Luxembourg Investment Vehicles

An overview of the legal and regulatory requirements

May 2018

kpmg.lu
In this 2018 edition of the Luxembourg Investment Vehicles publication we are pleased to provide you with a general overview of the main fund vehicles that can be established in Luxembourg across all asset classes and investment strategies.

This overview can assist you in better understanding the set-up and operating requirements of the available structures. It focuses on the following aspects:

- Legal and regulatory requirements
- Shareholding
- Reporting requirements
- Approval and supervision
- Taxation

The Luxembourg fund industry today

Luxembourg has continued to develop its strong reputation as a centre of excellence for a large variety of investment funds. The legal and regulatory framework is constantly being improved to offer the best tools for investment managers to structure their investments and to protect investors’ interests.

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Alternative investment funds and managers

By being among the first to transpose the AIFMD into local law, Luxembourg has consolidated its leading position for structuring alternative investment funds, being home to 242 authorised alternative investment fund managers (AIFMs) and 605 registered (sub-threshold) managers. Many of the large UCITS managers also hold an AIFM license, building on existing expertise and operations to manage both AIFs and UCITS funds.

The Luxembourg government has continued its strong commitment to the funds industry, making an important upgrade to the range of fund structures in 2016 with the creation of the Reserved Alternative Investment Fund (RAIF). This vehicle meets the demands of many AIFMs and professional investors who had been calling for the removal of the dual regulatory approach whereby both manager and fund are subject to regulation and supervision.

The RAIF is similar to the popular SIF and SICAR structures, but differs in its removal of this double layer of regulation. As a result, its overall time-to-market is very fast. Only authorised AIFMs are permitted to manage RAIFs, which have been highly successful; there are 335 of them as of March 2018.

The CSSF continues to play an important role in providing guidance on the legal framework governing alternative investment funds and their managers, and updates the AIFMD Frequently Asked Questions (FAQ) regularly. This FAQ covers scope, the content of the application file, loan origination and loan participation by AIFMs, the rules on delegation of regulated activities, the role of the depositary, marketing rules, reporting and transparency requirements, valuation, and prudential capital rules.

Number of AIFs, September 2013 to January 2018

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UCITS

The UCITS framework in Luxembourg is celebrating 30 years of existence in 2018. The last major amendment to it was in 2016 when UCITS V was transposed into Luxembourg law. One of the main objectives of that reform package was to further enhance investor protection by aligning the role, responsibilities, and regulation of the depositary with the AIFMD rules. The responsibilities of the depositary were broadened to include the monitoring cash flows in the fund and oversight of fund operations, in addition to the custody of the portfolios of investments. The liability of the depositary is stricter under UCITS, with the depositary fully liable for the loss of financial instruments held through the custody and sub-custody network.

The CSSF also provides guidance on the UCITS framework in a UCITS Frequently Asked Questions document that is updated regularly.

Upcoming changes

The regulatory framework continues to evolve at the European Union (EU) level, and the initiatives described below will shape the funds industry in Luxembourg in the years to come.

MMF Regulation

The EU regulation on money market funds (MMFs) that are set up as UCITS or as AIFs will apply from 21 July 2018 (relevant to new MMFs only, at first). The regulation lays down a uniform set of rules for MMFs covering authorisation, eligible investments, portfolio composition, internal credit quality assessment, valuation rules, transparency, reporting to investors and to competent authorities, and liquidity risk management. Existing MMFs have to submit an application to their competent authority by 21 July 2019 demonstrating their compliance with the regulation.

EC legislative package on cross-border distribution of funds

As part of its Capital Markets Union (CMU) initiative, the European Commission (EC) has published a legislative proposal to boost the cross-border distribution of UCITS and AIFs. Currently, 70% of the total assets under management are held by investment funds authorised or registered for distribution in their domestic market only. Only 37% of UCITS and about 3% of alternative investment funds (AIFs) are registered for distribution in more than three Member States.

The intention of these targeted amendments to the UCITS and AIFMD legislative frameworks is the removal of remaining regulatory barriers to cross-border fund distribution. The proposal intends to align national marketing requirements and regulatory fees, while harmonising the process and requirements for the verification of marketing materials by national authorities. The rules on exiting a national market will be harmonised and clarification of pre-marketing activities will be introduced to allow managers to test the interest for an investment strategy among potential investors.

The European Commission (EC) is keen to have this text adopted by April 2019.
AIFMD review
The European Commission (DG FISMA Directorate General for Financial Stability, Financial Services, and CMU) mandated KPMG in 2017 to provide a comprehensive study on how the Alternative Investment Fund Managers Directive (AIFMD) has worked in practice and to what extent its objectives have been met. The assessment includes a general overview regarding the functioning of specific AIFMD requirements, including marketing through the passport and national regimes, the impact of the depositary rules, the impact of the transparency and reporting requirements, the impact on private equity and venture capital funds, and the impact on the protection of non-listed companies.

KPMG will deliver its final report to the European Commission in October 2018, which will underpin the work of the Commission on any future amendment to the AIFMD framework.

Framework for the pan-European personal pension, or PEPP
Another pillar of the CMU initiative is a proposal for a regulation on a pan-European personal pension (PEPP) that was issued by the European Commission in June 2017 and is complementary to existing public and occupational pensions. The Commission also recommended that Member States give PEPP’s the most favourable tax treatment available to their national personal pension products.

The proposal seeks to establish a legislative framework for a PEPP to enhance the cross-border provision and portability of personal pension products and increase investment in the EU.

EC Action Plan on sustainable finance
The EC published an Action Plan of Financing Sustainable Growth in March 2018 setting out the necessary steps for the financial system to contribute to the EU’s sustainable development objectives. The measures include establishing EU labels for green financial products which will help investors to easily identify products that comply with green or low-carbon criteria. It also introduces measures to clarify asset managers’ and institutional investors’ duties regarding sustainability, as well as measures to strengthen the transparency of companies on their environmental, social, and governance (ESG) policies.

Brexit
Fund managers will have to assess the impact of Brexit on their operating models as they transition to a post-Brexit legal and regulatory framework for their cross-border fund business. Luxembourg has been chosen by many alternative investment fund managers as the place to domicile their investment activities and operations. This confirms Luxembourg’s position as the prime cross-border hub for funds, as a top choice for UK and US managers to develop their distribution activities across the EU market, and as a gateway to Asian markets.

Brexit Relocation Map as of May 2018

Brexit timeline, past and projected

**Estimated timing**

<table>
<thead>
<tr>
<th>Event</th>
<th>Timing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transition agreed by European Council</td>
<td>23 March 2018</td>
</tr>
<tr>
<td>Negotiate on outstanding issues</td>
<td>Oct 2018* - March 2019</td>
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Source: All figures are based on official media publications in relation to BREXIT relocations
Legal and regulatory requirements

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<tr>
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**Eligible assets**

**Restricted to:**

- Unrestricted.

**Prior approval of the investment objective and strategy by the CSSF.**

**Prior approval of the investment objective and strategy by the CSSF.**

**Unrestricted.**

**Risk diversification requirements**

- Detailed risk diversification requirements are contained in CSSF Circular 91/75 for funds investing in real estate.

- In addition, specific restrictions are contained in:
  - CSSF Circular 91/76 for funds investing in venture capital, futures, options, and real estate.
  - CSSF Circular 02/80 for funds adopting an alternative investment strategy.

- Risk diversification requirements are detailed in CSSF Circular 91/76 and are less stringent than the stringent ones in application for Part I funds. In addition, specific restrictions are contained in:
  - CSSF Circular 91/76 for funds investing in venture capital, futures, options, and real estate.
  - CSSF Circular 02/80 for funds adopting an alternative investment strategy.

- Risk diversification requirements are detailed in CSSF Circular 91/76 and are less stringent than the stringent ones in application for Part II funds. In addition, specific restrictions are contained in:
  - CSSF Circular 91/76 for funds investing in venture capital, futures, options, and real estate.
  - CSSF Circular 02/80 for funds adopting an alternative investment strategy.

- Risk diversification requirements are detailed in CSSF Circular 02/80 and are less than the stringent ones in application for Part I and Part II funds under the Fund law.

- The main requirement for the SIF is to prorate out to invest more than 30% of its assets with the same issuer.

- No risk diversification requirements.

- No risk diversification requirements.

- No risk diversification requirements.

- Risk diversification if it invests solely in Risk Capital.
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<th>RAIF only with authorised AIFM</th>
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<tbody>
<tr>
<td><strong>Entity Type</strong></td>
<td><strong>SICAV (SA)</strong></td>
<td><strong>SICAF (SA, SCA)</strong></td>
<td><strong>FCP</strong></td>
<td><strong>SICAV / SICAF (SA, SCA)</strong></td>
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<tr>
<td><strong>Segregated sub-funds</strong></td>
<td><strong>Yes.</strong></td>
<td><strong>Yes.</strong></td>
<td><strong>Yes.</strong></td>
<td><strong>Yes.</strong></td>
<td><strong>Yes.</strong></td>
<td><strong>Yes.</strong></td>
<td><strong>Yes.</strong></td>
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<tr>
<td><strong>Cross sub-funds investment</strong></td>
<td><strong>Yes, with restrictions.</strong></td>
<td><strong>Yes, with restrictions.</strong></td>
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<td><strong>Yes, with restrictions.</strong></td>
</tr>
<tr>
<td><strong>Master - Feeder</strong></td>
<td><strong>Yes.</strong></td>
<td><strong>Yes.</strong></td>
<td><strong>Yes.</strong></td>
<td><strong>Yes.</strong></td>
<td><strong>Yes.</strong></td>
<td><strong>Yes.</strong></td>
<td><strong>Yes.</strong></td>
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<tr>
<td></td>
<td><strong>Subject to specific rules (CSSF Regulation 10/516).</strong></td>
<td><strong>Central administration established in Luxembourg.</strong></td>
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## Legal and regulatory requirements

### UCITS (“Part I Fund”) vs Part II Fund with registered AIFM

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<tr>
<th>Requirement</th>
<th>Part I Fund with registered AIFM</th>
<th>Part II Fund with registered AIFM</th>
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<tbody>
<tr>
<td>Management company requirement</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>SICAV/SICAF</td>
<td>No; however, the authorised AIFM could be a management company.</td>
<td>Yes</td>
</tr>
<tr>
<td>Registration requirements in Luxembourg</td>
<td>Yes</td>
<td>No.</td>
</tr>
<tr>
<td>Supervision</td>
<td>No, however, the authorised AIFM could be a management company.</td>
<td>Yes</td>
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### UCITS (“Part I Fund”) vs Part II Fund with authorised AIFM

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<td>Supervision</td>
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### SIF with registered AIFM vs SIF with authorised AIFM

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<td>Supervision</td>
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### SICAR with registered AIFM vs SICAR with authorised AIFM

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### RAP only with authorised AIFM

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</table>

### Shareholding

- No nationality or residency requirements for directors, however, the AIFM could be a management company.

### Reporting requirements

- Minimum requirement that the two conducting officers of the AIFM be located in Luxembourg (unless specific derogation is obtained from the CSSF).
- No nationality or residency requirements for directors.

### Approval and supervision

- No nationality or residency requirements for directors of funds or management company.
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### Taxation

- No national or residency requirements for directors of funds or management company.
## Legal and regulatory requirements

### Minimum capital requirement for fund/company

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<tr>
<td>€1,250,000 to be reached within 6 months of authorisation.</td>
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### Risk management

- The risk management function is regulated under AIFMD and under articles 38 to 49 of Commission Delegated Regulation (EU) No 231/2013. It is one of the two core functions of an AIFM.
- The risk management function is regulated under the asset manager’s local regulation. It is one of the two core functions of an AIFM.
- The risk management function is regulated by CSSF Circular 11/498 and CSSF Circular 12/546. It is one of the two core functions of an AIFM.

### Portfolio management

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* A SIF/SICAV that does not qualify as an AIF is subject to the same requirements as a SIF/SICAV with a registered AIFM, except where specifically mentioned in italics.
### Eligible Investors

<table>
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<tr>
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<th>Part II Fund with authorized AIFM</th>
<th>SIF with registered AIFM</th>
<th>SIF with authorized AIFM</th>
<th>SICAR with registered AIFM</th>
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<th>RAIF only with authorized AIFM</th>
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<td>Possible.</td>
<td>Possible.</td>
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</tbody>
</table>

### Issue of Shares / Units

- **Eligible Investors**: All types.  
  - **Part I Fund with registered AIFM**: All types.  
  - **Part I Fund with authorized AIFM**: Well-informed investors.  
  - **SIF with registered AIFM**: Well-informed investors.  
  - **SIF with authorized AIFM**: Well-informed investors.  
  - **SICAR with registered AIFM**: Well-informed investors.  
  - **SICAR with authorized AIFM**: Well-informed investors.  
  - **RAIF only with authorized AIFM**: Well-informed investors.  

- **Possible**: Yes.  
  - **Part I Fund with registered AIFM**: Yes.  
  - **Part I Fund with authorized AIFM**: Yes.  
  - **SIF with registered AIFM**: Yes.  
  - **SIF with authorized AIFM**: Yes.  
  - **SICAR with registered AIFM**: Yes.  
  - **SICAR with authorized AIFM**: Yes.  
  - **RAIF only with authorized AIFM**: Yes.  

- **25% of each share must be paid up.**  
  - **Part I Fund with registered AIFM**: Yes.  
  - **Part I Fund with authorized AIFM**: Yes.  
  - **SIF with registered AIFM**: Yes.  
  - **SIF with authorized AIFM**: Yes.  
  - **SICAR with registered AIFM**: Yes.  
  - **SICAR with authorized AIFM**: Yes.  
  - **RAIF only with authorized AIFM**: Yes.  

- **Capital calls can be made either by way of capital commitments or through the issue of partly paid shares. At least 25% of each share must be paid up.**  
  - **Part I Fund with registered AIFM**: Yes.  
  - **Part I Fund with authorized AIFM**: Yes.  
  - **SIF with registered AIFM**: Yes.  
  - **SIF with authorized AIFM**: Yes.  
  - **SICAR with registered AIFM**: Yes.  
  - **SICAR with authorized AIFM**: Yes.  
  - **RAIF only with authorized AIFM**: Yes.  

- **Capital calls can be made by way of capital commitments or through the issue of partly paid shares. At least 5% of each share must be paid up.**  
  - **Part I Fund with registered AIFM**: Yes.  
  - **Part I Fund with authorized AIFM**: Yes.  
  - **SIF with registered AIFM**: Yes.  
  - **SIF with authorized AIFM**: Yes.  
  - **SICAR with registered AIFM**: Yes.  
  - **SICAR with authorized AIFM**: Yes.  
  - **RAIF only with authorized AIFM**: Yes.  

- **Capital calls can be made by way of capital commitments or through the issue of partly paid shares. At least 5% of each share must be paid up.**  
  - **Part I Fund with registered AIFM**: Yes.  
  - **Part I Fund with authorized AIFM**: Yes.  
  - **SIF with registered AIFM**: Yes.  
  - **SIF with authorized AIFM**: Yes.  
  - **SICAR with registered AIFM**: Yes.  
  - **SICAR with authorized AIFM**: Yes.  
  - **RAIF only with authorized AIFM**: Yes.  

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  - **Part I Fund with registered AIFM**: Yes.  
  - **Part I Fund with authorized AIFM**: Yes.  
  - **SIF with registered AIFM**: Yes.  
  - **SIF with authorized AIFM**: Yes.  
  - **SICAR with registered AIFM**: Yes.  
  - **SICAR with authorized AIFM**: Yes.  
  - **RAIF only with authorized AIFM**: Yes.  

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  - **Part I Fund with registered AIFM**: Yes.  
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  - **SIF with registered AIFM**: Yes.  
  - **SIF with authorized AIFM**: Yes.  
  - **SICAR with registered AIFM**: Yes.  
  - **SICAR with authorized AIFM**: Yes.  
  - **RAIF only with authorized AIFM**: Yes.  

### Reporting Requirements
Shareholding

The issue of shares does not require an amendment of the constitutive documents.

The issue price of shares is determined based on the NAV by the number of shares outstanding at the date of issue, unless otherwise specifically provided for in the constitutive documents.

Existing shareholders have a pre-emption right when new shares are issued, unless this right was waived by the shareholders’ meeting as permitted in the constitutive documents.

The issue of new shares will be conducted as provided for in the constitutive documents.

The distribution of dividends must be foreseen in the prospectus/article of incorporation of the SICAF.

The distribution of dividends must be foreseen in the prospectus/article of incorporation of the SICAV.

The distribution of dividends must be foreseen in the prospectus/article of incorporation of the SICAR.

The existing shareholders will have a pre-emption right if explicitly provided for in the constitutive documents.

The issue of new shares will be conducted as provided for in the constitutive documents.

The distribution of dividends must be foreseen in the prospectus/article of incorporation of the SICAF.

The distribution of dividends must be foreseen in the prospectus/article of incorporation of the SICAV.

The distribution of dividends must be foreseen in the prospectus/article of incorporation of the SICAR.

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The issue of new shares will be conducted as provided for in the constitutive documents.

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The distribution of dividends must be foreseen in the prospectus/article of incorporation of the SICAV.

The distribution of dividends must be foreseen in the prospectus/article of incorporation of the SICAR.
Legal and regulatory requirements
Shareholding
Reporting requirements
Approval and supervision
Taxation

**UCITS (“Part I Fund”)**

- **Prospectus directive as transposed into the Luxembourg law**
  - A prospectus prepared in compliance with the requirements of the Prospectus Directive must be prepared when an “offer to the public” within the meaning of the Prospectus Directive is made except if the offer falls under any exemption of the Prospectus Directive. In that case, entry into a prospectus must be prepared in accordance with the SIF law. The information to be communicated to investors stated in article 21 of the AIFM law must either be included in the prospectus or communicated separately to investors.

- **Closed-ended**
  - A prospectus prepared in compliance with the requirements of the Prospectus Directive must be prepared when an “offer to the public” within the meaning of the Prospectus Directive is made except if the offer falls under any exemption of the Prospectus Directive. In that case, entry into a prospectus must be prepared in accordance with the SIF law. The information to be communicated to investors stated in article 21 of the AIFM law must either be included in the prospectus or communicated separately to investors.

   **Part I funds**
   - **Closed-ended**
     - The prospectus/offering document must be updated each time new securities are issued.
   - **Open-ended**
     - NAV must be computed on each day there are subscriptions or redemptions with a minimum of once a year.

**Part II Fund with registered AIFM**

- A prospectus prepared in compliance with the requirements of the Prospectus Directive must be prepared when an “offer to the public” within the meaning of the Prospectus Directive is made except if the offer falls under any exemption of the Prospectus Directive. In that case, entry into a prospectus must be prepared in accordance with the SIF law. The information to be communicated to investors stated in article 21 of the AIFM law must either be included in the prospectus or communicated separately to investors.

- **Open-ended**
  - NAV must be computed on each day there are subscriptions or redemptions with a minimum of once a year.

**Part II Fund with authorised AIFM**

- A prospectus prepared in compliance with the requirements of the Prospectus Directive must be prepared when an “offer to the public” within the meaning of the Prospectus Directive is made except if the offer falls under any exemption of the Prospectus Directive. In that case, entry into a prospectus must be prepared in accordance with the SIF law. The information to be communicated to investors stated in article 21 of the AIFM law must either be included in the prospectus or communicated separately to investors.

**SIF with registered AIFM**

- A prospectus prepared in compliance with the requirements of the Prospectus Directive must be prepared when an “offer to the public” within the meaning of the Prospectus Directive is made except if the offer falls under any exemption of the Prospectus Directive. In that case, entry into a prospectus must be prepared in accordance with the SIF law. The information to be communicated to investors stated in article 21 of the AIFM law must either be included in the prospectus or communicated separately to investors.

**SIF with authorised AIFM**

- A prospectus prepared in compliance with the requirements of the Prospectus Directive must be prepared when an “offer to the public” within the meaning of the Prospectus Directive is made except if the offer falls under any exemption of the Prospectus Directive. In that case, entry into a prospectus must be prepared in accordance with the SIF law. The information to be communicated to investors stated in article 21 of the AIFM law must either be included in the prospectus or communicated separately to investors.

**SICAR with registered AIFM**

- A prospectus prepared in compliance with the requirements of the Prospectus Directive must be prepared when an “offer to the public” within the meaning of the Prospectus Directive is made except if the offer falls under any exemption of the Prospectus Directive. In that case, entry into a prospectus must be prepared in accordance with the SIF law. The information to be communicated to investors stated in article 21 of the AIFM law must either be included in the prospectus or communicated separately to investors.

**SICAR with authorised AIFM**

- A prospectus prepared in compliance with the requirements of the Prospectus Directive must be prepared when an “offer to the public” within the meaning of the Prospectus Directive is made except if the offer falls under any exemption of the Prospectus Directive. In that case, entry into a prospectus must be prepared in accordance with the SIF law. The information to be communicated to investors stated in article 21 of the AIFM law must either be included in the prospectus or communicated separately to investors.

**RAIF only with authorised AIFM**

- A prospectus prepared in compliance with the requirements of the Prospectus Directive must be prepared when an “offer to the public” within the meaning of the Prospectus Directive is made except if the offer falls under any exemption of the Prospectus Directive. In that case, entry into a prospectus must be prepared in accordance with the SIF law. The information to be communicated to investors stated in article 21 of the AIFM law must either be included in the prospectus or communicated separately to investors.

**Open-ended**

- Both funds may make a public offer on the basis of their prospectus prepared in accordance with the requirements of the Fund law. The information to be communicated to investors stated in article 21 of the AIFM law must either be included in the prospectus or communicated separately to investors.

   **Part II funds**
   - **Closed-ended**
     - The prospectus/offering document must be updated each time new securities are issued.
   - **Open-ended**
     - NAV must be computed on each day there are subscriptions or redemptions with a minimum of once a year.

**PRIP (Pooled Retail and Insurance-based Investments Products)**

- Regulation December 31, 2019 (drafting the ECB, etc.)
  - Required from January 01, 2021

**Key Investor Information Document (KIID)**

- **Not required**
- **Not required**
- Not required
- Not required
- Not required
- Not required

**NRF computation frequency**

- NRFR must be calculated on day that there are subscriptions or redemptions with a minimum of once a month.
- NRFR must be calculated on day that there are subscriptions or redemptions with a minimum of once a month.
- NRFR is compared to the frequency on the constitutive documents or management regulations with a minimum of once a year.
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Valuation principles

Valuation of assets is made on the basis of the realisable value estimated in good faith, unless provided for differently in the constitutive documents or management regulations.

Assets are to be valued at fair value unless provided for differently in the constitutive documents or management regulations.

Financial reports

Audited annual report is required within 6 months of the year-end.
Semi-annual report due within 2 months of the 6 month period-end.

If a closed-ended fund is listed on an EU regulated market the deadlines may be shorter (if listed on LuxSE, an audited annual report is required within 4 months of the year-end and a semi-annual report is due within 3 months of the 6 month period-end).

Shareholding

UCITS (“Part I Fund”)  Part II Fund with registered AIFM  Part II Fund with authorised AIFM  SIF with registered AIFM  SIF with authorised AIFM  SICAR with registered AIFM  SICAR with authorised AIFM  RAIF only with authorised AIFM

Reporting requirements

Legal and regulatory requirements  Shareholding  Reporting requirements  Approval and supervision  Taxation

Approval and supervision

UCITS (“Part I Fund”)  Part II Fund with registered AIFM  Part II Fund with authorised AIFM  SIF with registered AIFM  SIF with authorised AIFM  SICAR with registered AIFM  SICAR with authorised AIFM  RAIF only with authorised AIFM

Taxation

UCITS (“Part I Fund”)  Part II Fund with registered AIFM  Part II Fund with authorised AIFM  SIF with registered AIFM  SIF with authorised AIFM  SICAR with registered AIFM  SICAR with authorised AIFM  RAIF only with authorised AIFM

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Legal and regulatory requirements

- **Reporting requirements**
- **Shareholding**
- **Approval and supervision**
- **Taxation**

**Reporting requirements**

**Luxembourg Investment Vehicles**

- The valuation of assets which is ruled by **Lux GAAP**, i.e. provisions of the law of 26 December 2002 (as subsequently amended) for:
  - The content and layout of the annual report.
  - The valuation of assets which is ruled by articles 9§3, 28§4, 39 of the Fund law.

- **Annual report**
  - Lux GAAP i.e. provisions of the law of 26 December 2002 (as subsequently amended) for:
    - The content and layout of the annual report.
    - The valuation of assets which is ruled by articles 9§3, 28§4, 39 of the Fund law.

- **Semi-annual report**
  - Lux GAAP i.e. provisions of the law of 16 December 2002 (as subsequently amended) except for:
    - The content and layout of the annual report.

- **Consolidated accounts**
  - If the company is listed in accordance with EU regulation 1606/2002.
  - If the company is not listed in accordance with EU regulation 1606/2002.

- **Other reports**
  - A long form report to be issued by the auditor of the annual report in accordance with CSSF Circular 01/388.
  - A long form report to be issued by the auditor in accordance with CSSF Circular 01/89.
  - A long form report to be issued by the auditor in accordance with CSSF Circular 01/89.

- **Approval and supervision**
  - The law contains an exemption to prepare consolidated accounts for the UCI and its subsidiaries owned for investment purposes.

- **Shareholding**
  - The law contains an exemption to prepare consolidated accounts for the UCI and its subsidiaries owned for investment purposes.

- **Taxation**
  - The law contains an exemption to prepare consolidated accounts for the UCI and its subsidiaries owned for investment purposes.

- **Reporting requirements**
  - The law contains an exemption to prepare consolidated accounts for the UCI and its subsidiaries owned for investment purposes.

- **Shareholding**
  - The law contains an exemption to prepare consolidated accounts for the UCI and its subsidiaries owned for investment purposes.

- **Taxation**
  - The law contains an exemption to prepare consolidated accounts for the UCI and its subsidiaries owned for investment purposes.
<table>
<thead>
<tr>
<th>UCITS (&quot;Part I Fund&quot;)</th>
<th>Part II Fund with registered AIFM</th>
<th>Part II Fund with authorised AIFM</th>
<th>SIF with registered AIFM*</th>
<th>SIF with authorised AIFM*</th>
<th>SICAR with registered AIFM*</th>
<th>SICAR with authorised AIFM*</th>
<th>RAIF only with authorised AIFM</th>
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<tbody>
<tr>
<td><strong>Promoter requirement</strong></td>
<td>No for SIAGs, FCPs and SICAVs with a Luxembourg UCITS management company. Yes for FCPs and SICAVs with a management company established under Chapter 16 of the Fund law.</td>
<td>Yes for self-managed SICAVs and for FCPs and SICAVs with a management company established under Chapter 16 of the Fund law.</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
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<tr>
<td><strong>Regular reporting to CSSF</strong></td>
<td>Yes.</td>
<td>Yes.</td>
<td>Yes.</td>
<td>Yes.</td>
<td>Yes.</td>
<td>Yes.</td>
<td>Yes. via its AIFM</td>
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<tr>
<td>Supervision by CSSF</td>
<td>Yes.</td>
<td>Yes.</td>
<td>Yes.</td>
<td>Yes.</td>
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<td>Monthly with due date the 10th of the next month</td>
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<td><strong>Annually with due date 6 months after year-end.</strong></td>
<td>Details on reporting contained in CSSF Circular 97/136 as modified by CSSF Circular 08/348.</td>
<td>Internally-managed SICAV/SICAF (registered AIFM): details on reporting contained in article 3.d) of the AIFM law.</td>
<td>The latter reporting does not apply for SIFs that do not qualify as AIFs.</td>
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<td>Internally-managed company (authorized AIFM): details on reporting contained in article 22 of the AIFM law.</td>
<td>No reporting to the CSSF by the RAIF but via its AIFM.</td>
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<td>Semi-annual UCITS risk reporting applicable to Part I funds. Details for the first reporting were provided in a circular letter dated 2 April 2016. Each reporting will be accompanied by a circular letter addressed to the industry.</td>
<td>Internally-managed SICAV/SICAF (registered AIFM): details on reporting contained in article 3.d) of the AIFM law.</td>
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<td>Details on reporting contained in CSSF Circular 07/310 as modified by CSSF Circular 08/348.</td>
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<td>Approval and supervision</td>
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<td>Creation of a fund is subject to the CSSF’s prior approval of:</td>
<td>Construction documents, organisation and management regulations, prospectus and main agreements with service providers</td>
<td>Directors of the fund and/or the management company</td>
<td>Choice of depositary, auditor and AIFM</td>
<td>Choice of depositary, auditor and AIFM or RAIF</td>
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<td>• Promoter’s experience and financial soundness</td>
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<td>• Director’s experience and financial soundness if applicable.</td>
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</table>

**A SIF (SICAR) that does not qualify as an AIF is subject to the same requirements as a SIF (SICAR) with a registered AIFM, except where specifically mentioned in italics.**

**Process for cross-border distribution to Europe**

**Regulator to regulator for initial notification:**

- Fund management company to regulator for notification of subsequent changes:

  - National marketing rules.
  - Professional investors: notification to regulator for initial notification and subsequent changes.
  - Retail investors: national marketing rules apply.
  - Marketing may also be performed by a non-EU AIFM based on national marketing rules.
  - Marketing may also be performed by a non-EU AIFM based on national marketing rules.
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  - Marketing may also be performed by a non-EU AIFM based on national marketing rules.

**Reporting requirements**

- Professional investors: information to regulator for initial notification and subsequent changes.
- Other types of well-informed investors: national marketing rules apply.
- Marketing may also be performed by a non-EU AIFM based on national marketing rules.
- Marketing may also be performed by a non-EU AIFM based on national marketing rules.
Income tax

Tax exempt.

Tax exempt.

Tax exempt.

Tax exempt.

Tax exempt.

Tax exemption for income and capital gain derived from transferable securities connected with investments in risk bearing capital.

Tax exemption for one year for income on cash held for the purpose of a future investment.

The remaining income is subject to the ordinary income tax of 26.01% (Municipal Business Tax + Corporate Income Tax - Luxembourg city 2018).

If the RAIF does not invest in a portfolio of risk capital (such as a SICAR): tax exemption on income tax.

If the RAIF invests in a portfolio of risk capital (such as a SICAR):

• Tax exemption for income and capital gain derived from transferable securities connected with investments in risk bearing capital.

• Tax exemption for one year for income on cash held for the purpose of a future investment.

• The remaining income is subject to the ordinary income tax of 26.01% (Municipal Business Tax + Corporate Income Tax - Luxembourg city 2018).

Withholding tax on dividends and capital gains

Not subject to withholding tax.

No subscription tax.

If the RAIF invests in a portfolio of risk capital (such as a SICAR):

• 0.01% of NAV annually.

• Tax exemption possible for certain money market, microfinance funds and pension funds or RAIFs investing in other funds already subject to subscription tax.

Net wealth tax

Tax exempt.

Tax exempt.

Tax exempt.

Tax exempt.

Tax exempt.

Tax exempt.

Only subject to minimum net wealth tax.

Only subject to minimum net wealth tax.

Only subject to minimum net wealth tax.

Only subject to minimum net wealth tax.

No proportional capital duty.

Value added tax (VAT)

VAT exemption on management services.

VAT exemption on management services.

VAT exemption on management services.

VAT exemption on management services.

VAT exemption on management services.

VAT exemption on management services.
### Double Taxation Treaties (DTT)

<table>
<thead>
<tr>
<th>Type</th>
<th>Access to Luxembourg DTT</th>
<th>Exception</th>
<th>Applicability Determined By</th>
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<tr>
<td><strong>FCP</strong></td>
<td>No access to DTT signed by Luxembourg; exception: Ireland</td>
<td></td>
<td>Circular Letter L.G.-A. n° 61 dated 8 December 2017</td>
</tr>
<tr>
<td><strong>SICAV/SICAF</strong></td>
<td>Limited to some DTTs; Applicability of DTTs is determined based on the Circular Letter L.G.-A. n° 61 dated 8 December 2017</td>
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</tbody>
</table>

**UCITS (“Part I Fund”)**

- Part II Fund with registered AIFM
- Part II Fund with authorised AIFM
- SIF with registered AIFM
- SIF with authorised AIFM
- SICAR with registered AIFM
- SICAR with authorised AIFM
- RAIF only with authorised AIFM

- **FCP**: No access to DTT signed by Luxembourg; exception: Ireland
- **SICAV/SICAF**: Limited to some DTTs; Applicability of DTTs is determined based on the Circular Letter L.G.-A. n° 61 dated 8 December 2017
- **SICAR**: Limited to some DTTs; Applicability of DTTs is determined based on the Circular Letter L.G.-A. n° 61 dated 8 December 2017

**Taxation**

- **UCITS (“Part I Fund”)**
- **Part II Fund with registered AIFM**
- **Part II Fund with authorised AIFM**
- **SIF with registered AIFM**
- **SIF with authorised AIFM**
- **SICAR with registered AIFM**
- **SICAR with authorised AIFM**

- **RAIF only with authorised AIFM**

A RAIF investing in a portfolio of risk capital (such as a SICAR) and set up in the form of a corporate entity should benefit from the Luxembourg double tax treaty network. The following applies to a RAIF not investing in a portfolio of risk capital (such as a SICAR) and set up in the form of a corporate entity:

- **FCP**: No access to DTT signed by Luxembourg; exception: Ireland
- **SICAV/SICAF**: Limited to some DTTs; Applicability of DTTs is determined based on the Circular Letter L.G.-A. n° 61 dated 8 December 2017

**SICAR in the form of a corporate entity (all types except the SCS and SCSp) should benefit from the Luxembourg double tax treaty network.**

**RAIF in the form of a corporate entity (all types except the SCS and SCSp) should benefit from the Luxembourg double tax treaty network.**

**A NAV investing in a portfolio of risk capital (such as a SICAR) and set up as a fund of funds (SPF and SCF) should benefit from the Luxembourg double tax treaty network.**

- **UCITS (“Part I Fund”)**
- **Part II Fund with registered AIFM**
- **Part II Fund with authorised AIFM**
- **SIF with registered AIFM**
- **SIF with authorised AIFM**
- **SICAR with registered AIFM**
- **SICAR with authorised AIFM**

**RAIF only with authorised AIFM**

- **Part II Fund with registered AIFM**
- **Part II Fund with authorised AIFM**
- **SIF with registered AIFM**
- **SIF with authorised AIFM**
- **SICAR with registered AIFM**
- **SICAR with authorised AIFM**

**RAIF only with authorised AIFM**

- **Part II Fund with registered AIFM**
- **Part II Fund with authorised AIFM**
- **SIF with registered AIFM**
- **SIF with authorised AIFM**
- **SICAR with registered AIFM**
- **SICAR with authorised AIFM**

**RAIF only with authorised AIFM**

- **Part II Fund with registered AIFM**
- **Part II Fund with authorised AIFM**
- **SIF with registered AIFM**
- **SIF with authorised AIFM**
- **SICAR with registered AIFM**
- **SICAR with authorised AIFM**

**RAIF only with authorised AIFM**

- **Part II Fund with registered AIFM**
- **Part II Fund with authorised AIFM**
- **SIF with registered AIFM**
- **SIF with authorised AIFM**
- **SICAR with registered AIFM**
- **SICAR with authorised AIFM**

**RAIF only with authorised AIFM**

- **Part II Fund with registered AIFM**
- **Part II Fund with authorised AIFM**
- **SIF with registered AIFM**
- **SIF with authorised AIFM**
- **SICAR with registered AIFM**
- **SICAR with authorised AIFM**

**RAIF only with authorised AIFM**

- **Part II Fund with registered AIFM**
- **Part II Fund with authorised AIFM**
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- **SIF with authorised AIFM**
- **SICAR with registered AIFM**
- **SICAR with authorised AIFM**

**RAIF only with authorised AIFM**

- **Part II Fund with registered AIFM**
- **Part II Fund with authorised AIFM**
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- **SIF with authorised AIFM**
- **SICAR with registered AIFM**
- **SICAR with authorised AIFM**

**RAIF only with authorised AIFM**

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**RAIF only with authorised AIFM**

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- **Part II Fund with authorised AIFM**
- **SIF with registered AIFM**
- **SIF with authorised AIFM**
- **SICAR with registered AIFM**
- **SICAR with authorised AIFM**

**RAIF only with authorised AIFM**
Glossary of terms

Articles
Articles of incorporation of a company or fund

AFP
Alternative Investment Fund: a collective investment undertaking, including investment compartments thereof, which:
- raise capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors, and
- are managed by a qualified AIFM

APIs
Indexed Financial Reporting Standards

ISDSC
International Organisation of Securities Commissions

AIFMD
Directive 2011/61/EU of the European Parliament, which:
- establishes detailed rules for the management of AIFs under Chapter 2 of the AIFM Law, unless they can be authorised under Article 3(3) of the AIFM Law, i.e. entities qualifying as below-threshold AIFMs

KYC
Key Investor Information Document: pre-sale document of investment funds

LushiGAAP
Luxembourg Generally Accepted Accounting Principles

MMF
Money Market Fund

Offer to the public
A communication that is addressed to the public or admitted to trading, as transposed within the meaning of Annex II to the Directive 2004/39/EC

Offer to the public
A communication that is addressed to the public or admitted to trading, as transposed within the context of the Prospectus Directive: a communication that is addressed to the public or any member of a public, and contains sufficient information on the conditions of the offer and on the shares offered, so that the investor is in a position to decide on the purchase or subscription of those shares, this document not being intended to the placement of shares by persons who are not members of the public

Part II fund
A fund that complies with Part II of the law of 2010 as amended, also referred to as UCITS (Undertakings for Collective Investment in Transferable Securities)

Professional Investors
Investors who are considered to be professionals or who request may be treated as professionals, within the meaning of Annex I to the Directive 2004/39/EC

Prospective Directive
A law that defines the rules and principles to be respected by the management functions are performed by the governing body or any other internal resource of the AIF

RAF
Registered AIFM
As a derogation from the authorisation regime, entities qualifying as below-threshold AIFMs are subject to the registration regime under article 321 of the APMF law, i.e. the registration regime under article 321 of the APMF law does not in total cover all the former AIFM law

RAIF

Revueur d’entreprises agréé
Approved statutory auditor

SICAV
Société d’Investissement à Capital Variable

SIF
Specialised investment fund, compliant with the law of 2010 as amended, referred to as SICAV (Société d’Investissement à Capital Variable)
Services provided by KPMG to the investment management industry

We aim to provide you with a tailored service of the highest standard.

KPMG firms provide audit, tax and advisory services and industry insight to help organisations negotiate risks and perform in the dynamic and challenging environments in which they do business.

We operate in 155 countries and have more than 189,000 professionals working in member firms around the world. KPMG in Luxembourg is a leading provider of professional services, with over 1,650 employees. Our approach to relationships and service delivery is designed to help clients exploit new opportunities, improve performance and manage risk.

KPMG firms’ services include:

- **Audit and Assurance**
  - Statutory audits
  - Contribution in kind/merger reports
  - ISAE 3402/ISAE 3000 reports

- **Tax**
  - Withholding tax reclaims
  - Operational tax reporting
  - VAT services
  - Tax structuring in relation with private equity and real estate investments
  - Analysis of transfer pricing arrangements and corporate tax returns

- **Management Consulting**
  - Support for asset management players in improving their operational efficiency, aligning their business and IT strategies and running transformation projects

- **Value for Funds**
  - Accounting and regulatory reporting
  - Accounting and domiciliation of SPVs
  - Corporate secretarial services
  - Financial statements compilation, including IFRS

- **Risk management**
  - Risk management reporting
    - Including VAR and commitments approaches
  - Eligible assets and investment restrictions monitoring
  - Asset valuation review

- **Distribution**
  - Cross-border registration with foreign regulators
  - AIFMD reporting
  - Reporting on distribution to insurance companies and banks

- **Regulatory and compliance advisory services**
  - Internal auditing
  - Preparation of License application files
  - AML and KYC compliance reviews
  - Fund liquidation

About KPMG Luxembourg

OurAudit and Assurance services include statutory audits, contribution in kind/merger reports, ISAE 3402/ISAE 3000 reports.

Our Tax services include processing withholding tax reclaims, operational tax reporting, VAT services, tax structuring in relation with private equity and real estate investments, analysis of transfer pricing arrangements and corporate tax returns.

Our Management Consulting services support asset management players in improving their operational efficiency, aligning their business and IT strategies and running transformation projects.

Value for Funds is our platform of services dedicated to management companies / AIFM and funds including the following services:

- Accounting and regulatory reporting
- Accounting and domiciliation of SPVs
- Corporate secretarial services
- Financial statements compilation, including IFRS

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Luxembourg profile

Publications

- Alternative Investments 3.0
- Transparency Report 2017
- Loan Fund Survey
- Value for Funds
- Evolving Investment Management Regulation
- Regulation 2020 - What lies ahead?
- Transparency Report 2017 – Loan Fund Survey
- The Robotic Revolution
- Regulation 2020 – What lies ahead?
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