PANORAMIC

FUND MANAGEMENT

Luxembourg

LEXOLOGY

Fund Management

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Generated on: June 21, 2024

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FUND MANAGEMENT REGULATION

Regulatory framework and authorities

How (in very general terms) is fund management regulated in your jurisdiction? Which authorities have primary responsibility for regulating funds, fund managers and those marketing funds?

There are two types of funds in Luxembourg: regulated funds (ie, authorised and supervised by the Financial Sector Supervisory Commission (CSSF)) and unregulated funds. Regulated funds are governed by one of the following (product) laws, each as amended from time to time:

- the Law of 17 December 2010 on undertakings for collective investment (the UCI Law);
- the Law of 15 June 2004 on the investment company in risk capital (the SICAR Law); and
- the Law of 13 February 2007 on specialised investment funds (the SIF Law).

Unregulated funds may be governed by the Law of 23 July 2016 on reserved alternative investment funds, as amended (the RAIF Law) to the extent that they qualify as alternative investment funds (AIFs) within the meaning of the Law of 12 July 2013 on alternative investment fund managers, as amended (the AIFM Law).

Luxembourg funds may in addition opt for one of the European labels, each as amended from time to time, offering a marketing passport to the fund's manager, provided that the relevant regulatory requirements are complied with:

- the European long-term investment fund (ELTIF) label subject to the ELTIF Regulation (EU) No. 2015/760;
- the European venture capital fund (EuVECA) label subject to the EuVECA Regulation (EU) No. 345/2013; and
- the European social entrepreneurship fund (EuSEF) label subject to the EuSEF Regulation (EU) No. 346/2013.

Regulated and unregulated funds are also governed by the Law of 10 August 1915 on commercial companies (the Companies Law) to the extent that the above (product) laws (including the RAIF Law) do not derogate from the Companies Law.

Fund managers are subject to the UCI Law or the AIFM Law, or both.

Law stated - 10 May 2024

Fund administration

Is fund administration (support services provided to funds such as book-keeping, preparing reports, trade settlement, etc) regulated in your jurisdiction?

Fund administration is a regulated activity in Luxembourg and performed by either an authorised Luxembourg management company or an alternative investment fund manager, or delegated to an administrative agent authorised by the CSSF under the Law of 5 April 1993 on the financial sector (the Financial Sector Law).

Law stated - 10 May 2024

Authorisation

What is the authorisation or licensing process for funds? What are the key requirements that apply to managers and operators of investment funds in your jurisdiction?

When setting up a regulated fund, a prior application for authorisation must be filed with the CSSF. Following the review of the application file, the CSSF usually asks additional questions or makes comments (or both) and, to the extent that the review phase is successfully completed, informs the applicant that the fund may be established.

Once the regulated fund is established (before a Luxembourg notary or, depending on the legal form of the fund, under private deed) and all agreements with the service providers have been executed, copies of the fund's constitutive document and fully executed agreements must be filed with the CSSF, together with the final version of the offering document, which shall be submitted to the CSSF for visa. Subject to the satisfactory receipt of all required documents, the CSSF will register the fund on the relevant official list of supervised entities and issue the visa-stamped offering document.

The CSSF supervises regulated funds on a continuous basis. Regulated funds must apply for prior approval for each change in their fund documentation (ie, constitutive and offering documents) or governance (eg, appointment of a new board member or replacement of administrative agent, depositary or portfolio manager).

Unregulated funds do not require prior CSSF authorisation. Once the unregulated fund is established, the Luxembourg manager must inform the CSSF about its appointment as manager of the relevant fund.

A Luxembourg manager must obtain prior authorisation from the CSSF and comply with certain minimum requirements, including for:

- own funds;
- appropriate infrastructure and internal governance;
- authorised shareholding and management; and
- external audit.

The central administration of a Luxembourg manager must be in Luxembourg. Managers who wish to provide discretionary management services, besides collective portfolio management, must participate in an investor compensation scheme.

Law stated - 10 May 2024

Territorial scope of regulation

What is the territorial scope of fund regulation? Can an overseas manager perform management activities or provide services to clients in your jurisdiction without authorisation?

Luxembourg law applies when the fund or the manager, or both, are established in Luxembourg, and when investors to whom a fund is marketed are domiciled in Luxembourg.

When management of a regulated fund is delegated to a non-Luxembourg EU manager, prior CSSF approval is required. The same will apply to unregulated funds once the Alternative Investment Fund Managers Directive (Directive 2011/61/EU) (AIFMD) third-country passport under article 38 of the AIFM Law is made available to non-EU AIFMs. A prior notification to the CSSF is required (pursuant to the procedure under article 45 of the AIFM Law) prior to any marketing of a foreign or Luxembourg fund by a non-EU manager to Luxembourg investors.

Law stated - 10 May 2024

Acquisitions

Is the acquisition of a controlling or non-controlling stake in a fund manager in your jurisdiction subject to prior authorisation by the regulator? (Restrict your answers to the regulator with responsibility for oversight of fund management. Do not answer with respect to other agencies, such as the merger control authorities.)

Yes. The identity of the shareholders directly or indirectly having a qualifying holding in the manager (ie, any direct or indirect holding that represents at least 10 per cent of the capital or of the voting rights or that makes it possible to exercise a significant influence over the management of the company in which that holding subsists), as well as the amount of such holding, must be communicated to the CSSF.

When assessing the application, the CSSF takes into consideration the following criteria:

- professional standing and financial soundness of the applicant shareholder;
- professional standing and experience of each person responsible for managing the activities of the manager as a result of the acquisition transaction;
- compliance with prudential and supervisory requirements at group level; and
- risk of money laundering and financing of terrorism.

Both natural and legal persons are eligible to become shareholders of a Luxembourg manager.

Law stated - 10 May 2024

Restrictions on compensation and profit sharing

Are there any regulatory restrictions on the structuring of the fund manager's compensation and profit-sharing arrangements?

Yes. Managers must comply with the European Securities and Markets Authority (ESMA) Guidelines on sound remuneration policies under the Undertakings for Collective Investment in Transferable Securities Directive (Directive 2009/65/EC) (UCITS Directive) and the AIFMD, as applicable. In addition, each manager must comply with CSSF Circular 10/437, which applies to all entities subject to CSSF prudential supervision.

The key principles are that the remuneration policy must:

- promote sound and effective risk management and must not induce excessive risk-taking;
- be drawn up in such a way as to create an appropriate balance between fixed and variable remuneration components; and
- when the variable component represents a significant part of remuneration, the payment of a considerable portion of this variable component must be deferred for a minimum period.

Remuneration rules apply to members of the board and staff whose professional activities have a material impact on the risk profile of the firm. Certain information must be made public.

Law stated - 10 May 2024

FUND MARKETING

Authorisation
Does the marketing of investment funds in your jurisdiction require authorisation?

Active marketing of funds to investors in Luxembourg is subject to a prior notification to the Financial Sector Supervisory Commission (CSSF).

Law stated - 10 May 2024

Authorisation
What marketing activities require authorisation?

Any provision of information or communication, direct or indirect, on investment strategies or ideas by an EU manager or on its behalf by a regulated third party, to potential Luxembourg-domiciled professional investors to test their interest in a not-yet-established alternative investment fund (AIF), or in an established but not yet notified for marketing AIF, and that in each case does not amount to an offer or placement to the potential investors to invest in the units or shares of that AIF (pre-marketing), requires a prior notification to the CSSF.

Any direct or indirect offering or placement at the initiative of a manager or on its behalf of units, shares or interests of a fund it manages for or with investors domiciled in Luxembourg requires a prior notification to the CSSF.

Managers authorised under the Law of 17 December 2010 on undertakings for collective investment (the UCI Law) or the Law of 12 July 2013 on alternative investment fund managers, as amended (the AIFM Law), or both, may perform marketing activities without requiring an additional authorisation from the CSSF.

A Luxembourg investment firm (which is not a manager under the UCI Law or the AIFM Law) that intends to distribute units, shares or interests of funds, must request prior CSSF authorisation under the Financial Sector Law.

Law stated - 10 May 2024

Territorial scope and restrictions

What is the territorial scope of your regulation? May an overseas entity perform fund marketing activities in your jurisdiction without authorisation?

If investors are in Luxembourg, the non-EU manager must file a prior notification with the CSSF before pre-marketing or marketing its fund in Luxembourg.

Law stated - 10 May 2024

Territorial scope and restrictions

If a local entity must be involved in the fund marketing process, how is this rule satisfied in practice?

In principle, no local entity must be involved in the fund marketing process, except in relation to retail funds.

Law stated - 10 May 2024

Commission payments

What restrictions are there on intermediaries earning commission payments in relation to their marketing activities in your jurisdiction?

Luxembourg investment firms are subject to inducement rules of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (MiFID II), as transposed into Luxembourg law. In short, a distributor placing a fund with its clients may receive a commission from the manager or the fund only if:

- the relevant payment is designed to enhance the quality of the service to the clients;
- the relevant payment does not impair compliance with the distributor's duty to act honestly, fairly and professionally in accordance with the best interests of its clients; and

- the commission is clearly disclosed to the clients.

A distributor that also provides independent investment advice to its clients is, in principle, prohibited from receiving a commission from the fund or its manager.

Law stated - 10 May 2024

RETAIL FUNDS

Available vehicles

What are the main legal vehicles used to set up a retail fund? How are they formed?

There are two types of regulated funds that can be sold to retail investors in Luxembourg:

- undertakings for collective investment in transferable securities (UCITS) governed by Part I of the Law of 17 December 2010 on undertakings for collective investment (the UCI Law); and
- undertakings for collective investment (UCI) governed by Part II of the UCI Law (Part II UCI).

Foreign unregulated funds qualifying as alternative investment funds (AIFs) may also be marketed to retail investors in Luxembourg, subject to certain conditions set out in the CSSF Regulation No. 15-03.

Managers of AIFs opting-in for the European long-term investment fund (ELTIF) label benefit of the European passport for retail investors.

Both UCITS and Part II UCI may be structured as:

- an investment company with variable capital (SICAV);
- an investment company with fixed capital (SICAF); or
- a common fund (FCP).

The share capital of a SICAV is always equal to its net assets and hence no formalities are required to increase or decrease the share capital. The decrease and increase of share capital of a SICAF is subject to formalities laid down in the Companies Law. A SICAV UCITS must take the form of a public limited company (SA) and be formed before a Luxembourg notary. Pursuant to the Law of 21 July 2023 amending, interalia, the UCI Law, the legal forms available to a SICAV Part II UCI have been extended and now include, in addition to the public limited company (SA), the corporate partnership limited by shares (SCA), the common and special limited partnerships (SCS/SCSp), the private limited liability company (SARL) and the cooperative organised as a public company limited by shares (SCoSA).

An FCP is a co-ownership whose joint owners are only liable up to the amount they have contributed and whose ownership rights are represented by units. An FCP has no legal personality and must be managed by a management company, which will draw up and execute the fund's management regulations.

A retail fund can be set up as a single fund or as an umbrella fund consisting of multiple compartments, each with a different investment policy. The fund and compartments may have an unlimited number of share classes, depending on the needs of the investors. Under certain conditions, cross-investments between compartments are allowed.

Law stated - 10 May 2024

Laws and regulations

What are the key laws and other sets of rules (regulatory and self-regulatory) that govern retail funds?

The key laws and regulations applicable to retail funds are, each as may be amended from time to time:

- the UCI Law;
- the Companies Law;
- the Law of 12 July 2013 on alternative investment fund managers (the AIFM Law);
- the Financial Sector Law;
- the Luxembourg Civil Code;
- Luxembourg laws, regulations and circulars issued by the Financial Sector Supervisory Commission (CSSF) regarding anti-money laundering and counter-terrorist financing;
- the EU Packaged Retail and Insurance-based Investment Products Regulation (Regulation (EU) No. 1286/2014) (the PRIIPs Regulation);
- the ELTIF Regulation (Regulation (EU) No. 2015/760) if the AIF has opted-in to the ELTIF label;
- the European General Data Protection Regulation (Regulation (EU) No. 2016/679);
- CSSF Regulation No. 16-07 regarding out-of-court complaint resolution (if the fund is regulated);
- the European Sustainable Finance Disclosure Regulation (Regulation (EU) No. 2019/2088) and related European legislation; and
- various guidelines issued by the European Securities and Markets Authority (ESMA) and CSSF regulations and circulars.

Law stated - 10 May 2024

Authorisation

Must retail funds be authorised or licensed to be established or marketed in your jurisdiction?

Regulated retail funds must be authorised and supervised by the CSSF.

Unless they opt in for the ELTIF label, unregulated retail funds qualifying as AIFs do not require the approval of the CSSF. Their alternative investment fund manager (AIFM) is subject to the supervision of the CSSF or the supervisory authority of its home member state.

Law stated - 10 May 2024

Marketing

Who can market retail funds? To whom can they be marketed?

A retail fund may be marketed in Luxembourg to retail investors by its manager or by an authorised distributor.

While UCITS avail of the EU marketing passport and can be marketed to retail investors throughout the European Union, Part II UCI can be marketed to retail investors in the European Union only in compliance with article 43 of the Alternative Investment Fund Managers Directive (Directive 2011/61/EU) (AIFMD). Funds opting in for the ELTIF label can be marketed to retail investors in the European Union only in compliance with strict restrictions on eligible assets, borrowing and rules on diversification as set out under the ELTIF Regulation.

Law stated - 10 May 2024

Managers and operators

Are there any special requirements that apply to managers or operators of retail funds?

Managers of Luxembourg UCITS and Part II UCI must be authorised by the CSSF (or any other EU regulator) before commencing their activity in Luxembourg. EU managers benefit from the EU management passport under the UCITS and AIFMD regimes.

Where a manager envisages marketing the units, shares or interests of the AIFs it manages to retail investors in the territory of Luxembourg, the following restrictions or additional conditions apply:

- compliance with article 46 of the AIFM Law;
- compliance with articles 59, 100 and 129 of the UCI Law, if the fund is an open-ended non-Luxembourg EU AIF;
- compliance with CSSF Regulation No. 15-03 and certain risk-spreading obligations set forth therein; and
- issuance of a key information document in accordance with the PRIIPs Regulation.

Law stated - 10 May 2024

Investment and borrowing restrictions

What are the investment and borrowing restrictions on retail funds?

UCITS and ELTIFs marketed to retail investors are subject to strict rules laid down in, respectively, the UCI Law and specified in various CSSF and ESMA guidelines, and in the ELTIF Regulation, on:

- eligible assets;
- diversification requirements;
- borrowing, granting loans and short selling; and
- for UCITS, techniques and instruments relating to transferable securities and money market instruments (MMI).

The UCI Law contains no provisions regarding investment and borrowing rules in respect of Part II UCI. Such rules are specified in CSSF Circulars 91/75, as amended, and 02/80. There are no restrictions on eligible assets for Part II UCI. The ELTIF Regulation contains restrictions on eligible assets, borrowing and rules on diversification applicable to ELTIFs marketed to retail investors.

	UCITS	Part II UCI	ELTIF
Eligible assets	Restricted to transferable securities admitted or dealt in on a regulated market, certain investment funds, deposits with a credit institution, financial derivative instruments, cash and MMI, subject to compliance with article 41 of the UCI Law. Prohibited from investing in real estate, commodities and loans. UCITS may not acquire control over an issuing body. Eligibility of the asset must be assessed on a case-by-case basis.	Unrestricted by law. Certain limitations are applied by the CSSF.	Same restrictions as set out under article 50(1) of the UCITS Directive. Additional restrictions specific to ELTIFs are: • equity or quasi-equity instruments; • debt instruments issued by qualifying portfolio undertakings; • loans granted to qualifying portfolio undertakings; • units or shares of other ELTIFs, European venture capital funds (EuVECAs), European social entrepreneurship funds (EuSEFs), UCITS and EU AIFs managed by EU AIFMs provided they invest in eligible assets; • simple, transparent and standardised securitisations (STS); and • green bonds. Master/feeder structures where a feeder invests at least 85 per cent of its assets in a master, and both feeder and master must be ELTIFs; and Investments in other UCIs – this limit to feeder ELTIFs;

Risk diversification	Strict risk diversification rules are laid down in the UCI Law, such as (non-exhaustive list): • maximum 10 per cent in transferable securities issued by the same body; • maximum 20 per cent in deposits made with the same body; • total value of transferable securities held in the issuing bodies in each of which the UCITS invests more than 5 per cent must not exceed 40 per cent of the value of its assets; • maximum 20 per cent in one other fund and maximum 30 per cent in funds other than UCITS; and • global exposure relating to derivative instruments may not exceed the total net value of the UCITS portfolio.	The CSSF imposes the following (less stringent) risk diversification requirements (unless a derogation is granted by the CSSF during the approval process) (non-exhaustive list): • maximum 20 per cent in securities issued by one issuer; and • maximum 20 per cent in one real estate property.	An ELTIF must invest at least 55 per cent of its capital in eligible investment assets and maximum 45 per cent in liquid investments (UCITS-eligible assets), whether marketed to retail investors or professional investors, (or both). For ELTIFs marketed to retail investors: • maximum 20 per cent in a single qualifying portfolio undertaking, real asset or units or shares of a single ELTIF, EuVECA, EuSEF, UCITS or EU AIF managed by an EU AIFM; • maximum 25 per cent in bonds issued by a single EU credit institution; • aggregate value of STS limited to 20 per cent of the value of the capital of the ELTIF; and • aggregate risk exposure to a counterparty from over-the-counter derivative transactions, repurchase agreements or reverse repurchase agreements limited to 10 per cent of the value of the capital of the ELTIF.

Borrowing	Not permitted (unless on a temporary basis and subject to restrictions laid down in the UCI Law).	Permitted. Certain restrictions apply (non-exhaustive list): • maximum 300 per cent of the value of net assets; and • in relation to real estate, maximum 50 per cent of the value of the property.	Permitted. Certain restrictions apply (non-exhaustive list): • maximum 100 per cent of the value of net assets for ELTIFs solely marketed to professional investors; and • maximum 50 per cent of the value of net assets for ELTIFs marketed to retail investors.

Law stated - 10 May 2024

Tax treatment

What is the tax treatment of retail funds? Are exemptions available?

Retail funds are subject to an annual subscription tax of 0.05 per cent (or, to the extent that money market funds are concerned or that the retail fund is reserved to institutional investors, 0.01 per cent) of their net asset value, subject to certain exemptions (such as investments in other collective investment vehicles subject to subscription tax). A reduced subscription tax rate applies to the portion of net assets constituted by investments in sustainable activities: the reduced rate ranges from 0.04 per cent when at least 5 per cent of the fund's assets are sustainable activities to 0.01 per cent when at least 50 per cent of the fund's assets are sustainable activities. An auditor's report certifying the percentage of investments in sustainable activities is required. Funds subject to the ELTIF Regulation are also exempt from subscription tax.

Retail funds are exempt from income taxes and net wealth tax, and distributions they make to investors are exempt from withholding tax. Foreign investors disposing of their interest in a retail fund having a corporate legal form are exempt from non-resident capital gains taxation in Luxembourg. A retail fund set up as a fiscally transparent entity (rather than a corporate entity) in principle may be subject to the reverse hybrid rules; however, the carve-out for collective investment vehicles should typically apply to these funds.

Participants in fund structures, like in any other industry, may have reporting obligations to the Luxembourg tax authorities under the Luxembourg implementation of the Directive (EU) No. 2018/822 of 25 May 2018 (DAC 6) if they are involved in a reportable cross-border arrangement and there is no EU intermediary involved in designing or assisting with setting

up the arrangement, or all intermediaries involved are exempt from the obligation to report the arrangement.

Law stated - 10 May 2024

Asset protection

Must the portfolio of assets of a retail fund be held by a separate local custodian? What regulations are in place to protect the fund's assets?

Yes. The assets of a retail fund must be entrusted to a local depositary and segregated from the depositary's assets. The depositary will be liable to the fund and its investors for the loss by the depositary or by a delegate of financial instruments held in custody. In the case of loss of a financial instrument held in custody, the depositary must return a financial instrument of an identical type or the corresponding amount to the fund without undue delay. There is no possibility for the depositary to discharge its liability.

The Law of 27 February 2018 on interchange fees and amending several laws relating to the financial sector provides for the following depositary regime with respect to Part II UCI:

- Part II UCI marketed to retail investors on Luxembourg territory must appoint a UCITS-compliant depositary, regardless of whether they are managed by a Luxembourg or EU-authorised or registered AIFM or a non-EU manager;
- Part II UCI managed by a Luxembourg-authorised AIFM whose offering documents expressly forbid marketing to retail investors on Luxembourg territory may appoint a depositary compliant with the AIFM Law; and
- Part II UCI managed by a Luxembourg or EU-registered AIFM or by a non-EU manager and whose offering documents explicitly forbid the marketing to retail investors on Luxembourg territory must appoint a depositary bank compliant with the Law of 13 February 2007 on specialised investment funds.

ELTIFs marketed to retail investors on the Luxembourg territory must appoint a UCITS-compliant depositary in accordance with the ELTIF Regulation.

Law stated - 10 May 2024

Governance

What are the main governance requirements for a retail fund formed in your jurisdiction (registration, record-keeping, filings, officers)?

Regulated retail funds, following the successful completion of the CSSF examination phase, must be registered on the relevant official list of supervised entities held by the CSSF. ELTIFs additionally must be registered on the central public register held by the ESMA.

Regulated retail funds must apply for prior CSSF approval with respect to any change in their fund documentation (ie, constitutive and offering documents) or governance (eg, appointment of a new board member or replacement of depositary or auditor).

For a retail fund structured as a company, as well as for a management company or an AIFM, there must be a board of directors composed of at least three members, half of which are recommended to be Luxembourg residents.

For externally managed funds, administrative tasks such as accounting, record-keeping, net asset value calculation and the keeping of a register of shareholders or limited partners are in general entrusted to an administrative agent (established in Luxembourg and subject to supervision by the CSSF).

Retail funds must produce key information documents (key investor information document for UCITS and key information document for AIFs) to be provided to retail investors before they invest in the fund. Essential elements of the key information document must be kept up to date.

Law stated - 10 May 2024

Reporting
What are the periodic reporting requirements for retail funds?

UCITS and Part II UCI must produce annual and semi-annual reports, in addition to ongoing reporting to the CSSF.

Law stated - 10 May 2024

Issue, transfer and redemption of interests
Can the manager or operator place any restrictions on the issue, transfer and redemption of interests in retail funds?

The rules governing the redemption of interests vary depending on the type of fund and its regulatory status. UCITS are obliged to redeem their shares or units at the investor's request. Part II UCI can, on the other hand, be established as closed-ended vehicles or otherwise restrict the terms on which interests can be redeemed.

Transfer restrictions (including, but not limited to, in respect of the transferee meeting certain eligibility criteria for a certain class of shares) may also be provided for in the fund's constitutive document. The circumstances for any suspension of share or unit issuances or redemptions (or both) must be provided for in the fund's constitutive document.

Law stated - 10 May 2024

NON-RETAIL POOLED FUNDS

Available vehicles
What are the main legal vehicles used to set up a non-retail fund? How are they formed?

Non-retail funds can be organised as:

- specialised investment funds (SIFs) governed by the Law of 13 February 2007 on SIFs, as amended (the SIF Law);
- reserved alternative investment funds (RAIFs) governed by the Law of 23 July 2016 on RAIFs, as amended (the RAIF Law);
- investment companies in risk capital (SICARs) governed by the Law of 15 June 2004 on SICARs, as amended (the SICAR Law);
- unregulated alternative investment funds (AIFs) governed by the Companies Law and the Law of 12 July 2013 on alternative investment fund managers, as amended (the AIFM Law); or
- AIFs opting-in for the European long-term investment fund (ELTIF) label and marketed solely to professional investors governed by the ELTIF Regulation.

Law stated - 10 May 2024

Laws and regulations

What are the key laws and other sets of rules (regulatory and self-regulatory) that govern non-retail funds?

The key laws and regulations applicable to non-retail funds are:

- the SIF Law;
- the RAIF Law; and
- the SICAR Law.

In addition, the following key laws and regulations may apply, each as may be amended from time to time:

- the AIFM Law if the fund qualifies as an AIF;
- the ELTIF Regulation if the AIF has opted in to the ELTIF label;
- the Companies Law;
- the Financial Sector Law;
- the Luxembourg Civil Code;
- Luxembourg laws, regulations and circulars issued by the Financial Sector Supervisory Commission (CSSF) regarding anti-money laundering and counter-terrorist financing;
- the General Data Protection Regulation;
- CSSF Regulation No. 16-07 regarding out-of-court complaint resolution (if the fund is regulated); and
- various guidelines issued by the European Securities and Markets Authority and CSSF regulations and circulars.

Law stated - 10 May 2024

Authorisation

Must non-retail funds be authorised or licensed to be established or marketed in your jurisdiction?

SIFs, SICARs and other funds opting in for the ELTIF label require prior CSSF approval. RAIFs and unregulated AIFs may be established and marketed without prior CSSF approval. If marketing or pre-marketing is intended to be performed based on the Alternative Investment Fund Managers Directive (Directive 2011/61/EU) (AIFMD) passport, notification requirements must be met prior to commencing any marketing or pre-marketing activity.

Law stated - 10 May 2024

Marketing

Who can market non-retail funds? To whom can they be marketed?

Non-retail funds may be marketed by authorised alternative investment fund managers based on the AIFMD passport or by authorised distributors based on the Markets in Financial Instruments Directive (MiFID) passport. Investors in SIFs, SICARs and RAIFs must qualify as well-informed investors. In the EEA, non-retail funds may be marketed to professional investors within the meaning of the AIFM Law.

Law stated - 10 May 2024

Ownership restrictions

Do investor-protection rules restrict ownership in non-retail funds to certain classes of investor?

SIFs, SICARs and RAIFs are reserved to well-informed investors only. Unregulated AIFs may only be marketed under the AIFMD passport in the EEA to professional investors. ELTIFs may be marketed under the AIFMD passport in the EEA solely to professional investors or both retail and professional investors under certain conditions.

Well-informed investors are institutional investors, professional investors or any other investor that:

- has confirmed in writing that it adheres to the status of well-informed investor; and
- either invests a minimum of €100,000 in the fund or obtains an assessment certifying its expertise, experience and knowledge in adequately appraising an investment in the fund, made by:
    - a credit institution 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 and investment firms;
    - an investment firm within the meaning of MiFID II;
    - a management company within the meaning of the Undertakings for Collective Investment in Transferable Securities Directive (Directive 2009/65/EC); or

- in respect of a RAIF or an authorised AIFM.

Directors and other persons who are involved in the management of the fund do not need to qualify as well-informed to invest in the fund.

Professional investors within the meaning of the AIFMD or the ELTIF Regulation are investors who are professional clients (or eligible, upon request, to be treated as such) within the meaning of Annex II of MiFID.

Law stated - 10 May 2024

Managers and operators

Are there any special requirements that apply to managers or operators of non-retail funds?

Managers of non-retail funds qualifying as AIFs must be either authorised or registered as AIFMs in the EEA or meet the requirements of a third-country AIFM. ELTIFs may only be managed by EU-authorised AIFMs.

Although registered AIFMs are not subject to authorisation under the AIFM Law, they are not entirely exempt from the AIFM Law requirements. They must be registered with the CSSF, disclose the AIFs they manage (including their investment strategies) and regularly report to the CSSF the principal instruments in which they trade and related investment exposures. Registered AIFMs may nonetheless elect to subject themselves to the AIFM Law (especially if they want to benefit from the AIFMD passport).

Law stated - 10 May 2024

Tax treatment

What is the tax treatment of non-retail funds? Are any exemptions available?

SIFs and RAIFs (except for RAIFs investing exclusively in risk capital) are subject to an annual subscription tax of 0.01 per cent, subject to certain exemptions. The subscription tax is payable quarterly; the taxable basis of the subscription tax is the fund's aggregate net assets as valued on the last day of each quarter. SIFs and RAIFs are exempt from taxes on income or capital gains (in principle subject to the reverse hybrid rules), as well as from net wealth tax. Distributions (including dividends and liquidation surpluses) made by a SIF or RAIF to investors are not subject to withholding tax in Luxembourg.

A SICAR must be dedicated to risk capital investment only (most notably a classic private equity strategy of 'buy, develop and sell'). A SICAR that is structured as a tax-opaque entity is subject to the ordinary income tax regime. However, income from transferrable securities representing risk capital, as well as income derived from the transfer, contribution or liquidation thereof is exempt. All other income (eg, the income from risk capital not represented by a security) is fully subject to ordinary Luxembourg direct taxation rules. From a Luxembourg tax perspective, a SICAR organised as an opaque entity should qualify as a resident company for domestic and Luxembourg tax-treaty purposes and should benefit

from the parent-subsidiary directive, but other jurisdictions may take a different stance (see, eg, the Court of Justice of the European Union's 'Danish cases').

Fiscally, opaque SICARs are subject to a minimum net wealth tax. A SICAR formed as a fiscally transparent common limited partnership (SCS) or a special limited partnership (SCSp) is itself not liable for income taxes (subject to the reverse hybrid rules), nor net wealth tax in Luxembourg. Neither dividends nor liquidation proceeds distributed by a SICAR (whether fiscally opaque or transparent) to investors are subject to withholding tax.

RAIFs investing exclusively in risk capital assets can elect to be subject to the same tax rules as those applicable to SICARs.

The tax treatment of unregulated AIFs depends on the legal form of the fund.

An SCS or SCSp is tax transparent for corporate income tax and net wealth tax purposes. It is normally also not subject to municipal business tax, provided its Luxembourg general partner does not hold an interest of 5 per cent or more in the partnership (and taking into account the fact that AIFs should not be conducting a commercial activity). However, these entities may become subject to corporate income tax if they fall within the scope of the reverse hybrid rules. These rules would result in the partnership becoming (partly or fully) subject to corporate income tax if associated investors, who hold in aggregate at least 50 per cent of the interests, voting rights or rights to profits in the partnership, are resident in jurisdictions that treat the (Luxembourg) partnership as opaque for tax purposes and the investors are not taxed on their share of the partnership's income because of the mismatch (as opposed to other reasons such as being tax exempt). Investors holding less than 10 per cent of interests and rights to profits in an AIF are deemed not to act together and should accordingly also not qualify as associated with the partnership for purposes of the reverse hybrid rules. For genuine fund structures, these rules should not apply easily, as the threshold for triggering the rules is high and several exemptions are available. It is, however, important to monitor the threshold and potential impact of these rules continuously, depending on the investors' base. Distributions by an SCS or SCSp are not subject to withholding tax.

Funds set up under other corporate forms are subject to the general tax regime. The consolidated corporate tax rate (corporate income tax, municipal business tax and solidarity surcharge) for companies in Luxembourg City was 24.94 per cent in 2022. The interest deduction limitation rule does not apply to financial undertakings, which includes AIFs. Net wealth tax is levied annually on the fair market value of the net assets of the company at a rate of 0.5 per cent for net assets up to €500 million, and 0.05 per cent for the portion of net wealth exceeding €500 million. There is a minimum net wealth tax. Distributions by an unregulated company are, in principle, subject to 15 per cent dividend withholding tax, unless a treaty or domestic rule allows for a reduction in the withholding tax rate or exemption from withholding tax.

Participants in fund structures, like in any other industry, may have reporting obligations to the Luxembourg tax authorities under the Luxembourg implementation of Directive (EU) No. 2018/822 of 25 May 2018 (DAC6), if they are involved in a reportable cross-border arrangement and there is no EU intermediary involved in designing or assisting with setting up the arrangement, or all intermediaries involved are exempt from the obligation to report the arrangement.

Since 1 March 2021, the deduction of interest (and royalties) paid or owed to related enterprises (which are beneficial owners of the payment) established in a jurisdiction that

is on the EU blacklist of non-cooperative jurisdictions is in principle denied. The rule does not affect Luxembourg funds that are not subject to income taxes, as they do not take deductions in the first place.

Law stated - 10 May 2024

Asset protection

Must the portfolio of assets of a non-retail fund be held by a separate local custodian? What regulations are in place to protect the fund's assets?

The appointment of a Luxembourg-based depositary is required for SIFs, SICARs, RAIFs and unregulated AIFs that are managed by authorised AIFMs, and the fund's assets must be segregated from the depositary's assets. Unregulated AIFs that are managed by a registered AIFM are not required to appoint a depositary. ELTIFs are required to appoint a UCITS-compliant depositary.

The depositary will be liable to the fund and its investors for the loss of financial instruments held in custody either by itself or any third party to whom custody was delegated. In the case of such a loss of a financial instrument held in custody, the depositary must return a financial instrument of identical type or the corresponding amount to the fund without undue delay. The depositary may contractually discharge itself of its liability under certain circumstances, except when acting as depositary of ELTIFs.

There are two types of depositaries for private funds in Luxembourg (excluding ELTIFs): regulated banks and professional depositaries of assets other than financial instruments. A professional depositary may only be appointed by a fund that is closed for redemption for five years as from the date of the initial investments and that, pursuant to its main investment policy, generally does not invest in assets that must be held in custody pursuant to the AIFM Law or invests in non-listed companies to eventually acquire their control.

Law stated - 10 May 2024

Governance

What are the main governance requirements for a non-retail fund formed in your jurisdiction (registration, record-keeping, filings, officers)?

Regulated funds, such as SIFs or SICARs, following the successful completion of the CSSF examination phase, must be registered on the relevant official list of supervised entities held by the CSSF, and, with respect to ELTIFs, the central public register held by the European Securities and Markets Authority.

For unregulated funds, such as RAIFs and unregulated AIFs, no prior authorisation from the CSSF is required before their setting-up and there is no direct ongoing supervision by the CSSF.

A fund organised as a common fund (FCP) must be managed by a management company or AIFM, which is in charge of the governance of the FCP, under the oversight of the depositary in respect of certain aspects.

If organised as a SICAV or SICAR, the fund is managed by its governing body (ie, the board of directors or a general partner). In this case, the fund may either appoint a management company or AIFM (ie, externally managed) or manage itself (ie, internally managed AIF).

Luxembourg funds must have their central administration in Luxembourg.

Law stated - 10 May 2024

Reporting

What are the periodic reporting requirements for non-retail funds?

Both SICARs and SIFs must comply with certain disclosure requirements. They must, among other things, produce an offering document and an annual report that they also need to communicate to the CSSF and to investors. These documents must include the information necessary for investors to be able to make an informed assessment on the proposed investment and the related risks. The annual report must be finalised within six months of the end of the financial period to which it pertains. Although the annual reporting obligations are in line with the common reporting obligations of commercial companies, neither the SICAR nor the SIF are subject to consolidated reporting.

The annual accounts must be audited, furthermore, by a certified Luxembourg independent auditor, which must inform the CSSF of serious violations of the applicable legal provisions or of any facts or decisions that could potentially threaten the continuity of the SICAR or SIF. A SICAR must submit half-yearly financial information to the CSSF. A SIF must submit yearly and monthly financial information to the CSSF.

Although a RAIF is neither subject to any prior regulatory approval nor to any ongoing direct supervision, it must qualify as an AIF and be managed by an authorised AIFM. It must also produce an offering document and an audited annual report.

In terms of reporting requirements, the AIFM Law contains obligations applicable to the manager of any AIF in scope. For SIFs and SICARs, those requirements will apply alongside the specific reporting rules of the SIF Law or SICAR Law that, to a large extent, are in line with the reporting rules of the AIFM Law. The AIFMD reporting framework mainly consists of annual reporting, disclosure to investors and regulators' requirements. Annual reports must be prepared at least once a year and within six months following the end of the financial year for each Luxembourg AIF managed or marketed in the European Union. The annual reports will be audited and provided to investors upon request and to the CSSF. Disclosure requirements entail communication of certain information to be provided to investors before they invest in the fund (generally contained in an offering document). This information relates, among other things, to the AIF's investment strategy and objectives, techniques it may employ and associated risks, the use of leverage and collateral and the procedures for issue and sale of shares, units or interests. Further aspects that need to be disclosed are as follows:

- the AIF's valuation procedure and pricing methodology;
- a description of liquidity risk management and redemption arrangements;
- a description of all fees, charges and expenses and maximum amounts thereof, which are directly or indirectly borne by the investors;

- the policy on ensuring fair treatment of investors; and
- a description of any preferential treatment of investors.

In respect of reporting to the CSSF, a Luxembourg AIFM must regularly report on the principal markets and instruments in which its AIFs trade, and is required to disclose certain additional information encompassing, among other things, the following:

- the percentage of the AIF's assets that are subject to special arrangements arising from their illiquid nature;
- any new liquidity management arrangements;
- the AIF's risk management systems;
- information on the AIF's main categories of assets; and
- the results of any stress tests.

Frequency of reporting depends on the amount of assets under management.

Unregulated funds must report certain financial information to the Central Bank of Luxembourg in accordance with the BCL Circular 2018/241.

SIFs, SICARs and Luxembourg-authorised AIFMs (among other entities) are required to complete a self-assessment questionnaire on a yearly basis regarding their compliance with the applicable legal and regulatory requirements in accordance with CSSF Circulars 21/789 and 21/790.

Law stated - 10 May 2024

SEPARATELY MANAGED ACCOUNTS

Structure

How are separately managed accounts (ie, accounts through which investor funds are segregated – not pooled – and the investor owns the underlying assets, which are managed at the investment manager's discretion) typically structured in your jurisdiction?

Separately managed accounts may be structured as funds of one, or via discretionary investment management agreements with an investment firm.

In practice, funds of one would, in the context of separately managed accounts, be structured either as a single-investor unregulated special limited partnership (SCSp) or as a dedicated compartment of a specialised investment fund or a reserved alternative investment fund.

Law stated - 10 May 2024

Key legal issues

What are the key legal issues (eg, standard of care, indemnification) to be determined when structuring a separately managed account?

The terms for an SCSp, including the duties and indemnification obligations of the manager, are set out in a partnership agreement and, for a separately managed account, in an investment management agreement, which may both be negotiated by the investor.

The manager of a separately managed account is an agent. In addition to any specific financial regulations applicable depending on the status of the manager (the Law of 12 July 2013 on alternative investment fund managers, as amended (the AIFM Law), the Financial Sector Law and so on), the agency is subject to articles 1984 to 2010 of the Luxembourg Civil Code, and the agent must act strictly within the scope of its appointment and report to the principal on a regular basis.

Law stated - 10 May 2024

Regulation

Is the management or marketing of separately managed accounts regulated in your jurisdiction? (If so, how does this operate? Is this the same regime for fund management?)

A regulated fund with a dedicated compartment for each investor will usually fall under the scope of the Alternative Investment Fund Managers Directive (Directive 2011/61/EU) (AIFMD). A single-investor SCSp will, in principle and except when the vehicle is formed as a fully AIFMD-compliant alternative investment fund (AIF), not qualify as an AIF, subject to a condition that the vehicle has been formed at the express request of the investor (ie, reverse solicitation) and its constitutive document precludes the admission of other investors.

The marketing of funds of one will depend on the AIF status of the relevant fund, the licence and the country of origin of the manager.

The management of separately managed accounts is usually deemed discretionary portfolio management, except for funds qualifying as AIFs and in respect of which the portfolio management carried out by the relevant fund's alternative investment fund manager is a regulated activity falling within the scope of the Financial Sector Law, implementing Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments rules.

Law stated - 10 May 2024

GENERAL

Proposed reforms

Are there proposals for further regulation of funds, fund managers or marketers of funds in your jurisdiction?

On 28 July 2023, a new draft bill of reshaping the Luxembourg accounting law was published, the main driver of which is to cover all accounting obligations in a single accounting law and broaden its scope of application by including additional types of undertakings, including investment funds formed as common funds (FCPs). The legislative process in respect of the draft bill is expected to be completed by 2025 at the latest.

On 28 March 2024, the CSSF published Circular CSSF 24/856 on investor protection in the event of a NAV calculation error, non-compliance with investment rules and other errors. The new circular, which replaces Circular CSSF 02/77 and will take effect as from 1 January 2025, applies to UCITS, Part II UCIs, SIFs and SICARs as well as to ELTIF, MMF (being money market funds under Regulation (EU) 2017/1134), EuVECA and EuSEF (which are not UCITS, Part II UCIs, SIFs and SICARs) for which the CSSF is the competent authority in accordance with the applicable regulations. The new circular sets guidelines to be followed by investment management professionals in case of errors in the administration or management of a UCI. More particularly, it covers, in addition to NAV calculation errors and non-compliance with the investment rules applicable to UCIs, also other errors (eg, errors at the level of the payment of costs and fees, swing pricing) that may occur at the level of a UCI. The new circular also defines a dedicated approach for the different types of funds concerning the tolerance thresholds governing NAV calculation errors.

Law stated - 10 May 2024

Public listing

Outline any specific requirements for stock-exchange listing of retail and non-retail funds.

The Luxembourg Stock Exchange (LuxSE) operates the following two markets:

- the regulated market, within the meaning of Directive 2014/65/EU on markets in financial instruments, as amended (MiFID II); and
- the Euro MTF market, which is a multilateral trading facility (within the meaning of MiFID II) and provides an alternative market to the regulated market (the Euro MTF).

Moreover, the LuxSE has established a professional segment for each of the two markets it operates. The professional segments are specifically designed for issuers targeting professional clients only (within the meaning of MiFID II). Securities admitted to the professional segments are not accessible to retail investors. Trading on the professional segments is only allowed between professional investors.

Issuers of securities on the regulated market are subject to the obligations of various European regulations and directives that have been implemented in Luxembourg law, in terms of prospectus approval and ongoing disclosure obligations.

The CSSF is responsible for approving prospectuses for admission to trading on the regulated market. Listing of securities on the regulated market is subject to the approval and publication of a prospectus in accordance with the provisions of Regulation (EU) No. 2017/1129 of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, as amended (the Prospectus Regulation). However, the requirements of the Prospectus Regulation and the obligation to publish a prospectus do not apply to open-ended funds that are expressly excluded from the scope of the Prospectus Regulation.

Issuers whose prospectuses have been approved in accordance with the Prospectus Regulation may benefit from the European passport regime for the admission to trading of their securities on one or more regulated markets operated in any member states.

The Euro MTF was launched to offer an alternative market to issuers. Listing on the Euro MTF does not require the publication of a Prospectus Regulation-compliant prospectus. Prospectuses for an admission to trading on the Euro MTF must be drawn up in accordance with the rules and regulations of the LuxSE (the Rules and Regulations). The LuxSE is responsible for approving prospectuses listed on the Euro MTF. The only exemption from this rule applies to open-ended funds that are accepted by the CSSF for distribution in Luxembourg. The reason for that is that these types of issuers are already required, for the purposes of the distribution, to draw up a prospectus and have it approved by the CSSF under the relevant sector-specific legislation.

The ongoing and periodic disclosure requirements applicable to issuers of securities depend on the market where the securities are admitted to trading.

For issuers whose securities are admitted to trading on the regulated market, these obligations mainly arise from the Luxembourg Law of 11 January 2008 on transparency requirements for issuers of securities, as amended (the Transparency Law), the Rules and Regulations and Regulation (EU) No. 596/2014 on market abuse, as amended (MAR). Open-ended funds are, however, excluded from the scope of the Transparency Law. Furthermore, issuers whose securities are admitted to trading on the Euro MTF do not fall within the scope of the Transparency Law. However, they must comply with the ongoing and periodic disclosure obligations detailed in the Rules and Regulations and the MAR.

Ongoing and periodic disclosure obligations include, for instance, the provision of annual reports and interim financial statements as well as the disclosure of all other important information affecting the securities or the issuer. The ongoing disclosure obligations applicable to issuers whose securities are admitted to trading on the regulated market are more stringent than those applicable to issuers whose securities are admitted to trading on the Euro MTF.

The LuxSE also offers the possibility for issuers to list their securities on its Securities Official List (SOL) without admission to trading. The SOL is designed for issuers looking for visibility without the possibility of having their securities traded. Securities listed on the SOL are not subject to the extensive regulatory framework applicable to securities admitted to trading on the regulated market and the Euro MTF. Ongoing disclosure obligations will, in this case, be limited to certain communication requirements to the LuxSE as set out in the SOL rulebook.

Law stated - 10 May 2024

Overseas vehicles

Is it possible to redomicile an overseas vehicle in your jurisdiction?

It is possible to redomicile an overseas vehicle into Luxembourg if this is allowed under the law of the country where the overseas vehicle is domiciled.

Law stated - 10 May 2024

Foreign investment

Are there any special rules relating to the ability of foreign investors to invest in funds established or managed in your jurisdiction or domestic investors to invest in funds established or managed abroad?

Other than certain marketing restrictions, and international financial sanctions, prohibitions and restrictive measures on the fight against terrorist financing, there are no special rules in this regard.

Law stated - 10 May 2024

Funds investing in derivatives

Are there any special requirements in your jurisdiction relating to funds investing in derivatives?

Funds may invest in derivatives subject to compliance with the following provisions:

- article 41 of the Law of 17 December 2010 on undertakings for collective investment (the UCI Law) for UCITS;
- CSSF Circulars 91/75, as amended and 02/80 for Part II of the UCI Law; and
- CSSF Circular 07/309 for non-retail funds organised as specialised investment funds (SIFs) and SIF-like reserved alternative investment funds.

Investment companies in risk capital and AIFs opting in for the ELTIFs label may only use derivative financial instruments for hedging purposes.

Funds investing in derivatives must comply with the clearing obligations, reporting obligations and risk and mitigation techniques set out in Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on over-the-counter derivatives, central counterparties and trade repositories (EMIR). As from 29 April 2024, EMIR technical standards will become applicable (EMIR REFIT), imposing new reporting obligations to in-scope entities, including funds investing in derivatives.

CSSF Circular 18/698 includes detailed information on the obligations of the Luxembourg managers to monitor compliance with their obligations under EMIR.

Credit institutions, investments firms and trading venue operators must comply with the provisions set out in Regulation (EU) No. 600/2014 on markets in financial instruments.

Law stated - 10 May 2024

UPDATE AND TRENDS

Recent developments

Are there any other current developments or emerging trends in your jurisdiction that should be noted? Please include reference to world-wide regulatory concerns, such as restrictions on foreign ownership in strategic

> industries, high-frequency trading, commodity position limits, capital adequacy for investment firms and 'shadow banking'.

For many years, some of the most sophisticated asset managers in the alternatives space catered to the largest institutional investors in the world, with hundreds of billions of dollars in assets. But now, many of these managers are looking at broadening their investor base, as they see a more sophisticated channel of distribution among retail and private wealth advisers and have made big bets on the market by creating products that are more broadly accessible to individual investors. One of the reasons behind this shift is to take advantage of the growth in private wealth. Indeed, the mass affluent and high-net-worth investor market is expected to grow to over US$200 trillion by 2025. In this context, the adoption of the European long-term investment fund (ELTIF) 2.0 on 15 February 2023, which entered into force on 9 April and has applied from 10 January 2024, is an important step in increasing the attractiveness of this regime, especially given the option of a marketing passport for retail investors. Today, over 50 per cent of authorised ELTIFs are based in Luxembourg. Also, Luxembourg fund vehicles, in particular Part II undertakings for collective investments (UCIs), whether or not launched as ELTIFs, have in the recent past experienced a significant interest from large US and EU managers, and have already been widely tested in this context. Accordingly, and also due to the recent entry into force of the Law of 21 July 2023 amending, inter alia, the Law of 17 December 2010 on undertakings for collective investment (the UCI Law), the Law of 15 June 2004 on the investment company in risk capital (the SICAR Law) and the Law of 13 February 2007 on specialised investment funds (the SIF Law) offering greater consistency between fund regimes and new structuring flexibility to managers, Luxembourg's attractiveness as a pan-European hub for alternative investment funds (including those targeted to retail investors) will undoubtedly be further strengthened. Changes brought by the Law of 21 July 2023 include, just to name a few proposals:

- the extension of legal form available to Part II UCIs launched as SICAVs; and
- the reduction of the minimum investment for non-professional or non-institutional well-informed investors to €100,000 or the doubling of the time frame for reaching the minimum regulatory capital.

At the European level, the Alternative Investment Fund Managers Directive (Directive 2011/61/EU) (AIFMD) has been amended by Directive (EU) 2024/827 published in the official journal of the European Union on 26 March 2024 (AIFMD II). The AIFMD II contains five key developments in the areas of delegation, loan origination, liquidity management tools, depositaries and alternative investment fund managers (AIFMs). EU member states have until 16 April 2026 to transpose the AIFMD II into their national legislation, to the exclusion of certain provisions regarding reporting obligations of management companies and AIFMs, which shall be transposed by 16 April 2027.

On the tax side, the European Commission's initiative against shell entities may, if adopted, indirectly affect investment funds, as certain special purpose vehicles that lack sufficient substance could possibly face higher withholding tax or non-resident capital gains taxation in investment jurisdictions.

Very large funds and asset managers should also closely monitor international developments around the implementation of global minimum taxation (Pillar Two workstream of the Organisation for Economic Co-operation and Development), as there is no absolute carve-out for investment fund structures. In particular, managers of separately

managed accounts and funds-of-one should check potential consolidation of the fund at investor level to assess whether there is a risk of top-up tax on the fund's income. Also, while an investment fund is typically exempt from consolidation obligations, the need to consolidate (or apply a 'deemed consolidation' rule) below the fund should be monitored.

Law stated - 10 May 2024