DENTONS

Luxembourg investment vehicles



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Did you know that the first Luxembourg investment fund was set up in 1959?

The Luxembourg investment funds sector has been constantly developing ever since.

Luxembourg is the unrivaled leader in global fund distribution and Luxembourg-domiciled investment funds are distributed in over 70 countries. Its assets under management are steadily growing. In terms of assets, Luxembourg is the number one investment funds center in Europe and ranks second in the world.

The assets under management of the Luxembourg fund industry have grown in 2022 and currently exceed €5,000 billion.

The advantages offered by Luxembourg investment funds are, among others:

- A stable and predictable jurisdiction with an attractive regulatory and tax environment;
- A vast choice of service providers with diversified expertise, including third-party alternative investment fund managers, depositary banks, administrative agents etc.;
- An attractive and modern corporate legislation available for all type of funds;
- An understandable legal framework steadily evolving in the direction of providing pragmatic solutions;
- High standard of investor protection.

As a result, Luxembourg is one of the most reputable investment fund jurisdictions in the world and offers unrivaled international expertise as well as a wide-ranging toolbox of investment vehicles.

The brochure aims at providing an overview and not a complete description of all available fund forms in Luxembourg.

Typology of Luxembourg investment vehicles

Luxembourg has grown its investment fund industry by offering a highly attractive, flexible and internationally recognized product regulation for the different fund products available for various categories of clients.

The inception of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011, on alternative investment fund managers ("**AIFMD**") and its implementation in Luxembourg by the Law of 12 July 2013 on alternative investment fund managers (the "**AIFM Law**") has led to a situation where many investment funds are subject to a double regulation: via the product laws and manager regulation, i.e., the AIFM Law, if they qualify as an AIF.

Recent developments have occurred in the context of European long-term investment funds ("**ELTIFs**"). The European long-term investment funds Regulation (EU) no. 2015/760 ("**ELTIF Regulation**") has established a legislative framework for long-term investment funds which only invest in assets to be committed for long periods of time. It aimed at increasing the non-bank financing available for companies that are investing in the real economy within the EU and it was recently amended with the Regulation (EU) 2023/606 (the "**ELTIF Amending Regulation**"). Among the various changes, the ELTIF Amending Regulation extended the scope of eligible investment assets and reduced the diversification threshold in eligible investment assets from 70% to 55%. Furthermore, ELTIFs marketing solely to professional investors will be able to take advantage of the revised leverage limit, increased from 30% to 100% of such ELTIF's net asset value.

Following the introduction of the AIFMD over a decade ago, the European Commission is in the process of reviewing the AIFMD and proposing the so-called AIFMD II. The AIFMD II aims to provide for clarification on various questions which have arisen over the past years on the European asset management market.

Different topics will be covered by the AIFMD II, among others liquidity management tools, loan origination, delegation, distribution and national private placement regimes, depositaries, activities and services performed by AIFMs, investor protection. In first instance, by taking into consideration the European Securities and Markets Authority's ("**ESMA**") opinion on loan origination and the revision of the AIFMD, the AIFMD II proposes a harmonized regulation in respect of loan originating funds, clarifying that loan origination is a permitted activity for AIFs, while laying out specific requirements for AIFMs conducting such operations, and allowing hereby for a uniform level of investor protection. The AIFMD II further aims to provide for a regime permitting a Member State to allow AIFs based in its territory to appoint a depositary in another Member State (the so-called "**Depositary Passport**"). The AIFMD II would also allow AFIMs of open-ended AIFs to manage redemption pressure by their investors by providing for a clearer framework on so called liquidity management tools, i.e., instruments such as redemption gates. Please note that the afore mentioned contributions of the AIFMD II to the legal framework are yet to be finalized, and that the market is expecting a final text in 2024.

The table below presents the main types of Luxembourg investment vehicles. The forms of EuVECAs and ELTIFs have not been described in this brochure since their legal framework is based on EU regulations.



Category	Product name	Product law
UCITS	UCITS	Part I of the Luxembourg law of 17 December 2010 relating to undertakings for collective investment, as amended
AIFs **(subject to the AIFM Law if qualified as AIFs)**	Part II UCI	Part II of the Luxembourg law of 17 December 2010 relating to undertakings for collective investment, as amended
	SICAR	Luxembourg law of 15 June 2004 relating to the investment company in risk capital, as amended
	SIF	Luxembourg law of 13 February 2007 relating to specialized investment funds, as amended
	RAIF	Luxembourg law of 23 July 2016 relating to reserved alternative investment funds, as amended
	Corporate	No product law, only common rules under the Company Law (as defined below)
SVs	SV (corporate or contractual)	Luxembourg law of 22 March 2004 on securitisation, as amended Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation

In the following part of the brochure we will describe the main features and differences between the various types of investment vehicles mentioned in the table.

UCITS

UCITS is the acronym for "Undertakings in Collective Investment in Transferable Securities".

A UCITS is an investment fund originally introduced as a pan-European savings product. Luxembourg UCITS are today distributed to more than 70 countries globally, on all continents.

UCITS are subject to very strict investment restrictions. Investments of UCITS are generally limited to eligible securities (transferable securities such as equities, bonds, money market instruments and certain derivatives) and subject to strict diversification requirements.

These funds are subject to initial approval and ongoing supervision of the *Commission de Surveillance du Secteur Financier* ("**CSSF**") and benefit from a European passport.

UCITS are exempt from Luxembourg income tax and are merely subject to an annual 0.05% subscription tax (*taxe d'abonnement*) of the net asset value ("**NAV**"). Reduced subscription tax rates ranging from 0.04% to 0.01% shall apply to UCITS investing in qualifying sustainable economic activities depending on the share of these investments. A reduced 0.01% rate is available for money market funds or for individual share classes of UCITS restricted to one or several institutional investors. There are also exemptions for special institutional money market funds, pension funds, exchange traded funds, microfinance funds, funds investing in other funds already subject to subscription tax and UCITS, or sub-funds thereof, qualifying as ELTIFs.

Distributions or redemptions made by UCITS are not subject to withholding tax in Luxembourg.

Part II UCIs

The so-called Part II UCIs (UCI is the acronym for "**Undertaking for Collective Investment**") are subject to the second part (Part II) of the Law of 17 December 2010 relating to undertakings for collective investment, often referred to as the "**UCI Law**".

A Part II UCI is subject to initial approval and ongoing supervision of the CSSF.

Part II UCIs are more flexible than UCITS but they are also subject to a set of defined investment restrictions. They may be sold to the public in Luxembourg but unlike UCITS they do not benefit from an EU label and can only be marketed to professional investors in other EU Member States based on the AIFMD marketing passport.

Part II UCIs are exempt from Luxembourg income tax and are merely subject to an annual 0.05% subscription tax (*taxe d'abonnement*) of the NAV. Reduced subscription tax rates ranging from 0.04% to 0.01% shall apply to Part II UCIs investing in qualifying sustainable economic activities depending on the share of these investments. A reduced 0.01% rate is available for money market funds, or individual share classes of Part II UCIs restricted to one or several institutional investors. There are also exemptions for special institutional money market funds, pension funds, exchange traded funds, microfinance funds, funds investing in other funds already subject to subscription tax and Part II UCI, or sub-funds thereof, qualifying as ELTIFs.

Distributions or redemptions made by Part II UCIs are not subject to withholding tax in Luxembourg.

SICAR

SICAR is the acronym for investment company in risk capital ("*société d'investissement à capital risque*").

A SICAR is subject to initial and ongoing supervision by the CSSF and is, by its name, a company for investments in risk capital.

The purpose of the SICAR is to promote the collection of funds from well-informed investors accepting, with full knowledge and in expectation of a better return, the increased risks most often associated with risk capital, i.e., lower liquidity, higher price volatility and lower credit quality.

Risk capital is characterized by the concurrent gathering of two elements: a high risk and the intention to develop the target entities.

SICARs are not subject to specific diversification requirements with respect to the chosen investments. It is thus perfectly conceivable that certain SICARs restrict their investments to one or several

undertakings active for example in a particularly narrow niche or in extremely specialized sectors.

A SICAR is subject to corporate income tax (aggregate rate in FY 2023 of 24.94% in Luxembourg City) unless it exists as a tax transparent partnership (SCS – *société en commandite simple*, or SCSp – *société en commandite spéciale*). However, income or gains derived from transferable securities representing investments in risk capital are tax exempt. Also, for one year, income on cash held for the purpose of future investments is exempt. SICARs are exempt from net wealth tax ("**NWT**"). Distributions made by a SICAR to its shareholders/partners are not subject to withholding tax.

SIF

SIF is the acronym for "Specialized Investment Fund".

A SIF is subject to initial approval and ongoing supervision by the CSSF and a specific tax regime.

The SIF Law provides for full flexibility with regard to eligible assets in which a SIF may invest. However, it requires a SIF to apply a risk diversification.

A SIF (in case of an umbrella, each of its compartments) cannot invest more than 30% of its net assets in securities of the same type issued by the same issuer.

Details of how the principle of risk diversification is implemented, including quantifiable investment limits, must be disclosed in the offering document.

Derogations with regard to risk diversification exist for securities issued or guaranteed by OECD Member States, by their local authorities or by supranational bodies or organizations of an EU, regional, or worldwide nature.

The SIF is exempt from Luxembourg corporation taxes and is only subject to a 0.01% annual subscription tax on its NAV. A subscription tax exemption exists for certain money market funds, pension funds, microfinance funds, funds investing in other funds already subject to subscription tax and SIF, or sub-funds thereof, qualifying as ELTIFs.

Distributions or redemptions made by a SIF are not subject to withholding tax in Luxembourg.

RAIF

In order to allow the industry to make full benefit of the new possibilities under the AIFM Law, the Luxembourg legislator introduced the regime of "Reserved Alternative Investment Funds" ("**RAIF**").

A RAIF is not subject to direct supervision or regulation by the CSSF. The indirect supervision takes place through the requirement that a RAIF must in principle be managed by an authorized AIFM.

A RAIF may be set up with the diversification requirements of a SIF (30% aggregation limit) or a SICAR (no aggregation limit but requirement to invest in risk capital). Within the same legal entity, a combination of those two different requirements (and, as explained below, two different tax treatments) is not possible.

Depending on the set-up, the tax treatment of a RAIF mirrors the tax treatment of SIFs or SICARs.

AIFs not subject to any product law

One of the most flexible options in the Luxembourg toolbox are the unregulated AIFs, which are not subject to any product law. However, they may benefit from AIFMD passporting under certain circumstances.

An unregulated AIF is a legal entity that has been created solely according to the rules of the Luxembourg Law of 10 August 1915 relating to commercial companies (the "**Company Law**") and is subject to the AIFM Law but not subject to any product law.

Depending on its investment volume, an unregulated AIF will need to be managed by a registered AIFM or an authorized AIFM.

No diversification requirements or restrictions on asset classes exist and no umbrella structure can be implemented.

Unregulated AIFs are most commonly existing in the form of limited partnerships (SCS/SCSp), which offer great flexibility in terms of corporate governance and internal organization. A SCS/SCSp is tax-transparent for corporate income taxes and does not suffer any withholding tax on redemptions or distributions.



Where the AIF exists as a limited corporation (SCA, SARL, SA), it is subject to corporation taxes (24.94% in Luxembourg City) and to NWT at a rate of 0.5%. Distributions are subject to a 15% withholding tax (exemptions or reduced treaty rates are available).

SV

The abbreviation SV stands for "Securitization Vehicles". Thanks to the legal framework introduced by the Law of 22 March 2004 on securitization, as recently amended by the law of 9 February 2022 (the "**Securitization Law**"), Luxembourg has gained a reputation as a center for securitization and structured finance.

The Securitization Law offers broad structuring options, with no restrictions on eligible assets and the possibility to set-up multi-compartment vehicles. On the other hand, bankruptcy remoteness is ensured, including via the express recognition of non-petition and non-recourse clauses.

The definition of securitization provided for by the Securitization Law is broader than the one of the Regulation (EU) 2017/2402 ("**Regulation**"). As a result, Luxembourg securitization vehicles that fall neither under the general regime of the Regulation, nor under the framework for simple, transparent and standardized securitization foreseen by the Regulation, may fall under the Securitization Law.

According to the Securitization Law, securitization undertakings, whose securities are issued to the public on a continuous basis, must be authorized by the CSSF.

SVs are not subject to the AIFMD regime/AIFM Law if they qualify as "securitization special purpose entities" as defined therein, in particular if they only issue debt securities to investors.

SVs are subject to corporation taxes at ordinary rates (24.94% in Luxembourg City) but benefit from a special tax deduction regime, which aims to achieve tax neutrality. Payments and commitments (including dividends distributions) to investors and creditors are in principle fully tax-deductible.

Distributions made by SVs are not subject to withholding tax.

UCITS	Part II UCI	SICAR	SIF	RAIF	Unregulated AIF	SV
PRIOR CSSF APPROVAL/SUPERVISION						
Yes	Yes	Yes	Yes	No	No	Yes, if securities are to be issued to the public on a continuous basis
AVAILABLE LEGAL FORMS						
Contractual forms						
Yes, FCP[1]	Yes, FCP	None	Yes, FCP	Yes, FCP	N/A	Yes, securitization fund or fiduciary arrangement
Corporate forms						
Yes (various forms)	Yes (various forms)	Yes (various forms)	Yes (various forms)	Yes (various forms)	Yes (various forms)	Yes (various forms)
Fixed or variable capital						
Both possible	Both possible	Both possible	Both possible	Both possible	N/A	Both possible
UMBRELLA (MULTI-COMPARTMENT) STRUCTURE						
Possible	Possible	Possible	Possible	Possible	No	Possible
CROSS SUB-FUND INVESTMENTS						
Possible	Possible	No	Possible	Possible	N/A	Possible
CAPITAL REQUIREMENTS						
€1.25 million (to be reached within six months) Upon incorporation – minimum legal capital for the relevant corporate form[2]	€1.25 million (to be reached within 12 months) Upon incorporation – minimum legal capital for the relevant corporate form[2]	€1 million (to be reached within 24 months) Upon incorporation – minimum legal capital for the relevant corporate form	€1.25 million (to be reached within 24 months) Upon incorporation – minimum legal capital for the relevant corporate form	€1.25 million (to be reached within 24 months) Upon incorporation – minimum legal capital for the relevant corporate form	Only minimum legal capital required for the relevant corporate form (no legal minimum for SCS and SCSp)	Only minimum legal capital required for the relevant corporate form (no legal minimum for the securitization fund)
ELIGIBLE INVESTORS						
No specific restrictions	No specific restrictions	Well-informed[3]	Well-informed[3]	Well-informed[3]	No specific restrictions	Conditions for sale to retail investors under the Regulation

1 Fonds commun de placement.
2 Additionally, €300,000 required at the time of authorization in case of an FCP.
3 "Well-informed investor" is an institutional investor, a professional investor within the meaning of Annex II to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments or any other investor who meets the following conditions:
a) he has stated in writing that he adheres to the status of well-informed investor; and
b) (i) he invests a minimum of EUR 100,000 in the investment fund, or (ii) he has been the subject of an assessment made by a credit institution

UCITS	Part II UCI	SICAR	SIF	RAIF	Unregulated AIF	SV
ELIGIBLE ASSETS						
Strict legal requirements	No restrictions	Only risk capital	No restrictions	No restrictions	No restrictions	No restrictions
DIVERSIFICATION LIMITS						
Strict legal limits among others, in principle, maximum 10% in assets of one issuer	Strict legal limits, among others, in principle, maximum 20% in securities issued by one issuer	No diversification required	In principle, maximum 30% in securities of the same type issued by the same issuer	SIF alike (30% limit) unless investing in risk capital	No diversification required	No diversification required
LISTING						
Possible	Possible	Possible	Possible	Possible	Depending on the legal form of the company	Possible
MARKETING/DISTRIBUTION RULES						
UCITS marketing rules – EU-wide passport	Professional investors – AIFMD marketing passport if full-scope AIF Retail investors: national private placement regimes Prospectus Regulation regime for closed-ended funds	Professional investors – AIFMD marketing passport if full-scope AIF Other well-informed investors: national private placement regimes Prospectus Regulation regime for closed-ended funds	Professional investors – AIFMD marketing passport if full-scope AIF Other well-informed investors: national private placement regimes Prospectus Regulation regime for closed-ended funds	Professional investors – AIFMD marketing passport if full-scope AIF Other well-informed investors: national private placement regimes Prospectus Regulation regime for closed-ended funds	Professional investors – AIFMD marketing passport if full-scope AIF Other than professional investors: national private placement regimes Prospectus Regulation regime for closed-ended funds	Prospectus Regulation regime If SV qualifies as an AIF and is managed by an authorized AIFM, AIFMD passport is possible
CLASSES OF SHARES						
Possible	Possible	Possible	Possible	Possible	Possible	Possible
ANNUAL ACCOUNTS AND AUDIT						
Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Not always mandatory	Mandatory

within the meaning of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions, by an investment firm within the meaning of Directive 2014/65/EU, by a management company within the meaning of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to UCITS or by an authorised alternative investment fund manager within the meaning of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers, certifying his expertise, his experience and his knowledge to adequately appraise an investment in the investment fund. Those conditions are not applicable to the directors and other persons who intervene in the management of the fund.

UCITS	Part II UCI	SICAR	SIF	RAIF	Unregulated AIF	SV
TAXATION						
Income tax						
Exempt	Exempt	Limited companies: Subject to income tax except for income from securities invested in risk capital Partnerships: No	Exempt	Exempt unless investing solely in risk capital and subject to the SICAR-like tax treatment	Depending on the legal form of the company	Yes, but special tax deduction regime No income tax for securitization funds
Subscription tax						
0.05% on NAV. Reduced subscription tax rates ranging from 0.04% to 0.01% may be available for UCITs investing in sustainable economic activities. 0.01% for money market funds, cash funds or restricted share classes to institutional investors. Exemptions for special institutional money market funds, pension funds, exchange traded funds, microfinance funds, funds investing in other funds already subject to subscription tax and UCITS, or sub-funds thereof, qualifying as ELTIFs.	0.05% on NAV. Reduced subscription tax rates ranging from 0.04% to 0.01% may be available for Part II UCIs investing in sustainable economic activities. 0.01% for money market funds, cash funds or restricted share classes to institutional investors. Exemptions for special institutional money market funds, pension funds, exchange traded funds, microfinance funds, funds investing in other funds already subject to subscription tax and Part II UCI, or sub-funds thereof, qualifying as ELTIFs.	No	0.01% on NAV. Exemptions for certain money market funds, pension funds, microfinance funds, funds investing in other funds already subject to subscription tax and SIF, or sub-funds thereof, qualifying as ELTIFs.	Subject to 0.01% subscription tax (exemptions available). No subscription tax, if subject to the SICAR-like regime.	No	No

UCITS	Part II UCI	SICAR	SIF	RAIF	Unregulated AIF	SV
TAXATION						
Net wealth tax (NWT)						
No	No		No	No (save for minimum NWT for SICAR-like RAIFs).	Yes, 0.5% if limited company. No, if partnership.	No (save for minimum NWT).
Withholding tax on distributions/redemptions						
No	No	No	No	No	15% WHT on dividends (subject to available reductions and exemptions) on distributions by limited companies.	No
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.	VAT exemption on management services.
Double tax treaty access						
FCP: In principle no access to double tax treaties. SICAV/SICAF: Limited to certain double tax treaties.	FCP: In principle no access to double tax treaties. SICAV/SICAF: Limited to certain double tax treaties.	SICAR in the form of a corporate entity (all types except the SCS and SCSp) shall benefit from double tax treaties.	FCP/ partnerships: In principle no access to double tax treaties. SICAV/SICAF: Limited to certain double tax treaties.	FCP/ partnerships: In principle no access to double tax treaties. SICAV/SICAF: Limited to certain double tax treaties.	Unregulated AIFs in the form of a corporate entity (all types except the SCS and SCSp) shall benefit from double tax treaties.	Possible, if organized in the form of a tax opaque entity.

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