annual report and (unaudited) semi-annual report	Audited annual report and (unaudited) semi-annual report
No	Fully taxable at a rate of 29.22% (corporate income tax and municipal business tax) but exemption of income derived from transferable securities and income from cash held for a period of maximum one year prior to its investment in risk capital	No	No
0.01% of NAV Exemption for certain money market funds and funds investing in deposits, microfinance funds and pension funds or SIFs investing in other funds already subject to subscription tax	No	0.05% of NAV 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 Exemption for special institutional money market funds, pension funds, exchange traded funds, microfinance funds and funds investing in other funds already subject to subscription tax	0.05% of NAV 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 Exemption for special institutional money market funds, pension funds, exchange traded funds, microfinance funds and funds investing in other funds already subject to subscription tax

FRAMEWORK FOR INVESTMENT VEHICLES IN LUXEMBOURG

	Unregulated		
	<i>SOPARFI</i>	<i>SPF</i>	<i>SV</i>
Withholding tax	15% on dividends but exemption for qualifying parent companies or reduced treaty rates No withholding tax on interest (save if EUSD is applicable), royalties, capital gains and liquidation proceeds	No	No
Net wealth tax	0.5% of the net asset value at 1 January of each year 100% exemption for qualifying participations and qualifying IPs	No	No
VAT	No	No	Exemption of management services
Registration duties	EUR 75 upon incorporation, share capital increase through contribution in cash against shares or other amendments to the articles of incorporation	EUR 75 upon incorporation, share capital increase through contribution in cash against shares or other amendments to the articles of incorporation	EUR 75 upon incorporation, share capital increase through contribution in cash against shares or other amendments to the articles of incorporation
Access to Double Tax Treaties	Yes	No	Securitisation funds: no Securitisation companies: yes
Thin Capitalisation	Holding activity: administrative practice of 85/15 debt-to-equity ratio for holding activities Intra-group financing activity: 1% equity capped to EUR 2,000,000 for financing activities	Debts exceeding 8 times the paid-up capital plus share premium will be subject to subscription tax	No
Practical Use	Various use such as holding activity, private equity investments, finance activities, holding of IP.	Private wealth management of individuals	Refinancing or repackaging of all types of assets

Regulated			
Lightly regulated		Regulated	
SIF	SICAR	UCITS	UCI
No	No	No	No
No	No	No	No
Exemption of management services	Exemption of management services	Exemption of management services	Exemption of management services
EUR 75 upon incorporation, share capital increase through contribution in cash against shares or other amendments to the articles of incorporation	EUR 75 upon incorporation, share capital increase through contribution in cash against shares or other amendments to the articles of incorporation	SICAV/SICAF: EUR 75 upon incorporation, share capital increase through contribution in cash against shares or other amendments to the articles of incorporation	SICAV/SICAF: EUR 75 upon incorporation, share capital increase through contribution in cash against shares or other amendments to the articles of incorporation
FCP: no SICAV/SICAF: limited to some double tax treaties	Yes	FCP: no SICAV/SICAF: limited to some double tax treaties	FCP: no SICAV/SICAF: limited to some double tax treaties
No	No	No	No
Hedge funds, private equity and venture capital, real estate, carbon funds, microfinance, sustainable funds and any other types of alternative funds	Private equity and venture capital transactions	Investments meeting criteria set by the UCITS IV Directive	Investments not meeting criteria set by the UCITS IV Directive



**A HUB FOR A VARIETY OF
INVESTMENT STRATEGIES**



“ Wealth flows from energy and ideas. ”

William Feather

Hosting real estate, private equity and hedge funds, or more generally alternative structures, requires a high level of legal and regulatory adaptability.

Nowadays the level of flexibility available off-shore is being tempered by the increasing number of EU regulations imposing restrictions on marketing and management of funds by off-shore based entities.

As a consequence, a growing number of funds are relocating or considering relocating their activities on-shore.

Luxembourg offers vehicles benefitting from legal certainty and transparency though sufficiently flexible to be adapted to a wide range of alternative investment strategies.

REAL ESTATE

Luxembourg is the European leader for international real estate vehicles.

For decades, Luxembourg has been a suitable on-shore centre for real estate investments. This success is the result of the impressive legal flexibility available to promoters. A real estate vehicle may be established as an unregulated entity or as a regulated one. The choice of the legal form depends on the target investors, the tax environment and the objectives of the vehicle.

When unregulated, these entities are set up as “plain” companies under Luxembourg company law and are thus not subject to supervision by the CSSF. There are no risk-spreading requirements. Therefore they are only suitable for experienced investors. They may take the form of SOPARFIs, benefitting from the Luxembourg double taxation treaties network and the participation exemption regime applying to qualifying participations.

However, even if the product is unregulated, it may be subject to certain regulatory requirements should it and its manager fall within the scope of the AIFMD.

On the other side, these structures may take the form of a regulated corporate or contractual type fund, subject to the CSSF supervision. The level of supervision, the risk-spreading requirements and the tax environment will then depend on the adopted regulated vehicle (UCI, SIF or SICAR).

Because of their lack of liquidity, real estate structures are often set up as closed-ended vehicles but Luxembourg also allows for a special semi-open regime that prevents investors redeeming their shares when some specific conditions are not met. Real estate funds in Luxembourg experienced an exponential increase of their net assets under management, which amounted to EUR 30 billion as of December 2013.

Real Estate Funds in Luxembourg
Assets under Management



Data: ALFI/CSSF

EUR Million

PRIVATE EQUITY

Out of 10 of the largest private equity houses in the world, 9 are carrying out business in Luxembourg¹.

The fast adaptation of Luxembourg to this type of investment has led to the creation of a dedicated sector able to provide much more than just the essential substance necessary to domicile the vehicle in Luxembourg.

The increasing legislation pushing for more transparency within this sector drove Luxembourg to respond through the creation of two regulated private equity and venture capital vehicles, the SICAR in 2004 and the SIF in 2007.

Private equity investments may either be structured as regulated funds and go under the supervision of the CSSF or be set up as unregulated vehicles such as SOPARFIs and benefit from a more flexible vehicle not subject to the CSSF supervision (unless they fall within the scope of the AIFMD).

As of today Luxembourg has 25,000 holding companies domiciled within its territory most of which are used for private equity purposes. Unregulated vehicles as flexible as the SOPARFIs have strongly contributed to this development.

In most cases private equity vehicles structured in Luxembourg use a limited liability company to act as the general partner for the vehicle.

In the case of SIFs structured as FCPs and qualifying as tax transparent structures, the use of intermediate companies further allows the private equity structure to benefit from the double tax treaties.

The structuring possibilities are so wide that investors can choose to either invest directly into the Luxembourg vehicle or indirectly via an additional Luxembourg-based or non Luxembourg-based feeder investment vehicle.

“
Luxembourg positions itself as the most attractive
country for private equity.
”

¹ Luxembourg Private Equity Association

HEDGE FUNDS

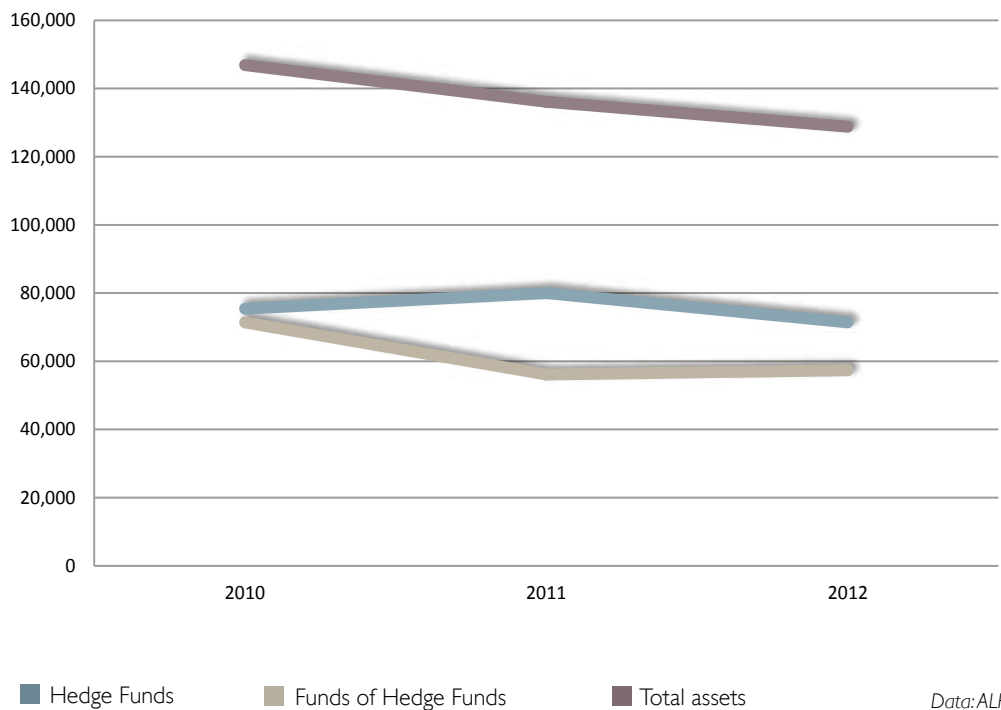
Hedge funds generally use alternative investment strategies such as:

- short selling;
- investments in derivatives;
- use of increased leverage;
- pursuit of absolute returns despite market turbulences;
- arbitrage.

Due to the dynamic policy such funds need to have in order to quickly react to stock market evolutions, hedge funds need very flexible legislation.

As the second largest domicile for investment funds in the world, Luxembourg has acknowledged those needs and has implemented and adopted a legal infrastructure from the very beginning of the hedge fund industry.

Hedge Funds in Luxembourg Assets under Administration (EUR Million)



The hedge fund industry in Luxembourg recovered quickly after the 2008 financial crisis and resumes its continuing growth. As of December 31st 2012 there were EUR 128.789 billion hedge funds' and funds of hedge funds' assets administered in Luxembourg.

ISLAMIC FINANCE

As a pioneer in Europe, Luxembourg has, very early on, considered the growing importance of Sharia-compliant investment funds in the global fund industry. The first European Sharia-compliant institution was set up in Luxembourg as early as 1978 and the first Islamic insurance company in Europe was established in Luxembourg in 1983. In 2002, Luxembourg witnessed the listing of the first *sukuk* in Europe on the Luxembourg Stock Exchange and nowadays the latter is still one of the favourite platforms in Europe for the listing of Sharia-compliant vehicles.

The Central Bank of Luxembourg is also a member of the Islamic Financial Services Board since 2009.

The Luxembourg regulatory environment is Sharia law compatible insofar as Luxembourg vehicles like SIFs and SICARs offer adapted structures to these versatile kind of investments with precise requirements.

There are no additional specific Luxembourg conditions to be complied with, with regards to the compatibility of the investments within Sharia law, as long as the legal requirements are complied with.

Being one of the leading hubs for international distribution of investment funds, and benefitting from the passporting provisions available to UCITS and to alternative investment funds, Luxembourg positions itself as an ideal location for the domiciliation of Sharia-compliant funds.

While SIF structures have found a real success amongst promoters willing to create Sharia-compliant funds, UCITS are still an option of choice for those seeking a wider distribution of Sharia-compliant funds.

Demonstrating the Government's commitment to diversifying the financial environment in Luxembourg draft Law no. 6631 was recently put before the Luxembourg parliament. The aim of the draft law is to facilitate the issuance of Luxembourg *sukuk* securities the return on which will be linked to the lease of certain Government buildings.

Luxembourg has become the fifth domicile for Sharia-compliant investment vehicles in the world.

“

The first ever European Sharia-compliant institution was set up in Luxembourg more than 35 years ago.

”

SUSTAINABLE AND SOCIALLY RESPONSIBLE FUNDS

In our modern and changing world, new challenges arise every day such as climate change, the fight against poverty and sustainable growth. In this respect, a new type of sustainability-minded investment has started to emerge amongst the other common types of funds, and their investors often allow, through their investment, for the contribution to sustainable projects through investment funds.

European Social Entrepreneurship Funds

As of July 22nd 2013 the new European Regulation No 346/2013 of 17th April 2013 on European social entrepreneurship funds (“EuSEFs”) applies to undertakings whose primary objective is to achieve social impacts rather than generate profits for shareholders or other stakeholders. An investment fund under this regulation must dedicate at least 70 percent of its aggregate capital contributions and uncalled committed capital in assets that are qualifying investments.

This regulation aims to make it easier for venture and social entrepreneurs that are exempt from the requirement to seek authorisation under AIFMD, to raise funds across the EU without the requirement to comply with the full AIFMD regime. The regulation has introduced uniform rules for the marketing of

EuSEFs in the EU, for the portfolio composition of EuSEFs, for the eligible investment instruments and techniques, as well as on the organisation, transparency and conduct of EuSEF managers that market EuSEFs across the EU.

Once registered in the home Member State EuSEF managers will be allowed to market the EuSEF to the entire territory of the EU. The managers who can apply for the label for their funds are those who manage portfolios of qualifying EuSEFs whose assets under management in total do not exceed a threshold of EUR 500 million or, an equivalent amount, in the Member States where the Euro is not the official currency.

Carbon Funds

Sophisticated investment funds, such as carbon investment vehicles (“CIVs”), have set up their domicile in Luxembourg as early as 2007.

Carbon restrictions aiming at carbon reduction have led large carbon emitters to monitor their carbon emissions resulting in them purchasing carbon credits when they are not able to comply with the legislation of their home country.

CIVs buy directly or indirectly carbon credits named certified emission reductions on the primary or the secondary market to further sell them to industrialised emitters willing to meet the requirements of carbon emissions provided for by the Kyoto Protocol and the European Union Emissions Trading Scheme.

Growing concerns about the climate coupled with increasing requirements imposed by local legislators, have led to an exponential growth in the CIV market, particularly within the EU which hosts half of the CIVs of all the world, and more precisely Luxembourg, with its leading position in this sector.

With the availability of the SIF and SICAR vehicles, Luxembourg has a major competitive advantage for the hosting of sophisticated investment funds.

In addition, CIVs have the possibility to distribute dividends in kind directly as a remuneration to their investors.

This means that CIV investors in case of distribution, will receive, in return for their investment, the carbon credits traded by the CIV.

“ The European Union hosts half of the carbon investment vehicles of all the world. ”

Microfinance Investment

Microfinance involves institutions, generally credit cooperatives, credit unions, financial non-governmental organisations and even commercial banks, supplying loans, microcredits (i.e. very low credits allowing longer term repayments) and other financial products to small-businesses in poor or low-income countries or individuals, in order to help people get out of poverty.

In the last years, the number of people receiving microcredits has rapidly increased.

In line with this global trend, Luxembourg has benefitted from its tax-friendly treatment and the availability of diverse structures to become a central place for microfinance investment vehicles (“MIVs”) and nowadays, 51% of the global total assets invested in MIVs are domiciled in Luxembourg.

Luxembourg has its own MIV labelling agency: LuxFLAG. Once the eligibility committee has approved a structure, same is provided with the label of regulated microfinance investment.

The presence of such label provides a guarantee that specific requirements are met by the vehicle in terms of legal requirements, governance and on-going supervision.

MIVs may be structured as UCIs, SICARs, SIFs or SVs.

New Legal Developments

Wanting to remain on top in the European fund industry, Luxembourg was one of the first Members of the EU to implement the AIFMD into national law. This implementation allows the Luxembourg investment industry to face the new regulatory challenges regarding alternative investments.

Furthermore, Luxembourg will also be in the starting blocks to implement the future amendments to the UCITS IV Directive, known as UCITS V and UCITS VI.

The Luxembourg financial sector pays close attention to these developments in order to constantly be prepared and up-to-date in a changing global fund industry.



THE PATRIMONIAL FOUNDATION

On July 22nd 2013, the Luxembourg Government submitted to the Parliament draft law n° 6595 concerning the creation of the patrimonial foundation (“*fondation patrimoniale*”).

The patrimonial foundation is a new state-of-the-art wealth management vehicle, specifically tailored to facilitate the structuring and planning of patrimony and heritage, enabling efficient cross-border asset management centralised in Luxembourg.

The patrimonial foundation is a vehicle with its own legal personality, which can be used by individuals or private wealth management entities only. It is an “orphan structure”, meaning that there are no members, shareholders or associates. In most cases the only persons involved in the structure are the founder, the administrators and the beneficiaries.

Thanks to the legal personality of the vehicle, which differentiates it from a Trust, the patrimonial foundation owns its assets which are autonomous and distinguishable from the assets of the founder, the administrators or the beneficiaries. Once the founder or a third party contributes an asset to the foundation, it will belong exclusively to the

foundation for the whole lifetime of the vehicle (unless anticipated distribution).

The patrimonial foundation needs to be incorporated with a minimum initial capital endowment of at least EUR 50,000, paid in cash or in kind, have at least one founder and at least one beneficiary and must be managed by at least one director, which can be a physical person or an entity and which can be put under the control of a supervisory body.

The foundation will also have a supervisory body and an independent registered auditor (*réviseur d’entreprise agréé*) when the foundation has more than five beneficiaries or a capital endowment exceeding EUR 20 million or equivalent.

The draft law concerning the creation of the patrimonial foundation has been put on hold until the adoption of the Fourth Directive on anti-money laundering in order to make sure that the provisions of the law will comply with the requirements of the new directive on anti-money laundering which was adopted by the European Parliament on May 20th 2015.

“ The patrimonial foundation is a wealth management vehicle, specifically tailored to facilitate the structuring and planning of patrimony and heritage. ”

FLEXIBILITY

The foundation may own a big variety of assets such as movable or immovable property, tangible or intangible assets; it may take out insurance contracts as a subscriber or beneficiary; it can transact on its own behalf and take participations in companies (without being involved in the management).

As a second element, the founder is entitled to foreseeing in the incorporating deed a number of facultative provisions, which may – not required by law – be necessary or opportune for the good administration of the foundation: Such provision can be related to the reservation of certain rights to the founder, to restrict information duties to the beneficiaries, to organise the distribution regime or to create additional institutions and to define their functioning.

“ The patrimonial foundation is highly adaptable in order to customise the vehicles according to the wishes of the founder. ”

The provisions of the draft bill also pay particular attention to the protection of data and publicity of information. There is no need to publish the identity of the founder or the beneficiaries, nor must the name of either of them be included in the denomination of the foundation. The Luxembourg legislator has also paid the utmost attention to have the new vehicle comply with the requirements of the Financial Action Task Force (FATF) and the Global Forum on Transparency and Exchange of Information for Tax Purposes.

TAXATION

The patrimonial foundation is an entity subject to income tax and municipal business tax at the standard tax rate, but benefits from an exemption for dividend income, interest and capital gains on securities (if held for more than 6 months). Also, the foundation is exempt from net wealth tax in Luxembourg.

In case of distributions, the draft law distinguishes between distributions made to persons involved in the structure (i.e. beneficiaries, the founder or successor and certificate holders) and to other persons. The following principles apply:

- payments made to non-resident beneficiaries are not subject to withholding taxes and should not be taxable in Luxembourg;
- payments made to resident beneficiaries are considered as “other income” and taxable at a reduced rate (50% exemption);
- payments to persons not involved in the structure are taxable at ordinary rates.

In order to facilitate the transfer of tax residence of individuals to Luxembourg, the legislator introduced a preferential regime called “step up” in basis which provides that unrealised gains existing at the date of transfer of residence will not be taxed in Luxembourg.



GLOSSARY OF TERMS

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AIF(s)	Alternative Investment Fund(s)
AIFM(s)	Alternative Investment Fund Manager(s)
AIFMD	Directive 2011/61/EU of the European Parliament and of the Council of June 8 th 2011 on Alternative Investment Fund Managers
AIFM Law	Luxembourg Law of July 12 th 2013 on alternative investment fund managers transposing the AIFMD
ALFI	Association of the Luxembourg Fund Industry
CSSF	<i>Commission de Surveillance du Secteur Financier</i>
EU	European Union
EUUSD	Directive 2003/48/CE of the European Parliament and of the Council of June 3 rd 2003 on Taxation of Savings Income in the Form of Interest Payments
FCP(s)	<i>Fonds Commun de Placement</i> , an undivided collection of assets managed according to the principle of risk-spreading on behalf of joint owners who are liable only up to the amount contributed by them
IP(s)	Intellectual Property(ies)
KIID	Key Investor Information Document
MiFID	Directive 2004/39/EC of the European Parliament and of the Council of April 21 st 2004 on Markets in Financial Instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC
NAV	Net Asset Value
SA	<i>Société Anonyme</i>
SàRL	<i>Société à Responsabilité Limitée</i>
SCA	<i>Société en Commandite par Actions</i>
SCoSA	<i>Société Coopérative organisée comme une Société Anonyme</i>
SCS	<i>Société en Commandite Simple</i>
SCSp	<i>Société en Commandite Spéciale</i>
SICAF	<i>Société d'Investissement à Capital Fixe</i>
SICAR(s)	<i>Société(s) d'Investissement en Capital à Risque</i>
SICAV	<i>Société d'Investissement à Capital Variable</i>
SIF(s)	<i>Specialised Investment Fund(s)</i>
SNC	<i>Société en Nom Collectif</i>
SOPARFI(s)	<i>Société(s) de Participations Financières</i>
SPF(s)	<i>Société(s) de Gestion de Patrimoine Familial</i>
SV(s)	Securitisation Vehicle(s)

UCI(s)	Undertaking(s) for Collective Investment set up under Part II of the 2010 Law
UCITS	Undertaking for Collective Investment in Transferable Securities authorised in accordance with Article 5 of the UCITS IV Directive
UCITS IV Directive	Directive 2009/65/EC of the European Parliament and of the Council of July 13 th 2009 on the coordination of laws, regulations and administrative provisions relating to Undertakings for Collective Investment in Transferable Securities
VAT	Value Added Tax
Well-Informed Investors	Well-Informed Investors must be either: <ul style="list-style-type: none"> • an institutional investor • a professional investor investing within the meaning of Annex II to the MiFID • an investor who has adhered in writing to the status of a well-informed investor and complies with one of the following conditions: <ul style="list-style-type: none"> • investment of at least EUR 125,000 in the fund • his expertise is confirmed by a banking institution, by an investment firm as defined in the MiFID or by a management company as defined in the UCITS IV Directive
2004 Law	Law of June 15 th 2004 on SICAR, as amended
2007 Law	Law of February 13 th 2007 on SIF, as amended
2010 Law	Law of December 17 th 2010 on undertakings for collective investment, as amended



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we are leaders in each of the legal areas we practice.

HOW WE CAN ASSIST

OVERVIEW OF OUR PRACTICE

With in excess of 70 professionals, Bonn Steichen & Partners is an independent full-service law firm committed to providing the highest quality legal services to domestic and international clients in Luxembourg.

Developing long-term and trusting relationships with clients, BSP takes advantage of the proven synergy between departments to ensure a reliable and consistent high-standard service. Thanks to a wide variety of resources and expertise which are continuously adapting to new laws and regulations, situations and challenges, we provide legal support for our clients in dynamic business environments. Besides delivering tailor-made advice, the broad range of concrete skills enables our lawyers to be proactive and to provide answers not just options.

At BSP, we have created an environment where collegiality, trust and respect are the guiding principles under which we work today. Over time, we have successfully attracted and retained talented professionals allowing us to achieve legal excellence. Focused on achievements, our professionals at all levels of seniority bring together their expertise around a common objective: creating value for the client.

As leaders in each of the areas in which we practice, we offer our clients a wealth of knowledge and experience in all aspects of Luxembourg law. These include :

**Bank Lending, Structured Finance
and Securitisation**

Banking, Financial Services

Capital Markets

Corporate, M&A

Corporate Governance

**Employment, Compensations and
Benefits**

General Commercial

Insolvency, Restructuring

Investment Funds

IP/IT

Litigation, Arbitration

Private Equity

Private Wealth & Business Planning

Real Estate & Construction

Tax

Investment Funds

Leveraging its leading position as the largest investment fund centre in Europe and second largest in the world after the U.S., Luxembourg has already earned itself a reputation for its excellence, stability and business-friendly environment. With over EUR 2,500 billion in assets under management (AUM), Luxembourg boasts of being the most important global distribution centre with funds offered in more than 70 countries throughout the world. At the forefront of the implementation of all European directives relating to the investment industry, the Grand Duchy has shown its ability to evolve smoothly to meet changing requirements.

Our team has a strong and well-established expertise in all areas of investment funds law. At a time of increasing and changing regulations, we ensure the success of our clients' projects by understanding their present needs and anticipating future expectations. Our capability for providing integrated banking, corporate, regulatory and, (critical when structuring investments through Luxembourg) tax, advice allows our lawyers to offer clients innovative and proactive solutions. This full service approach and specialist tax advice set us apart from other firms in Luxembourg.

Our investment funds practice covers the establishment, structuring and restructuring of a full range of regulated and unregulated investment funds. These include:

- UCITS
- Real estate funds
- Hedge funds
- Venture capital funds
- Mezzanine funds
- Distressed debt funds
- Private equity funds
- Islamic finance funds
- Carbon funds and other alternative investment structures.

Luc COURTOIS
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Qualified

Luxembourg Bar, 1994

Education

- Georgetown University Law Center, USA, LL.M., 1995.
- Université Catholique de Louvain-la-Neuve, Belgium, *Licence en droit* (Bachelor in Law), 1993.
- Université Catholique de Louvain-la-Neuve, Belgium, *Affaires Publiques et Internationales* (Education in Public and International Affairs), 1993.

Selected Experience

- Luc has been active in the investment fund practice for more than 18 years.
- He assists fund managers in complying with the new AIFMD requirements in the most efficient way.
- Luc specialises in setting up UCITS and other regulated investment vehicles, including real estate funds, hedge funds, private equity funds and carbon funds. He also assists management companies in developing their activities, both in Luxembourg and abroad.
- He recently participated in the structuring of an innovative private debt fund investing particularly in LBO transactions.
- Luc advises several bank groups when dealing with the restructuring of their management companies in Luxembourg.
- He assisted UCITS in their conversion into UCITS IV, in developing new products and advised management companies.
- Luc assisted in the launch of SIFs acting in the renewable energy and carbon finance mechanism sectors.

Professional Associations

- Association of the Luxembourg Fund Industry (ALFI)
- Lecturer in investment fund law at the Institut de Formation Bancaire Luxembourg (IFBL)
- Board member of various investment funds and management companies.
- Luxembourg Brazil Business Council (LBBC)

Languages

English, French, Italian

Evelyn MAHER

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Qualified

Luxembourg Bar (List IV) 2009, as a Solicitor in Ireland, 2000.

Education

- University College Cork, Ireland, LL.M., 1997.
- University of Limerick, Ireland, B.A. in Law and European Studies, 1996.

Selected Experience

- Evelyn advises clients in relation to the establishment of investment vehicles under the special regime for investment in risk capital (SICAR) and the specialised investment fund regime (SIF) and assists with the regulatory approval and incorporation process.
- She provides on going assistance to a wide range of regulated private equity and venture capital funds throughout their existence.
- She has also provided assistance in relation to the listing of securities on both the regulated and Euro MTF markets operated by the Luxembourg Stock Exchange.
- She advises clients regularly in relation to the regulatory regime applicable to listed issuers i.e. advice on takeover, corporate, market abuse and transparency regulations.
- Evelyn assisted Mittal in relation to public takeover of Arcelor.
- She has extensive experience in relation to Luxembourg regulatory and corporate law.

Professional Associations

- International Bar Association (IBA)
- Association of the Luxembourg Fund Industry (ALFI)
- Ireland Luxembourg Chamber of Commerce (ILCC)
- American Chamber of Commerce in Luxembourg (AMCHAM)
- British Chamber of Commerce for Luxembourg (BCC)
- Women's Law Network (WLN)
- International Referral (IR)

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