



Boost your governance, bolster your structure

CSSF Circular 18/698

A leap forward in governance

On 23 August, the CSSF Circular 18/698 on the authorization and organization of Luxembourgish investment management companies (IFM), including specific provisions on the fight against money laundering and terrorist financing applicable to investment fund managers and entities carrying out the function of registrar agent, was published by the CSSF.

The new circular applies to both UCITS management companies and alternative investment fund managers, as well as management companies subject to chapters 16 and 17 of the Law of 17 December 2010 relating to undertakings for collective investment. It sets out the fundamental governance and organizational structures that are expected in terms of substance from Luxembourg investment management companies (Gestionnaires de Fonds d'Investissement or IFM).

The circular sets out the existing practices that were applied by the CSSF as well as some specific new requirements in relation

to governance, central administration and internal controls, the fight against money laundering and terrorist financing, key functions such as delegated activities, marketing, internal administration and procedures, as well as valuation.

The circular also includes the requirements in respect to the compliance and internal control functions of the IFM in one single document, which were previously covered by CSSF Circular 04/155 and IML Circular 98/143. Therefore, CSSF Circular 04/155 and IML Circular 98/143 are no longer applicable to the IFM.

The new circular might be an evolution as it is expected that substantial efforts may have to be undertaken until the requirements of the new CSSF circular can be considered as fully implemented across the investment management industry.

The CSSF Circular 18/698 applies with immediate effect and repeals CSSF Circular 12/546, as amended. Assessing and implementing changes where required to your governance and business strategy is now a de facto priority.

The circular sets out the existing practices that were applied by the CSSF as well as some specific new requirements.

The Circular at a glance

Salient points of the Circular

- 01 Increased requirements on governing & management bodies in term of local presence, number of mandates, profiles and fit & proper concept.** Defined thresholds on the time spent and number of mandates for board members: maximum 1,920 hours per annum and 20 mandates.
- 02 Definition of Key function and Internal Control functions: 3-lines of defense, regulatory reporting.** Introduction of a “fit and proper” dashboard for board members and conducting officers. Split of tasks & responsibilities among Conducting Officers.
- 03 Precision on delegation and oversight of all kind of delegates: policy and procedures, due diligence questionnaire, documentation and reporting on a permanent basis.** Own funds requirements for GFI with an extended license (i.e. offering discretionary portfolio management and other investment management services).
- 04 Precision on AML/CTF for IFM depending on their set-up.** Definition of the three-lines-of-defence model to be applied by GFI. Alignment of the risk management requirements for AIFs and UCITS. Reporting to the CSSF.
- 05 Re-inforcing the responsibility of IFM in light of key linked laws and regulations: EMIR, MMFR, MiFID, Cloud Computing.** Applicable to all delegated functions (esp. Central Administration, Portfolio Management, Marketing, Valuation). Formalisation of due diligence (i.e. via a report). Detailed content of the due diligence documents (i.e. due diligence questionnaire and report).
- 06 Clarifications on the relation between IFM & Depositary enforcing true exchange of information.** Different scenarios and rules in respect of AML / CFT. New annual reporting requirements in the area of AML / CFT to be transmitted to the CSSF. Specific sections on the application of the European Market Infrastructure Regulation (EMIR), Money Market Fund Regulation (MMFR) and Markets in Financial Instruments Directive (MiFID).

How can we help?

Managed services

- Provide **full regulatory reporting suite (EMIR, MiFID, AIFMD, PRIIPS, Target Market, etc.)** with clear reporting back to you, giving you a full view as required to demonstrate oversight

Gap analysis/health check

- Perform a detailed review of IFM regulatory compliance with new Circular
- Identify any gaps and propose remediation actions

Remediation plan implementation

- Challenge your gap analysis and remediation plan
- Implement the agreed remediation actions

Due diligence process definition and execution

- Define the delegation policy (Risk-Based Approach, initial and recurrent due diligence questionnaire, etc.)
- Execute on your behalf the due diligence process as per pluri-annual plan

Internal control framework definition

- Define the frequency and depth of the control on each IFM activity
- Define the reporting towards the Management body of the IFM
- Design and Update the pluriannual Compliance Monitoring Plan

Policies and procedures review and writing

- Perform a critical review of the existing policies and procedures in light of the Luxembourg regulatory framework
- Identify gaps and propose adequate structure and wording as per Luxembourg market practice

Own funds

- Ensure adequacy of own funds with CRR and CRD IV



We can help you stay on top of regulatory requirements so you can focus on your business. Learn more here: www.marketbooster.lu

Contacts

Sylvain Crépin, FRM

Partner – Advisory IM & Growth Leader

Tel: +352 451 454 054

screpin@deloitte.lu

Virginie Boulot

Partner - Audit & Assurance

Tel: +352 452 452 2990

Simon Ramos

Partner – IM Advisory & Consulting Leader

Tel: +352 451 452 702

siramos@deloitte.lu

Deloitte.

Deloitte is a multidisciplinary service organization that is subject to certain regulatory and professional restrictions on the types of services we can provide to our clients, particularly where an audit relationship exists, as independence issues and other conflicts of interest may arise. Any services we commit to deliver to you will comply fully with applicable restrictions.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms and their related entities. DTTL (also referred to as "Deloitte Global") and each of its member firms are legally separate and independent entities. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte is a leading global provider of audit and assurance, consulting, financial advisory, risk advisory, tax and related services. Our network of member firms in more than 150 countries and territories serves four out of five Fortune Global 500® companies. Learn how Deloitte's approximately 264,000 people make an impact that matters at www.deloitte.com.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2018 Deloitte Tax & Consulting

Designed and produced by MarCom at Deloitte Luxembourg.

Deloitte Luxembourg

560, rue de Neudorf
L-2220 Luxembourg
Grand Duchy of
Luxembourg

Tel.: +352 451 451
www.deloitte.lu