

Seminar

Investment Funds in Luxembourg

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Introduction

- The Commission de Surveillance du Secteur Financier (CSSF) is the Luxembourg Supervisory Authority of the Financial Sector
- The CSSF is a Public Institution with a legal personality and with a financial autonomy
- The CSSF is placed under the political authority of the Minister of Finance
- The CSSF is responsible for the supervision of the entire Luxembourg Financial Sector, except for the Insurance Sector
- Currently the CSSF employs 415 persons

Legal and Regulatory Framework

European Union Directives and Luxembourg Laws

The Framework Texts (Level 1)

Directive 85/611/EEC → Law of 30 March 1988

Directive 2001/107/EC
and Directive 2001/108/EC → Law of 20 December 2002

Directive 2009/65/EC → Law of 17 December 2010

Law of 13 February 2007 for Specialised Investment Funds the securities of which are reserved to one or several well-informed investors

Legal and Regulatory Framework

European Union Directives and Luxembourg Laws

The Implementing Texts (Level 2):

Directive 2007/16/EC → Grand-Ducal Regulation of 8 February 2008

Directive 2010/43/EU → CSSF Regulation 10-04

Directive 2010/44/EU → CSSF Regulation 10-05, as modified by CSSF Regulation 11-04

Regulation No 583/20103

Regulation No 584/20105

Presentation of the Luxembourg Investment Fund Sector

Statistical Data as of 31 December 2011

- 3,845 investment funds
(out of which 1,870 fall under the UCITS Directive, 601 are non-UCITS covered by part II of the law of 17 December 2010 and 1,374 fall under the law of 13 February 2007)
- Total Net Assets: 2,096.512 billion euros
- 179 Management Companies that are UCITS compliant

Presentation of the Luxembourg Investment Fund Sector

The latest statistical data related to the Luxembourg financial centre and to Luxembourg investment funds are published in the Newsletter, which the CSSF issues monthly and which contains all the relevant latest developments regarding the Luxembourg financial centre (such as statistics and legal and regulatory developments)

The Newsletter can be found on the Internet website of the CSSF, under Publications > Newsletters

Organisation of Investment Funds

Two Legal Forms of Investment Funds

- Investment Company
- *Fonds Commun de Placement* (FCP) - Common Fund

Unlike investment companies, FCPs do not have a distinct legal personality and are managed by a management company

Supervision of Investment Funds

As regards investment funds and management companies, the CSSF is competent for granting the authorization to carry out the supervised activity and for the permanent supervision of investment funds and management companies

A. – The Authorization of Investment Funds and Management Companies

B. – The Permanent Supervision of Investment Funds and Management Companies

Investment Funds in Luxembourg

Luxembourg investment funds can have classes of shares or units

The reasons for classes of shares or units can be e.g.:

Distribution/Capitalisation

Types of investors (retail, institutional, jurisdiction of residence)

Currency

Investment Funds in Luxembourg

Transparency

The CSSF is mindful of a clear and complete information necessary for the investors to be able to make an informed judgement of the investment proposed to them, and, in particular, of the risks attached thereto (prospectus)

For UCITS, the law requires in addition a document, which contains key information for investors

This document is called the Key Investor Information Document (KIID)

Investment Funds in Luxembourg

Transparency

The KIID shall include appropriate information about the essential characteristics of the UCITS concerned, so that investors are reasonably able to understand the nature and the risks of the investment product that is being offered to them and, consequently, to take investment decisions on an informed basis

The KIID shall be provided to investors free of charge

For UCITS, the principle is that each class of shares or units must have a KIID

Investment Funds in Luxembourg

Transparency and past performance

Regarding the elements that the investors usually consider when making the choice to invest in an investment fund/classes of shares or units of investment funds, the CSSF is mindful that the investor is properly informed – via a disclaimer – that past performance is no guarantee for future returns

Investment Funds in Luxembourg

Fees and commissions

Different fee and commission structures for different classes of shares or units are allowed

The experience of the CSSF shows that the free competition between the fund providers leads to a certain levelling out of fees and commissions between certain brackets and that the fees and commission in the Luxembourg investment funds and in the classes of shares or units are not exaggerated, i.e. neither excessively high nor excessively low

This is especially true for the services of the depositary bank and of the central administration

Investment Funds in Luxembourg

Advantages and benefits of classes and shares from the perspective of the investors

In terms of competition, choice and fees and commission, it can be beneficial and easier for the investor to switch from one class of shares or units to another rather than havin to redeem and re-subscribe, with the applicable redemption and subscription fees and commissions (cf. economies of scale)