

**PRESENTATION OF LUXEMBOURG
SPECIALISED INVESTMENT FUNDS (SIF)**

Disclaimer:

This presentation is only meant to highlight some of the aspects of Luxembourg laws in relation to the SIF.

The present document shall, under no circumstances, be considered as a legal opinion.

No decision shall be made on the sole basis of this document without considering appropriate professional advice.

The February 13th, 2007 law on specialised investment funds (hereinafter referred to as «SIF law») such as complemented by two Grand Ducal regulations dated February 27th, 2007 allows an expansion and an easing of the provisions earlier applicable in this field.

The now repealed July 19th, 1991 law on undertakings for collective investment with shares not intended to be invested in the public sector enabled the Luxembourg financial sector to become firmly renowned so that it reached the second place in the investment sector worldwide (behind the USA) with 3.438 Funds in total at the end of July 31, 2009, representing 1.706.030 billion euros of assets.

A growing craze of the investors for products like hedge funds was noticed over the last years. Nevertheless, it has been checked through the fact the Luxembourg legislation did not fit the market realities, in particular incompatible with the slow supervisory prior approval process of the funds. Therefore, the Luxembourg government, supported by the banking associations of the place, wanted the applicable plan to be redesigned in order to support – among other things – the development of this type of products by creating a «new» type of vehicle with flexibility and accessibility enabling a new impulse to the growth of the Luxembourg industry in investment funds.

It shall be noted that the regime applicable to the SIF introduced in Luxembourg law through the February 13, 2007 law meets these criteria with regard to the scope of the matters (A), the taxation (B) and the supervision (C) to which they are subject.

A. SCOPE

Article 1 of the SIF law sets forth that *«will be considered as specialised investment funds all undertakings for collective investment located in Luxembourg:*

– the sole object of which is the collective investment of their funds in assets with the aim to diversify the investment risks and to have their investors benefit from the results of the management of their assets, and

- *that reserves its securities to one or more **informed investors**, and*
- *the constitutive or issuing documents of which provide that they are **submitted to the provisions of the present law**».*

From then on, the concept of Institutional Investor has been replaced by the introduction in Luxembourg law of the concept of «well-informed investors» which can be defined in substance as **investors who acknowledge they understand the risks in connection with investments in SIF and invest at least EUR 125,000.- in the SIF or who, for lack of this minimum investment, benefit from a certificate confirming their capacities to evaluate their investments in SIF set either by a credit institution (Directive 2006/48/CE), by an investment firm (Directive 2004/39/CE), or by a holding company (Directive 2001/107/CE)**. This results in an increased widening of investment funds to individual customers who are legal person investors, allowing «family» investments. It has to be emphasized that SIF subject to this Law shall be deemed to be situated in Luxembourg if the registered office of the management company of the common fund or the registered office of the investment company is situated in Luxembourg. The head office shall be situated in Luxembourg.

Specialized investment Funds shall be set-up under the form of a FCP (Luxembourg Common Funds, which have no legal personality and which shall then be managed by a management company), of an Investment Company with a variable capital (Luxembourg SICAV), or of another entity fulfilling certain conditions as described hereinafter..

1. FCP – luxembourg common funds

Common funds are any undivided collection of assets made up and managed according to the principle of risk- spreading on behalf of joint owners who are liable only up to the amount contributed by them and whose rights are represented by units reserved to one or several well-informed investors.

The net assets of a common fund may not be less than one million two hundred fifty thousand Euro (1,250,000 Euro). This minimum must be reached within a period of twelve months following the authorisation of the common fund. A grand-ducal regulation may increase such minimum amount up to a maximum of two million five hundred thousand Euro (2,500,000 Euro), nonetheless no such regulation is drafted on the day of this presentation.

A common fund shall be managed by a Luxembourg management company which complies with the conditions set out in Chapter 13 or 14 of Part IV of the amended law of 20th December, 2002 relating to undertakings for collective investment.

This management company shall issue registered certificates or bearer securities representing one or more portions of the common fund which it manages or, in accordance with the conditions laid down in the management regulations, written confirmations of entry in the register of units or fractions of units without limitation as to the splitting-up of units. Rights attached to fractions of units are exercised in proportion to the fraction of a unit held except for possible voting rights which can only be exercised for whole units. The certificates and securities shall be signed by the management company and the depository.

Unless otherwise provided for in the management regulations of the fund, the valuation of the assets of the common fund shall be based on the fair value. This value must be determined in accordance with the rules set forth in the management regulations.

The Commission de Surveillance du Secteur Financier (the Commission for the Supervision of the Financial Sector) (the "CSSF") may, in the interest of the unitholders or in the public interest, require the suspension of the redemption of units, in particular where the provisions of laws, regulations or agreements concerning the activity and operation of the common fund are not observed.

The issue and redemption of the units shall be prohibited:

- a) during any period where there is no management company or depositary;
- b) where the management company or the depositary is put into liquidation or declared bankrupt or seeks a composition with creditors, a suspension of payment or a court controlled management or is the subject of similar proceedings.

The management company shall draw up the management regulations for the common fund. Such regulations must be lodged with the register of commerce and companies and its publication in the Mémorial will be made through a notice advising of the deposit of such document with the register of commerce and companies.

The management regulations of the common fund shall at least contain the following provisions:

- a) the name and duration of the common fund, the name of the management company and of the depositary,
- b) the investment policy according to its proposed specific objectives and the criteria therefor,
- c) the distribution policy within the scope of Article 15,
- d) the remuneration and expenditure which the management company is empowered to charge to the fund and the method of calculation of such remuneration,
- e) the provisions as to publications,
- f) the date of the closing of the accounts of the common fund,
- g) the cases where, without prejudice to legal grounds, the common fund shall be dissolved,
- h) the procedure for amendment of the management regulations,
- i) the procedure for the issue of units and, as the case may be, for the redemption of units.

The management company shall manage the common fund in accordance with the management regulations and in the exclusive interests of the unitholders. It shall exercise all the rights attached to the assets comprised in the portfolio of the common fund, and must fulfil its obligations with the diligence of a salaried agent.

It shall be answerable to the unitholders for any loss resulting from the non- fulfilment or improper fulfilment of its obligations.

The custody of the assets of the common fund must be entrusted to a depository, which must either have its registered office in Luxembourg or be established in Luxembourg if its registered office is in another Member State of the European Union, and must be a credit institution duly established in the Grand-Duchy of Luxembourg.

In the context of their respective roles, the management company and the depository must act independently and solely in the interest of the unitholders.

Liquidation of the common fund shall take place:

- a) upon the expiry of any period as may be fixed by the management regulations;
- b) in the event of cessation of their duties by the management company or by the depository;
- c) in the event of bankruptcy of the management company;
- d) if the net assets of the common fund have fallen for more than 6 months below one fourth of the legal minimum provided for in Article 21 hereafter;
- e) in all other cases provided for in the management regulations.

Neither the management company, nor the depository, acting on behalf of the common fund may grant loans to unitholders of the common fund.

2. SICAV – Luxembourg Investment companies with variable capital

Investment companies with variable capital ("SICAV") shall be taken to mean those companies:

- which have adopted the form of a public limited company, a partnership limited by shares, a limited company or a cooperative in the form of a public limited company,
- the exclusive object of which is to invest their funds in assets in order to spread the investment risks and to ensure for their investors the benefit of the results of the management of their assets, and
- the securities of which are reserved to one or several well-informed investors, and
- the articles of incorporation of which provide that the amount of capital shall at all times be equal to the net asset value of the company.

The subscribed capital of the SICAV, increased by the share premium, may not be less than one million two hundred fifty thousand Euro (1,250,000 Euro). This minimum must be reached within a period of twelve months following the authorisation of the SICAV. A grand-ducal regulation may increase such minimum amount up to a maximum of two million five hundred thousand Euro (2,500,000 Euro), nonetheless no such regulation is drafted on the day of this presentation.

The capital of a SICAV must be entirely subscribed, and at least 5% of the subscription amount for shares or units must be paid-up in cash or by means of a contribution other than cash.

Subject to any contrary provisions of its articles of incorporation, a SICAV may issue its securities at any time.

Unless otherwise provided for in the articles of incorporation, the valuation of the assets of the SICAV shall be based on the fair value. This value must be determined in accordance with the rules set forth in the articles of incorporation.

The articles of incorporation of the SICAV shall specify the conditions in which issues and redemptions may be suspended, without prejudice to legal causes. In the event of suspension of issues or redemptions, the SICAV must without delay inform the CSSF.

Where the interest of the shareholders or unitholders so requires, redemptions may be suspended by the CSSF if the provisions of laws, regulations, or the articles of incorporation concerning the activity and operation of the SICAV are not observed.

The articles of incorporation shall describe the nature of the expenses to be borne by the SICAV.

The shares or units of a SICAV shall have no par value.

A share or a unit shall specify the minimum amount of capital and shall give no indication regarding its par value or the portion of the capital which it represents.

Variations in the capital shall be effected *ipso jure* and without compliance with measures regarding publication and entry in the register of commerce and companies.

In the case of issue of new shares or units, pre-emptive rights may not be claimed by existing shareholders or unitholders unless the articles of incorporation provide for such a right by express provision.

Unless otherwise provided for in the articles of incorporation, the net assets of the SICAV may be distributed subject to the limits of its minimum capital. SICAVs shall not be obliged to create a legal reserve.

SICAVs are not subject to any rules in respect of payment of interim dividends other than those set forth in their articles of incorporation.

The custody of the assets of a SICAV must be entrusted to a depository, which must either have its registered office in Luxembourg or be established in Luxembourg if its registered office is in another Member State of the European Union, and must be a credit institution duly established in the Grand-Duchy of Luxembourg.

In carrying out its role as depository, the depository must act solely in the interest of the investors.

3. SIFs which have not been constituted as common funds or sicavs

This point sets for specific rules that are additionally applicable to all SIFs subject to this Law which have not been constituted as common funds or SICAVs.

The subscribed capital, increased by the share premium, of SIFs falling within this Chapter, may not be less than one million two hundred and fifty thousand Euro (1,250,000 Euro). This minimum must be reached within a period of twelve months following their authorisation. A grand-ducal regulation may increase such minimum amount up to a maximum of two million five hundred thousand Euro (2,500,000 Euro), nonetheless no such regulation is drafted on the day of this presentation.

If the SIF is constituted under a statutory form, its capital must be entirely subscribed and at least 5% of each share or unit must be paid-up in cash or by means of a contribution other than cash.

Unless otherwise provided for in the constitutional documents, the valuation of the assets of the SIF shall be based on the fair value. This value must be determined in accordance with the rules set forth in the constitutional documents.

4. Special provisions in relation to the legal form

SIF may be set-up with multiple compartments, each compartment corresponding to a distinct part of the assets and liabilities of the SIF.

The constitutional documents of the SIF must expressly provide for that possibility and the applicable operational rules. The offering document must describe the specific investment policy of each compartment.

The shares and units of the SIF with multiple compartments may be of different value with or without indication of a par value depending on the legal form which has been chosen.

Common funds with multiple compartments may, by separate management regulations, determine the characteristics of and rules applicable to each compartment.

The rights of investors and of creditors concerning a compartment or which have arisen in connection with the creation, operation or liquidation of a compartment are limited to the assets of that compartment, unless a clause included in the constitutional documents provides otherwise.

The assets of a compartment are exclusively available to satisfy the rights of investors in relation to that compartment and the rights of creditors whose claims have arisen in connection with the creation, the operation or the liquidation of that compartment, unless a clause included in the constitutional documents provides otherwise.

For the purpose of the relations as between investors, each compartment will be deemed to be a separate entity, unless a clause included in the constitutional documents provides differently.

Each compartment of a SIF may be separately liquidated without such separate liquidation resulting in the liquidation of another compartment. Only the liquidation of the last remaining compartment of the SIF will result in the liquidation of the SIF.

B. SIF SUPERVISION

Supervising SIF was one of the main stakes of the SIF law whereas the slow supervisory prior approval process of the funds was an obstacle to the development of products such as hedge funds.

1. SIF Tax Supervision:

Among its assignments, the administration de l'enregistrement (Land Registration & Estates Department) is in charge of the tax supervision of SIFs.

If, at a later date than the constitution of the SIFs referred to by this law, the afore-mentioned Registration Administration notes that these SIFs carry out operations going beyond the framework of the activities allowed by this law, the provisions and tax benefits mentioned below in item C cease to apply.

Moreover, the Registration Administration may levy a fiscal fine of 0.2% on the aggregate amount of the assets of the undertakings.

2. SIF Prudential Supervision:

The SIF are subject to the CSSF¹ authorisation and supervision. The real novelty consists now in the possibility for the SIF to be established and start their activities before they obtained the CSSF authorisation provided that the request is submitted to the latter within the month following the establishment.

The CSSF approves the constitutional documents and the choice of the depositary. On the other hand, no promotor is required any longer and the choice of an investment advisor is not subject to the CSSF approval any longer.

The persons operating the SIF and the depositary shall fulfil the «sufficient» classic conditions of honorability and professional skill. The 07/283 CSSF circular dated February 28th, 2007 specifies that shall be considered as operating persons in pursuance of the law the members of the board of directors (for public limited company, SCO-SA: co-operative company in the form of a public limited company), the general partners (for limited partnership with shares), or the managers of the management company (for FCP: mutual fund).

Authorised SIFs shall be entered by the CSSF on a list. Such entry shall be tantamount to authorisation and shall be notified by the CSSF to the SIF concerned. Applications for entry on the list must be filed with the CSSF within the month following their constitution or formation. The said list and any amendments made thereto shall be published in the Mémorial by the CSSF.

The entering and the maintaining of the list shall be subject to observance of all legislative, regulatory or contractual provisions relating to the organisation and operation of the SIFs subject to the Law and the distribution, placing or sale of their securities.

Furthermore, please keep in mind that there is no obligation for the SIF to file semi-annual reports or summary reports: only the obligation to have the SIF annual accounts audited remains.

3. Establishment of an offering document and an annual report

The investment company and the management company, for each of the common funds it manages, must establish:

- an offering document, and
- an annual report for each financial year.

¹ CSSF: *Commission de surveillance du secteur financier*, Commission for the Supervision of the Financial Sector

a. Annual report

The annual report must be available to investors within six months from the end of the period to which it relates.

Information to be included in the annual report shall be :

- I. Statement of assets and liabilities
 - investments,
 - bank balances,
 - other assets,
 - total assets,
 - liabilities,
 - net asset value
- II. Number of units in circulation
- III. Net asset value per unit
- IV. Qualitative and/or quantitative information on the investment portfolio enabling investors to make an informed judgment on the development of the activities and the results of the SIF
- V. Statement of the developments concerning the assets of the SIF during the reference period including the following:
 - income from investments,
 - other income,
 - management charges,
 - depository's charges,
 - other charges and taxes,
 - net income,
 - distributions and income reinvested,
 - changes in capital accounts,
 - appreciation or depreciation of investments,
 - any other changes affecting the assets and liabilities of the SIF.
- VI. A comparative table covering the last three financial years and including, for each financial year, at the end of the financial year:
 - the total net asset value,
 - the net asset value per unit.

SIF subject to the Law and their subsidiaries shall be exempt from the obligation of consolidating the companies owned for investment purposes.

Luxembourg SIF must have the accounting information given in their annual report audited by an authorised external auditor. The auditor's report and its qualifications, if any, are set out in full in each annual report.

The auditor shall be appointed and remunerated by the SIF.

The auditor shall have a duty to promptly report to the CSSF, in the accomplishment of its duties referred to in the preceding sub-paragraph in respect of a SIF, any fact or decisions concerning the SIF and meeting the criteria referred to in the preceding sub-paragraph of which he has become aware while carrying out the audit of the accounting information contained in the annual report of another undertaking having close links resulting from a control relationship with the specialised investment fund or while carrying out any other legal tasks concerning such other undertaking.

The auditor shall moreover be obliged to provide the CSSF with all information or certificates required by the latter on any matters of which the auditor has or ought to have knowledge in connexion with the discharge of his duties. The same applies if the auditor ascertains that the assets of the SIF are not or have not been invested according to the regulations set out by the Law or the offering document.

The CSSF may regulate the scope of the auditor's mandate and the contents of the audit report on the annual accounts. The CSSF may request an auditor to perform a control on one or several particular aspects of the activities and operations of a specialised investment fund. This control is performed at the expense of the SIF concerned.

The institution of commissaires aux comptes (statutory auditors) is repealed with respect to Luxembourg investment companies. The directors or managers are solely competent in all cases the amended law of 10th August, 1915 concerning commercial companies, provides for the joint action of the statutory auditors and the directors or managers. The institution of statutory auditors is not applicable to Luxembourg investment companies. Upon completion of the liquidation, a report on the liquidation shall be drawn up by the auditor. This report shall be tabled at the general meeting at which the liquidators report on the application of the corporate assets and submit the accounts and supporting documents. The same meeting shall resolve on the approval of the accounts of the liquidation, the discharge and the closure of the liquidation.

The annual report shall on request be supplied to investors free of charge.

b. Offering document

The offering document must include the information necessary for investors to be able to make an informed judgment of the investment proposed to them and, in particular, of the risks attached thereto.

The essential elements of the offering document must be up to date when new securities are issued to new investors.

If a prospectus under the Law of 10th July, 2005 concerning the prospectus for transferable securities has been published, there is no obligation to establish an offering document within the meaning of this Law.

SIF must send their offering document and any amendments thereto, as well as their annual report, to the CSSF.

The offering document and the last published annual report shall on request be supplied to subscribers free of charge.

4. Transmission of other information to the CSSF

The CSSF may request SIF to provide any information relevant to the fulfilment of its duties and may, for that purpose, itself or through appointees, examine the books, accounts, registers or other records and documents of SIF.

C. TAXATION

The SIF law sets forth in article 66 and following that *«apart from the capital duty (1) levied on the contribution of capital to civil and commercial companies and the subscription tax (2) (...), no other tax shall be payable by the SIFs (...).»* As item (3) shall be considered the taxation applicable to the distributions made by SIF.

1. Fixed Capital Duty:

The capital duty originally fixed to EUR 1,250.- has been abolished from January 1, 2009 onwards.

2. Subscription Tax and Exemption:

The rate of the annual subscription tax payable by the SIF shall be 0.01% of the total net assets of the SIFs assessed on the last day of each quarter.

The SIF law sets forth that are exempt from the subscription tax:

- the value of the assets represented by units held in other undertakings for collective investment already submitted to the subscription tax provided for by this article or by article 129 of the law of December 20, 2002 relating to undertakings for collective investment, as amended (the SIF wanting to benefit from the exemption since they hold such shares of undertakings for collective investment, shall show separately the value in periodic returns they provide the *Administration de l'enregistrement et des domaines*² with);
- SIFs as well as individual compartments of multiple compartments SIFs:
 - the exclusive object of which is the collective investment in money market instruments and the placing of deposits with credit institutions, and
 - the residual weighted maturity of the portfolio does not exceed 90 days, and
 - that benefit from the highest possible rating of a recognised rating agency;
- SIFs the securities of which are reserved to:
 - professional retirement institutions or similar investment vehicles, created on the initiative of one or several employers for the benefit of their employees and
 - companies of one or several employers investing the funds they hold to furnish a retirement service to their employees.

The SIF law also specifies that these provisions mutatis mutandis apply *«to individual compartments the securities of which are reserved to (i) professional retirement institutions or similar investment vehicles, created on the initiative of one or several employers for the benefit of their employees and*

² *Administration de l'enregistrement et des domaines* – Land Registration & Estates Department

(ii) companies of one or several employers investing the funds they hold to furnish a retirement service to their employees of a SIF with multiple compartments, and - to individual classes the securities of which are reserved to (i) professional retirement institutions or similar investment vehicles, created on the initiative of one or several employers for the benefit of their employees and (ii) companies of one or several employers investing the funds they hold to furnish a retirement service to their employees created within a SIF or within a compartment of a SIF with multiple compartments.»

The Grand-Ducal regulation dated February 27, 2007 specifies that the afore-mentioned concept of «Money Markets» concerns *« tous titres et instruments représentatifs de créances, qu'ils aient ou non le caractère de valeurs mobilières, y compris les obligations, les certificats de dépôt, les bons de caisse et tous autres instruments similaires, à condition qu'au moment de leur acquisition (par le SIF) leur échéance initiale ou résiduelle ne dépasse pas douze mois compte tenu des instruments financiers y relatifs, ou qu'en vertu des conditions d'émission régissant ces titres le taux d'intérêt qu'ils portent fasse l'objet d'une adaptation au moins annuelle en fonction des conditions du marché. »*

Free Translation of the concept defined in the February 27, 2007 Grand-Ducal regulation:

All securities and instruments representing assets, with or without securities nature, bonds, certificates of deposit, cash order and all similar instruments included under the condition that their initial or residual maturity at the time they are acquired by the SIF does not exceed 12 months, taking into account the financial instruments in connection, or that pursuant to the conditions of issue governing these securities, their interest rate shall be adapted at least once a year according to the market conditions.

3. No Withholding Tax on Distributions by the SIF (except for Savings Income):

The SIF law expressly sets forth in article 66 that no withholding tax is levied on distributions made by the SIFs (except if a deduction at source is provided for by the Luxembourg June 21, 2005 law on taxation of savings income in the form of interest payment), and are not taxable for non resident taxpayers.

4. VAT Exemption for SIF Management Services:

Article 73 of the SIF law amends article 44 section 1 d) of the February 12, 1979 law on VAT such as amended. Therefore, providing management services specific and essential for SIF management operations executed within the framework of a direct contract between the service provider and the SIF is exempt from VAT. Subcontracts do not benefit from the exemption unless they are contracts about finished goods (that is to say individualised so that they are executed for the needs of one specific SIF).

COMPARATIVE TABLE BETWEEN SICAR COMPANIES AND SIF

	SICAR	SIF
Legal Form	SA (Luxembourg public limited company), SàRL (Luxembourg limited liability company), SCA (Luxembourg partnership limited by shares), SCO-SA (Luxembourg co-operative company in the form of a public limited company), SCS (Luxembourg limited partnership)	- FCP: Mutual fund - SICAV: Open-End Investment Company (SA, SCA, SàRL, SCO-SA) - Others
Investors	Restriction: «well-informed investors»	Restriction: «well-informed investors»
Minimum Capital	EUR 1,000,000.-	EUR 1,250,000.-
Subscription Tax	Exempt	0.01% of the total net assets, except for exemption
Authorisation / Supervision	- Prior autorisation required (CSSF) - No strict supervision	- Authorisation required, but may take place after the activity has started (CSSF) - No strict supervision by CSSF - fiscal control by AED (Land Registration & Estates Department)
Promotor	Required, autorisation not required	Not required
Income Tax	- 28.59% (except for Income resulting from securities) - transparent SICAR are not subject to the Income Tax	Exempt
Wealth Tax	Exempt	Exempt
Withholding tax (dividends, interests, residuary funds on liquidation)	None	None (except for savings incomes if the SIF is incorporated as a FCP)
VAT management services	Exempt	Exempt
Benefit from Double Taxation Treaties (DTT) and the community system of parent-subsidiary companies	Generally applicable (corporate form)	DTT available with almost 50 countries depending if the SIF is incorporated as a FCP or a SICAV