

Amendments to the Luxembourg law relating to specialised investment funds

On the 12th of August 2011 a government bill (*Projet de loi n° 6318*) was put forward in Parliament, the purpose of which is to modify the Law of the 13th of February 2007 relating to Specialised Investment Funds (hereinafter “SIF Law”).

The proposed amendments implement the recent EU developments provided in Directive 2011/61/EU of the European Parliament and of the Council of the 8th of June 2011 on Alternative Investment Fund Managers (AIFMD), and the administrative practice of the financial Supervisory Authority, *the Commission de Surveillance du Secteur Financier* (the “CSSF”).

The main amendment proposals are as follows:

- Precision of the SIF Law scope. SIFs activities would have to comprise at least the active portfolio management in order to separate them from passive investment vehicle like SPFs (*Société de gestion du patrimoine familial*). Already set up SIFs must comply with this obligation from the 30th of June 2012.
- New rules concerning the delegation of certain tasks within the frame of operations of a SIF are introduced for SIF or their management companies. Third parties entrusted with sub-délégation duties will need to be authorised or registered for the purposes of asset management and will become subject to prudential supervision. If the authorised third party is located in a foreign country, cooperation between the CSSF and the supervisory authority of this country will have to be ensured.
- A prior authorisation of the SIF by the CSSF before commencement its activities will be required. It will not any longer be possible to launch SIFs prior to obtaining the approval from the CSSF.
- Any person entrusted with the management of a SIF will have to prove that he or she is of sufficiently good repute and that he or she has sufficient expertise. This person shall need to be approved by the CSSF.
- The obligation for SIFs to follow clear rules for the minimization of potential risks arising from conflicts of interest and to put in place an appropriate risk management process.
- Subject to specific conditions, cross-investments between sub-funds of the same SIF, like it is permitted for UCITS, will be allowed.

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