

Financial Sector Professionals
in Luxembourg (FSP)
Profile of a high growth sector



Introduction

Banks are not the only entities in Luxembourg able to provide financial services.

The Law of 5 April 1993 introduces the term '*Financial Sector Professionals*' (FSPs) to apply to numerous service providers in the financial market. FSPs, duly supervised by the Luxembourg regulator, the *Commission de Surveillance du Secteur Financier* (CSSF), enjoy privileged access to the financial services market and fall within the highly-coveted domain of professional banking secrecy.

This privileged access has impacts in terms of governance, organisation, risk management and prudential supervision.

Access to the financial services industry is governed by the Law of 5 April 1993 (the Law) relating to the financial sector¹ as amended by the Law of 13 July 2007 relating to Markets in Financial Instruments (MiFID).

FSPs are defined as regulated entities offering financial services, excluding the acceptance of deposits from the public, which is strictly reserved to credit institutions. FSPs therefore cover a very wide range of financial services and also non-financial services. Indeed, based on the requirements deriving from the professional secrecy rules of the banking sector, numerous non-financial players have made the required (and sometimes very substantial) effort to be approved as FSPs and thus be authorised to serve the other players of the financial sector.

There are three categories of FSP depending on the type of operations performed and the nature of the services rendered, namely:

- **Investment undertakings**
(Articles 24 to 24-9 of the Law)

These are defined as undertakings providing or performing on a professional and regular basis investment services or investment operations for third parties, and cover principally the following:

1. Investment advisors
2. Financial instrument brokers
3. Agency brokers
4. Asset managers

- **FSPs other than investment undertakings**
(*Other FSPs*)

Other FSPs are defined by default, i.e. those which are neither *investment undertakings* nor *auxiliary FSPs*. They correspond to the FSPs defined in Articles 25 to 28-8 of the Law, i.e. principally the following:

1. Registrars
2. Those engaged in providing credit

- **FSPs engaged in operations related or complementary to an activity in the financial sector** (*auxiliary FSPs*)

Within this legal category, the CSSF has given its consent to the use of the designation *auxiliary FSP (PSF de support)*, which has the feature of acting principally as subcontractor of operational functions for the account of other financial sector professionals. It corresponds to the FSPs defined in Articles 29-1 to 29-4 of the Law.

The two other types of FSPs which provide auxiliary services are company administrators (Article 29) and professionals providing company incorporation and management services (Article 29-5).

The purpose of this brochure is to present the range of FSPs within the Luxembourg context and to explain the typology of the different FSPs, which vary significantly.

Over many years, Deloitte has developed its competencies and services, enabling us to support and advise all types of FSP over the various stages of their development, from inception and throughout their existence and growth.

Stéphane Césari
FSP Industry Leader
Partner – Audit & Advisory



Manuel Baldauff
Partner – Advisory & Consulting



Raphaël Charlier
Partner – Audit



¹The Articles of the Law mentioned in this brochure refer to the Law as amended.

Impact of FSPs in the Luxembourg economy

In order to fully measure the influence of FSPs in the Luxembourg environment, we have analysed four major dimensions of FSPs, namely economic, social and political dimensions, as well as their geographical diversity, which contributes to the long-term stability of the sector.

The growing strength of a sector

On the basis of the study undertaken by the Codeplafi², we display below the direct contribution made by the financial industry to the Luxembourg economy and in particular the contribution of FSPs (*figure 1*).

Two specific findings:

- Although it appears that the impact of FSPs has in the past always been underestimated compared to the banking sector, the FSPs contribution in terms of added value per employee is remarkably similar to the banking sector.
- FSPs represent nearly one third of the total jobs of the Luxembourg financial industry.

Size of the market

With steady growth of more than 70% over the past five years, FSPs are expanding fast. In 2009, the Grand Duchy of Luxembourg recorded 286 active FSPs, as compared to 170 in 2004.

Auxiliary FSPs account for over 50% of this growth. As for *investment undertakings*, these are growing at a more moderate pace (*figure 2*).

This momentum in the FSP-industry market can be explained in part by the conversion of existing players which have decided to become licensed and by the attractiveness of the sector. This development has been broadly supported by changes in the legislation, the most recent change being the implementation of the Law of 13 July 2007 which transposed into national law the Directive on Markets in Financial Instruments (MiFID). The transposition of the Directive apart, the Law also introduced five new types of FSP.

Balance sheets and net aggregate results of FSPs (*figure 3*)

The total balance sheet for all FSPs amounted to €22,456 million as at 31 December 2009 as compared to €62,676 million at the end of December 2008, which represents a fall of 64% of the aggregate balance sheet within one year. According to the 2009 annual report of the CSSF, this fall is explained essentially by the withdrawal in 2009 of a professional engaged in securities lending.

However, given the diversity of the players covered by the term 'FSP', we prefer to focus on profitability rather than aggregate balance sheet size as this to better reflects the strength of the Industry.

FSPs have indeed recorded a significant rise of their net results, which have grown from €891 million as at 31 December 2008 to €1,577 million as at 31 December 2009, representing a total increase of +77% in net results over one year. According to the CSSF, this overall development, which is particularly positive in the context of the recent financial crisis, mainly results from the significant improvement in the results of one undertaking operating as a professional engaged in providing credits.

The results-by-category analysis reveals that only *auxiliary FSPs* have recorded a fall in their net results compared to the previous year. The other categories have increased their net results. Economic developments and the positive effect of the financial markets in 2009 enabled investment undertakings to achieve higher net results overall. The withdrawal of one undertaking which made a considerable loss in 2008 has also contributed to this general development (*figure 4*).

² Issued in November 2009 and based on statistics at the end of 2008

Figure 1: Summary of the financial industry figures as at 31.12.2009

	Added value (bn €)	% GDP	Employees	% Employment	Taxes (bn €)	% Tax revenue	Added value/ employee (K €)
FSP	1.9	5%	13,507	4%	0.2	2%	141
Insurances	1.4	4%	4,297	1%	0.4	4%	326
Management company	1.9	5%	2,386	1%	0.3	3%	796
UCI	-	-	-	-	0.6	6%	-
Banks	3.8	10%	27,524	8%	1.1	11%	138
Total Luxembourg financial industry	9.0	25%	47,714	14%	2.6	25%	189

Figure 2: Yearly evolution of the number of FSP per category

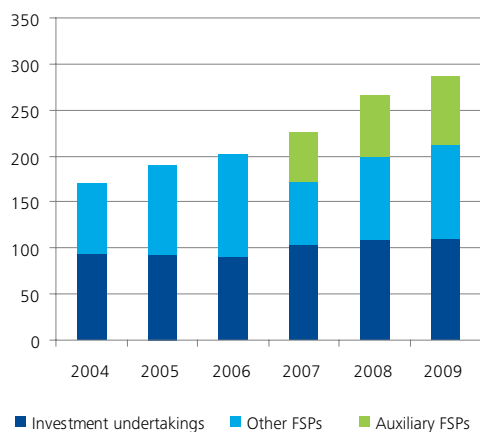


Figure 3: Evolution of the combined balance sheet and combined net income of FSP (in billion euros)

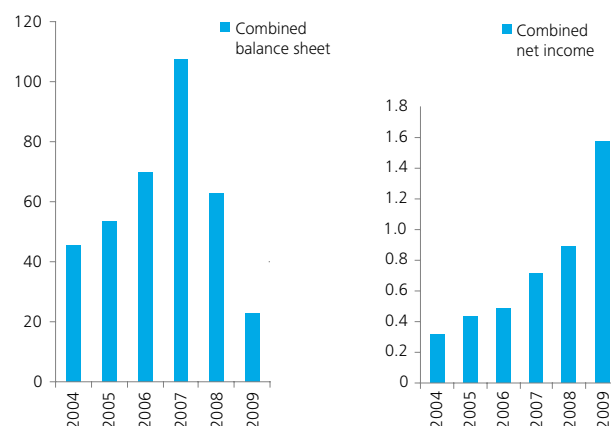
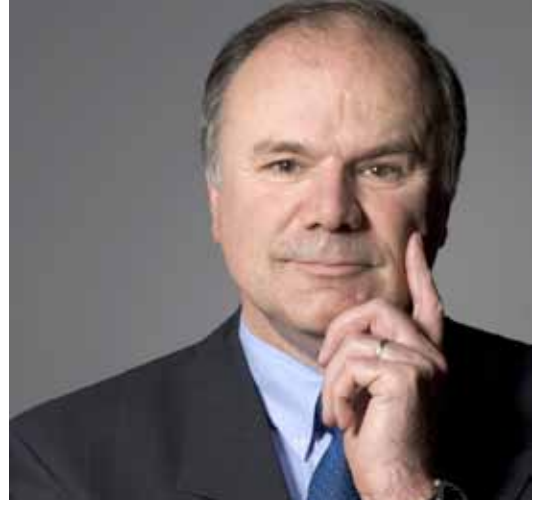


Figure 4: Split of the total FSP balance sheet and net results per FSP category

(millions €)	Balance sheet total				Net results			
	2008		2009		2008		2009	
	Amount	Relative share	Amount	Relative share	Amount	Relative share	Amount	Relative share
Investment undertakings	2,023.8	3.2%	1,131.7	5.1%	83.4	9.4%	170.6	10.8%
Other FSPs	60,013.4	95.8%	20,147.1	89.7%	768.4	86.3%	1,376.7	87.3%
Auxiliary FSPs	638.5	1.0%	1,177.4	5.2%	38.8	4.3%	29.8	1.9%
Total	62,675.7	100.0%	22,456.2	100.0%	890.7	100.0%	1,577.0	100.0%

Source: CSSF report 31 December 2009



Three questions to Jean Fuchs, President of the *Association luxembourgeoise des professionnels du patrimoine, ALPP*

How do you see FSPs belonging to ALPP evolving within the Luxembourg economy?

For FSPs in the asset management sector, business is performing very well. Thanks to our independent approach and the relationships of trust which we maintain with our clients, we have recently succeeded in increasing our business volume. I estimate that FSPs active in asset management today represent some 18% of the private-banking market in Luxembourg and could ultimately grow to make up 25% of this market. FSPs typically have substantial decision-making autonomy, they can pride themselves on their independence in relation to the products which they offer, on their room for manoeuvre, and their personnel, who is generally very experienced and driven by an entrepreneurial spirit. Thanks to the European passport, they are not necessarily affected when clients make a change of custodian bank, even in the case of repatriation outside Luxembourg, so that they retain mandates and the associated income.

What are your members major challenges?

While some would cite the future of banking secrecy, automatic salary indexation in Luxembourg or indeed the financial crisis, I consider for my part that the real challenges lie in the development of a real personal relationship with the client, in the packaging of value propositions, and services in line with the real needs of clients. The task is to assemble advisors who are concerned about customer service, who take the time to consult regularly with the client, to listen to him, to apply the necessary prudence in his investment decisions, and also to cover a broad range of services, from portfolio management to real estate, M&A advice,

etc. For this, advisors must combine a sound training background with an knowledge built 'on the job' and solid experience, in order to acquire an in-depth knowledge of the market. We must avoid adopting a self-satisfied stance and resting on the laurels of the past.

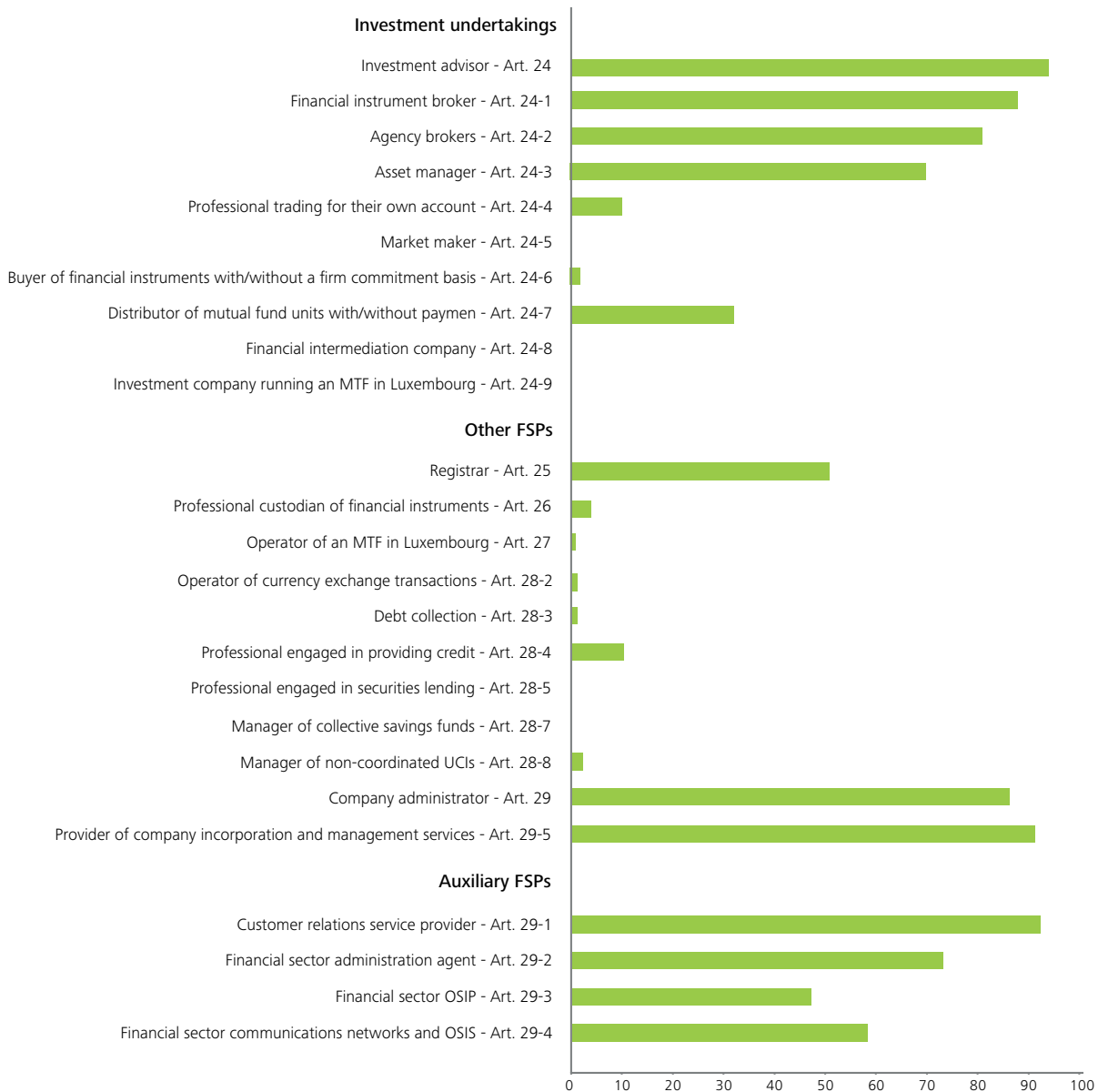
What are the advantages of Luxembourg for the FSPs you represent?

The very international background of Luxembourg managers enables them to respond more easily to the needs of their clients, considerably broadening their horizons and the experiences which they are able to put to the service of their clients. In addition, Luxembourg enjoys a highly-professional regulatory regime which reinforces our credibility while at the same time being relatively pragmatic. In relation to the principal competitor location in terms of financial centres, which is Switzerland, asset managers also benefit from the European passport, which offers them considerable flexibility in relation to the localisation of assets managed in Europe. Luxembourg is also capable of offering a very wide variety of products: SIF, SICAR, SICAV, Soparfi, etc. Luxembourg is always flexible and open to new concepts. Recently, for example, the ALPP participated in the creation of the Luxembourg Association of Family Offices (LAFO). We hope to obtain a new type of licence regulating this profession which will continue to gain in importance over the years and decades to come.

Distribution of licence types

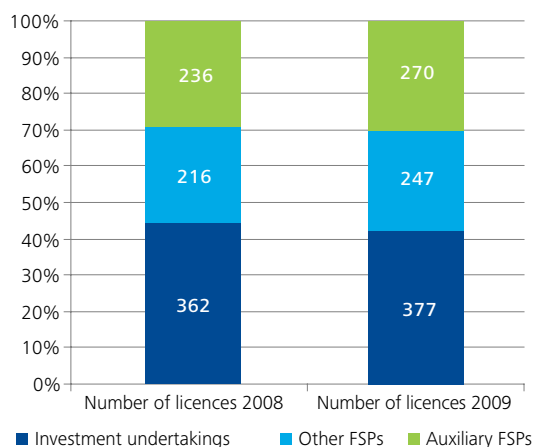
The most popular licences are those under Article 24, 'Investment advisors' (*investment undertakings*), closely followed by those under Article 29-1, 'Customer relations service providers' (*auxiliary FSPs*), and those under Article 29-5, 'Providers of company incorporation and management services' (*other FSPs*).

Figure 5: Total number of FSP licences as at 31 December 2009



At the time of establishment, FSPs tend to apply for more licences than necessary. They thereby hope to avoid the procedure of applying to the CSSF for a licence extension, which could subsequently become necessary due to broadening of their range of operations.

Figure 6: Evolution of the number of licences since 2008



These statistics confirm the trend already observed concerning the evolution of FSPs, namely that the number of licences for *other FSPs* and *auxiliary FSPs* is rising sharply (+15% in each case), while the proportion of licences for *investment undertakings* has only grown by 7%.

The most-requested licences remain those for *investment undertakings* (nearly 42% of licences in 2009).

The FSP: a strong and stable employer

According to the latest CSSF estimates, published on 31 March 2010, FSPs employ 13,566 employees, while the banking industry has 'only' twice as many.

Based on the study undertaken by Codeplaf³, we estimate that the FSP sector represents over 20,000 direct and indirect jobs, i.e. 6% of the Luxembourg active population.

FSPs rank second among Luxembourg employers in the financial industry.

Changes in FSP job numbers

Overall, the number of people employed from 1995 to 2008 has been constantly growing (*figure 7*).

In 2009 the number of jobs in the FSP sector declined slightly by less than 1%.

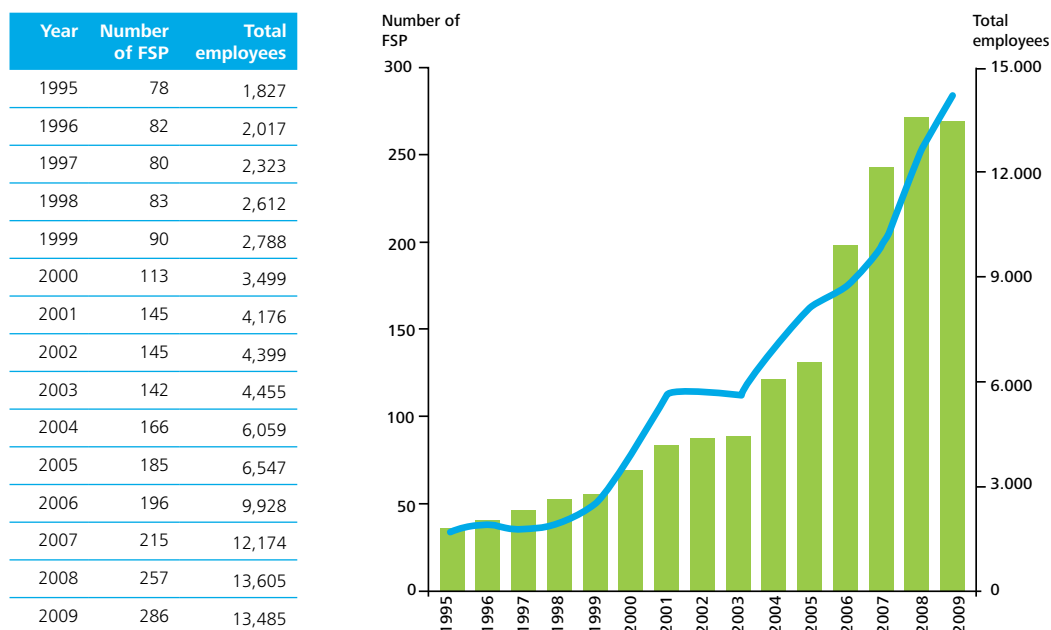
The fall in the number of jobs mostly arose among *auxiliary FSPs*. According to the CSSF's 2009 Annual Report, the number of people working for *auxiliary FSPs* fell from 7,707 as at 31 December 2008 (67 operational entities) to 7,481 at the end of December 2009 (74 operational entities), which represents an annual loss of 226. This fall corresponds to 3% of jobs in *auxiliary FSPs* and essentially relates to *auxiliary FSPs* whose main activity consists in providing facility management or custody services (*figure 8*).

We note that over 12% of *auxiliary FSP* employees are logistical staff. This category of employees is the only one not to have undergone a reduction in the number of jobs.

The employment rate for women, at 22% in the *auxiliary FSPs* at the end of 2009, is slightly on the rise but remains far lower than the rate of over 45% recorded for banks at the end of 2009.

³Issued in November 2009 and based on figures as at the end of 2008

Figure 7: Summary of employment per year compared to the evolution of the number of FSPs



Source: CSSF report 31 December 2009

Figure 8: Employment breakdown per employee category for the auxiliary FSPs

	2008	2009	Variation
Executive staff	466	462	-4
Administrative staff	6,362	6,102	-260
Logistical staff	879	917	38
of which part-time	630	662	32
Total	7,707	7,481	-226
Men	6,061	5,842	
Women	1,646	1,639	
Employment rate of women	21%	22%	

Source: CSSF report 31 December 2009



Three questions to Thomas Seale, CEO of European Fund Administration and Vice-President, International Affairs, of Association Luxembourgeoise pour les Fonds d'Investissement, ALFI

How do you expect to see the scope of FSPs belonging to ALFI evolving within the Luxembourg economy?

The business of FSPs belonging to ALFI is closely linked to the development of the financial centre itself, and more specifically the sector of investment funds, and the prospects in this sector are very positive. Luxembourg continues to enjoy faster growth than the European average, which suggests a potential for healthy growth among the FSPs in question.

What are the major challenges in the area of activity of the FSPs belonging to ALFI?

Even though growth prospects remain very positive in the sector of investment funds, the manner in which their operations are managed will be very different in the future. At present, Luxembourg benefits from the presence of a regulatory authority which has always had a flexible, supple and more creative approach, which has promoted development of the financial centre. From 2011, the creation of ESMA (European Securities Market Authorities) as a new regulatory authority which is far more influential than the CESR will reduce Luxembourg's scope for manoeuvre.

Numerous new regulations are emerging. Following the introduction of regulations such as UCITS IV and AIFM, for which Luxembourg is already prepared, the investment-fund sector must continue to be a pioneer in the context of the upcoming regulations such as UCITS V, MiFID II or indeed PRIIP (Package Retail Investment Product). All these new sets of regulations have very laudable objectives, in particular consumer protection,

or implementing a minimum 'level playing field'.

However, the investment-fund sector has an interest in being involved in implementing these new measures in order not only to benefit from the opportunities offered but also in order to avoid the implementation of procedures which are too constraining and prejudicial, not only in Luxembourg, but also throughout the whole of Europe.

Luxembourg is faced with the relocation of certain activities outside our borders, mainly associated with repetitive tasks or the hosting of IT systems. This phenomenon is not necessarily negative, enabling economies of scale to be achieved, more attractive prices to be offered, and consequently the Luxembourg market to be enlarged. In order to maintain our competitive edge, we not only have to increase our areas of competence (e.g. in terms of developing complex products) and control salary costs, linked in particular to automatic application of the indexation mechanism, but in addition, all parties, members of the Government, social partners and staff representatives must develop an awareness of the importance of competitiveness in order to maintain job development in Luxembourg.



What are the advantages of Luxembourg for the FSPs belonging to the association which you represent?

The pragmatic approach of the CSSF is an advantage for the financial centre of Luxembourg. We benefit from a supervisory authority which has specialised competencies in the field, with an impressive reaction capacity and evidencing the understanding needed in order for the sector to develop. This remains an asset even within the new ESMA environment.

The responsiveness of the Government has also enabled the development of innovative products such as SICAR and SIF which have given a competitive advantage to the financial centre of Luxembourg. The situation as regards the public finances also remains an asset, since players in the market above all seek a stable political and fiscal environment.

In addition, the financial centre of Luxembourg has acquired considerable know-how in the realm of investment funds, in particular concerning cross-border selling in Europe, as well as in Asia and Latin America. It benefits in addition from linguistic competence which is unrivalled in Europe, and a great multicultural richness.

The financial centre of Luxembourg does not fear the development of centres such as Dublin, which does not possess these advantages and which still remains very largely limited to US and Anglo-Saxon players. Nevertheless, Luxembourg must continue to develop its competencies as regards alternative products, in particular in terms of development, accounting and processing operations for complex products.

Finally, the changes to come as regards pension products also open up vast prospects. Here, it will be necessary to manage and minimise conflicts of interest, in particular in terms of product development. Here too, there are opportunities for FSPs...

Representation across professional associations

FSPs are subject to the supervisory authority of the CSSF. Holding the FSP status is subject to a licence granted by the Minister of Finance, in consideration of the opinion given by the CSSF. The conditions for granting such a licence include in particular initial capitalisation, credit standing, the competence of the management and adequate governance, relying on a central administrative office based in Luxembourg.

In terms of professional associations, the three associations set out below are the most representative in terms of defending the interests of FSPs:

ALPP (Association Luxembourgeoise des Professionnels du Patrimoine)

A not-for-profit association composed by over 100 independent companies established in Luxembourg, whose activities, complementary in nature, cover all services linked to financial and asset-related interests of an international client base consisting both of private investors and companies.

Tel.: +352 27 85 87 77
Fax: +352 26 26 49 22
www.alpp.lu
info@alpp.lu

ALFI (Association Luxembourgeoise des Fonds d'Investissement)

As the official representative body of the Luxembourg investment-fund industry, this association comprises a broad selection of service providers: custodians, fund managers and administrators, transfer agents, fund distributors, law firms, tax consultants and advisors, accounting services and accounting firms, IT companies, etc. Its mission is to make Luxembourg the most attractive centre worldwide for international investment funds.

Tel.: +352 22 30 26.1
Fax: +352 22 30 93
www.alfi.lu
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Association des PSF de support

This association, formed in 2007, currently combines over 40 companies providing services to financial institutions. The mission of the association's platform is to inform its members about changes in prospects for the professions in question, synergy between players with a view to securing for Luxembourg projects with an international dimension, and proactive handling of current topics relating directly to *auxiliary FSPs*.

Tel.: +352 43 53 66.1
Fax: +352 43 23 28
psfsupport@fedil.lu



Numerous other associations pertain to FSPs, including the following:

FedISA (Fédération de l'IML (Information Lifecycle Management), du stockage et de l'Archivage)

Established on 26 March 2010, FedISA Luxembourg is a not-for-profit association serving innovation in matters of dematerialisation and electronic archiving. Its aim is to bring together the players in the Luxembourg market – experts, users and suppliers of information lifecycle management, dematerialisation, electronic archiving and storage products and services, such as OSIPs and OSISs (*auxiliary FSPs*).

www.fedisa.eu

(Luxembourg website in preparation)

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Cyril Pierre-Beausse: cyril.pierre-beausse@allenovery.com

AGDL (Association pour la Garantie des Dépôts)

The AGDL (Deposit Guarantee Association) is a mutual guarantee scheme covering cash deposits (deposit guarantee) and claims resulting from investment operations (compensation of investors) as defined by the law and its statutes in favour of the clients and investors with its members. The members of the AGDL are the banks, the Financial Services of the Post Office (*Services Financiers de l'Entreprise des Postes et Télécommunications*) and investment firms.

Tel.: +352 46 36 60.1

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IIA Luxembourg (Institut des Auditeurs Internes Luxembourg)

IIA Luxembourg is the local chapter of the *Institut des Auditeurs Internes* (Institute of Internal Auditors) and promoter of the Code of Ethics and the standards guiding the profession. To date, IIA Luxembourg has around 400 members employed with just under 100 companies from all economic sectors based in Luxembourg. The institution is open to internal auditors including FSPs.

Tel.: + 352 26 27 09 04

www.iaa.lu

iaalux@pt.lu

ISACA

With more than 86,000 members in over 160 countries, of which around 100 are in Luxembourg, ISACA is a major global provider of knowledge, certifications, exchange, sponsorship and training in terms of security and assurance of information systems, corporate governance concerning information technologies, IT risk control and conformity. Founded in 1969, ISACA sponsors international conferences, publishes a review, and develops international auditing and control standards for IT systems. The institution is open to IT auditors likely to be involved with FSPs.

www.isaca.lu

isacalux@gmail.com

IRE (Institut des Réviseurs d'Entreprises)

The IRE (Luxembourg Institute of Registered Auditors) consists of registered company auditors and audit firms. It defends the rights and interests of the profession, issues standards relating to contractual oversight, and ensures compliance with professional standards and duties as well as anti-money laundering legislation and legislation to combat the financing of terrorism. It also performs the tasks entrusted to it by the CSSF. The FSP commission within the Institute shows the IRE's interest in this particular sector.

Tel.: +352 29 11 39.1

www.ire.lu

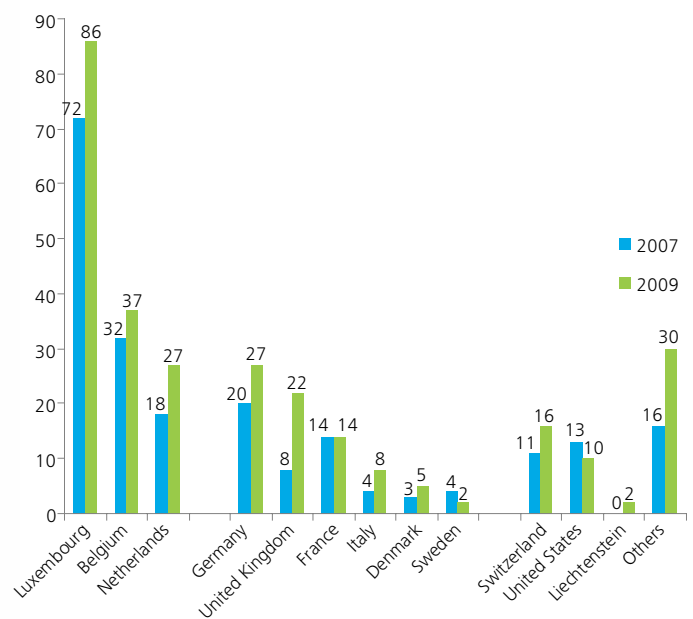
contact@ire.lu



Players from diverse geographical origins

From a geographical perspective, the diverse origins of FSPs show the interest of a whole variety of countries in this sector.

Figure 9: Geographical origins of the FSPs



Source: CSSF statistics www.cssf.lu

The chart above aims to show the major importance of FSPs originating from Luxembourg, underlining the existence and development of a dynamic local market.

Including those players originating close to our borders, such as Belgium and the Netherlands, their number amounts to 150, indicating that more than half FSPs are 'almost' local players, with ownership and management which are geographically close. This finding should be contrasted with the banking sector, where the players are far more international.

Nevertheless, the FSP market has very international and indeed specifically very European origins (80% originate from the European Union). One factor to note is that 15 new FSPs created between 2007 and 2009 originate from the United Kingdom.



Three questions to Nicolas Buck, President of the *Association des PSF de Support, APSFS*

What changes do you expect for your member FSPs within the Luxembourg economy?

Today, around one hundred companies from the IT and communications sector working closely with companies in the financial sector have adopted the status of auxiliary FSP in Luxembourg. Without even including the two security companies, there are more than 3,500 people working under this label. Our association brings together a very wide variety of subcontracting services with two major types of player – local players and the undertakings of major international groups.

The sector has lived through the past two years in a context of relative stability in terms of the number of people employed, even though actual results have suffered due to the crisis.

Our market is essentially focused on service to the local financial-sector market. and our development is therefore strongly linked to this.

Our sector is relatively young. Private banking has existed in Luxembourg for 30 years, while funds have existed here for 20 years, but *auxiliary FSPs* have only been around for 5-6 years.

What are the advantages of Luxembourg for the FSPs which you represent?

Luxembourg is the only country to have given *auxiliary FSPs* a separate status. It is a solid status which gives companies of the financial sector, banks, funds and insurance companies a guarantee of good governance and observance of the prudential rules, as well as management of the risks of their potential subcontractors.

I am very fond of the image of Luxembourg as a Fort Knox when it comes to protection of personal data, acting as a custodian and depository for personal information. Luxembourg players excel in this regard, and our image is one of a financial centre which pays great attention to detail when it comes to protection of the personal domain.

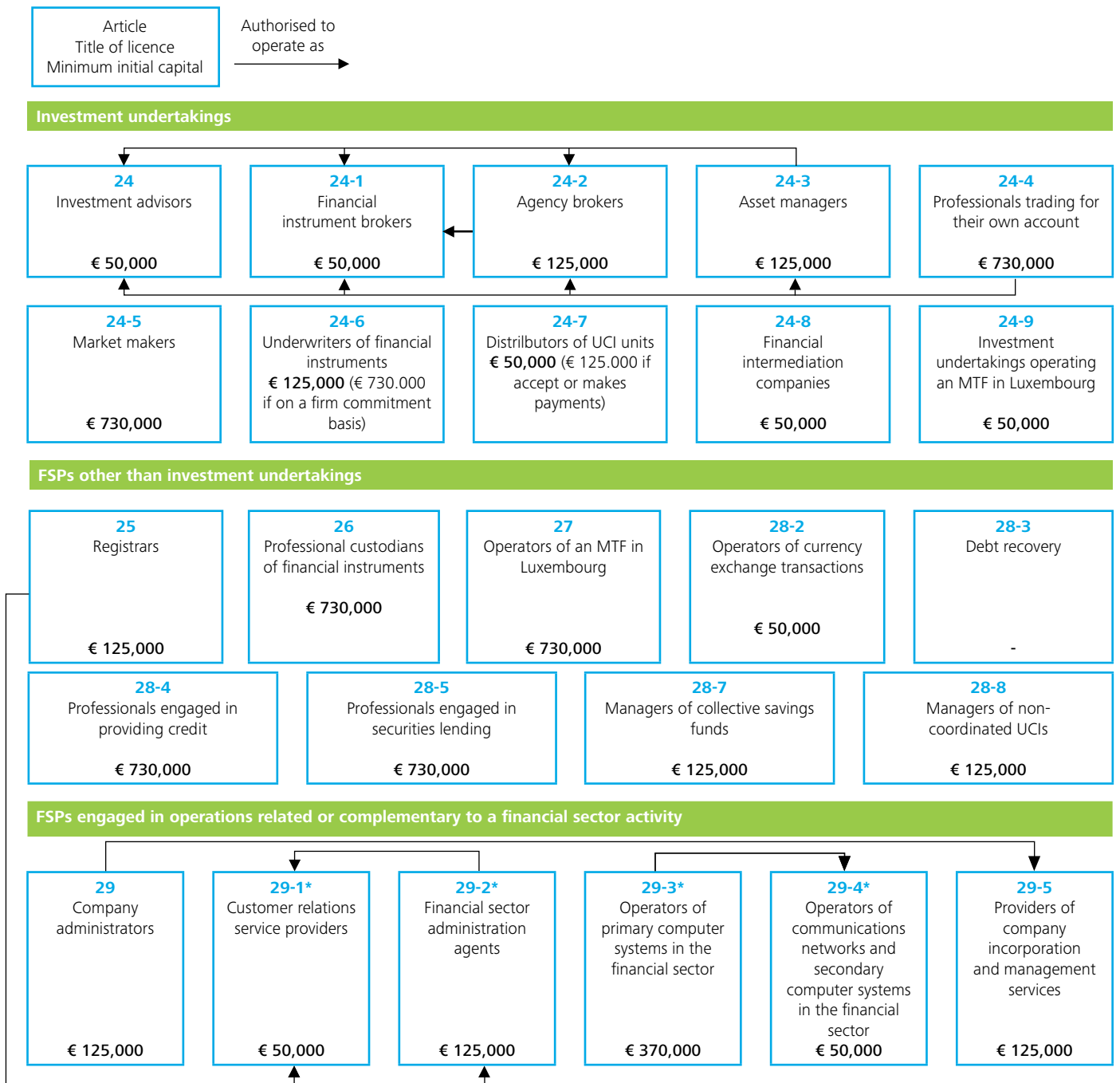
What are the major challenges in the domain of activity of your members?

Our principal challenge lies in reinforcing our visibility and defining a structured value proposition in terms of subcontracting to Luxembourg, enabling us to export our competencies abroad to a greater extent. The task is to convince the major international groups that they can outsource certain operations to Luxembourg.

Profiling analysis of FSPs

Licences in detail

The following table sets out in schematic form the various categories, as well as the different licence types of FSPs together with the minimum initial capital required:



* Auxiliary FSP as defined by the CSSF circular 08/352



We have set out in the scheme hereto, by way of summary table, the basic information on FSPs broken down into licence/status type, with the legal definition of the licence/status and the services and products offered, the minimum capital required and, if applicable, the amount of civil liability insurance required by law in order to carry out the business activities in question.

The licences linked to Article 29 relating to company administrators and linked to Article 29-5 relating to providers of company incorporation and management services are included within the category of 'auxiliary FSPs' by law, but taking account of the similarities in terms of supervision, the CSSF considers them to be *FSPs other than investment undertakings*. We have followed the same approach as the CSSF for the purposes of the following analysis of typologies.

Due to the high number of licences, which are largely independent from one another, over 67 million licence combinations are possible for the 286 existing FSPs identified on 31 December 2009. It is therefore worthwhile to look at the principal existing licence combinations among FSPs.

The diagram below shows licences according to principal category, as well as the overlaps between categories.

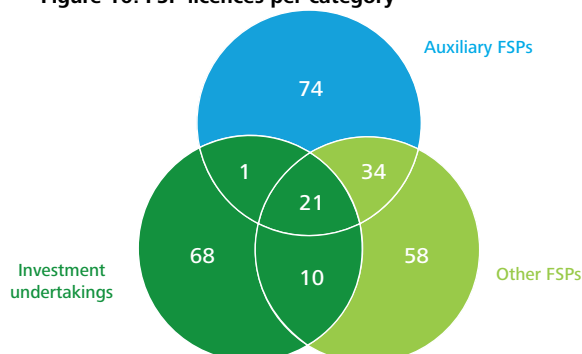
FSPs have the possibility of holding more than one licence. The principal FSP licence, allocated by the CSSF, determines the category of FSP, whereby a licence to operate as an *investment undertaking* has a priority over *other investment undertakings*, which in turn has priority over *auxiliary FSPs*.

Auxiliary FSPs are FSPs who do not have a licence related to investment firms or accreditations linked to other *FSPs*.

The total number of FSPs included in this analysis is 266:

- 100 *investment undertakings*
- 92 *other FSPs* (the 31 players with an *investment undertakings* agreement have already been counted above, thus are not included in other FSPs)
- 74 *auxiliary FSPs* (the 56 players with a *investment undertakings* agreement and *other FSPs* have already been counted above, thus are not included in *auxiliary FSPs*)

Figure 10: FSP licences per category



To summarise, entities having a licence pursuant to Articles 24 to 24-9 are grouped under *investment undertakings*; *other FSPs* are entities having a licence pursuant to Articles 25 to 29 and 29-5; *auxiliary FSPs* are entities which only have a licence pursuant to Articles 29-1 to 29-4.

Out of the 286 FSPs in existence as at 31 December 2009, we have excluded from our analysis the following 20 FSPs in order to avoid any excessive distortion between players in terms of activity and/or size:

- 5 FSPs with special status
 - Association Coopérative Européenne des Fonctionnaires Internationaux
 - Europay Luxembourg S.C.
 - Entreprise des Postes et Télécommunications
 - Six Pay S.A.
 - Visalux S.C.
- 5 other FSPs with unique status
 - Clearstream International SA (Article 26 – Professional custodians)
 - CGFP-Epargne Asbl (Article 28-7 - Administration of collective savings funds)
 - Creditreform Luxembourg SA (Article 28-3 – Debt recovery)
 - Société de Bourse de Luxembourg (Article 27 – Operator of an MTF)
 - VP Lux Sàrl (Article 26 – Professional custodians)
- 10 FSPs which are branches of European establishments

These branches are attached to foreign establishments which are not subject to the Luxembourg Law of 5 April 1993.

Investment undertakings

Unlike the other two categories of FSP, *investment undertakings* benefit from the European passport with regard to distribution of their products and services. They may set up branch offices and act as free providers of services with a single notification procedure to the authorities of the other member states of the European Union.

The *investment undertakings* included in our analysis number 100 as at 31 December 2009. On the basis of our analysis we have made the following findings:

First of all, the overwhelming majority of these *investment undertakings* hold one or the other of the following four licences:

- 94% have a licence to operate as an investment advisor (Article 24)
- 88% have a licence to operate as a broker (Article 24-1)
- 80% have a licence to operate as an agency broker (Article 24-2)
- 70% have a licence to operate as an asset manager (Article 24-3)

Only two entities form an exception to this rule, since their principal licence falls under Article 24-7 relating to distributors of UCI units. These are HSH Asset Management S.A. and KMC Finance S.A.

In addition to these principal licences, we highlight the following with regard to the *investment undertakings*: 32 entities also have the status of distributor of UCI units (Article 24-7). Numerous entities hold supplementary licences falling within the other two FSP categories:

• *Other FSPs*

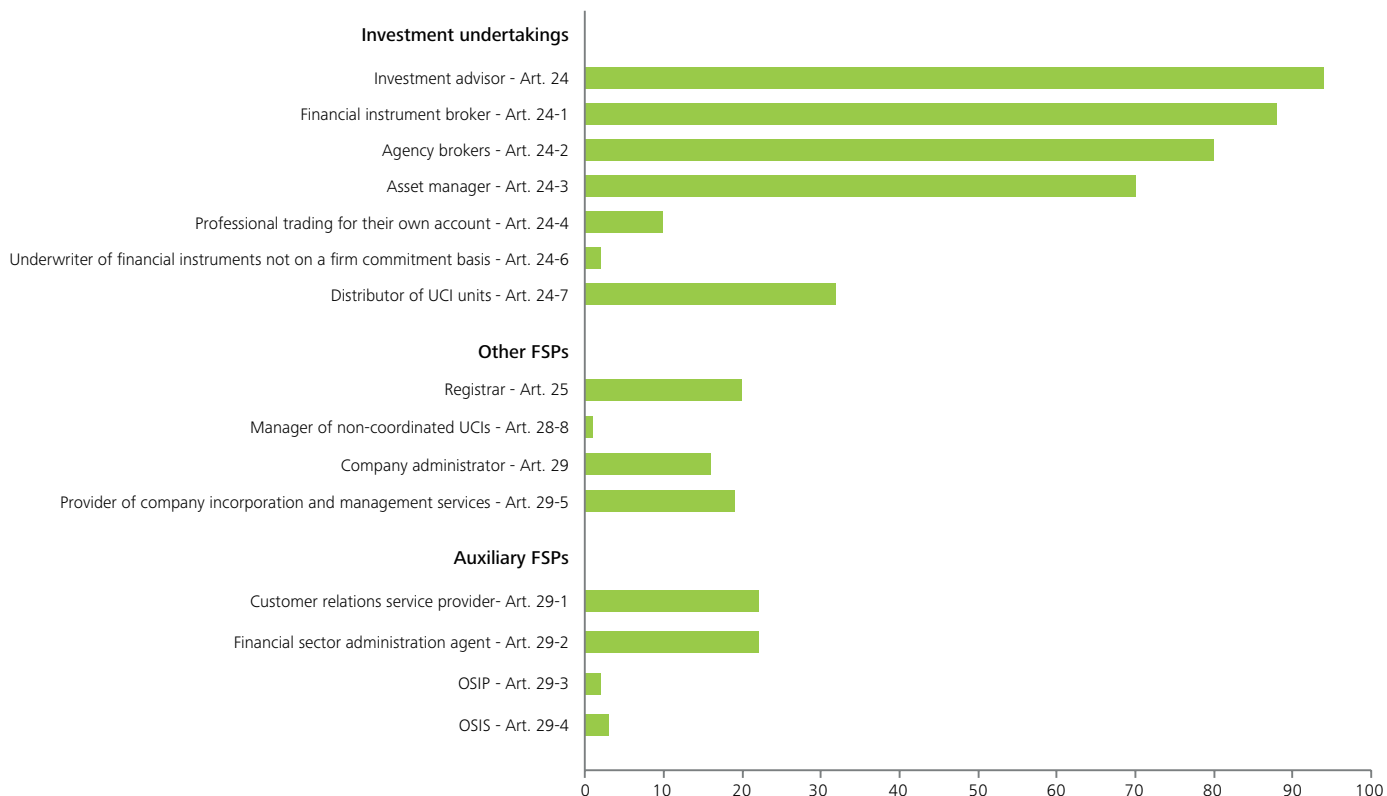
- 20 hold a licence to operate as registrar (Article 25)
- 16 hold a licence to operate as a company administrator (Article 29)
- 19 hold a licence to operate as a provider of company incorporation and management services (Article 29-5)

• *Auxiliary FSPs*

- 22 hold a licence to operate as a customer relations service provider (Article 29-1)
- 22 hold a licence to operate as administration agent (Article 29-2)

The complementary activities are thus fairly homogenous and relate mainly to the distribution of UCI units and administration agents or customer relations service providers.

Figure 11: Table setting out the licences held by investment undertakings



Other FSPs

Unlike *investment undertakings*, these entities do not benefit from the European passport, but may alone carry out financial operations in Luxembourg.

The FSPs other than *investment undertakings* included in our analysis numbered 92 as at 31 December 2009⁴.

Three principal subgroups co-exist in this category.

The first subgroup combines the 31 registrars (Article 25), with the following as principal supplementary licences:

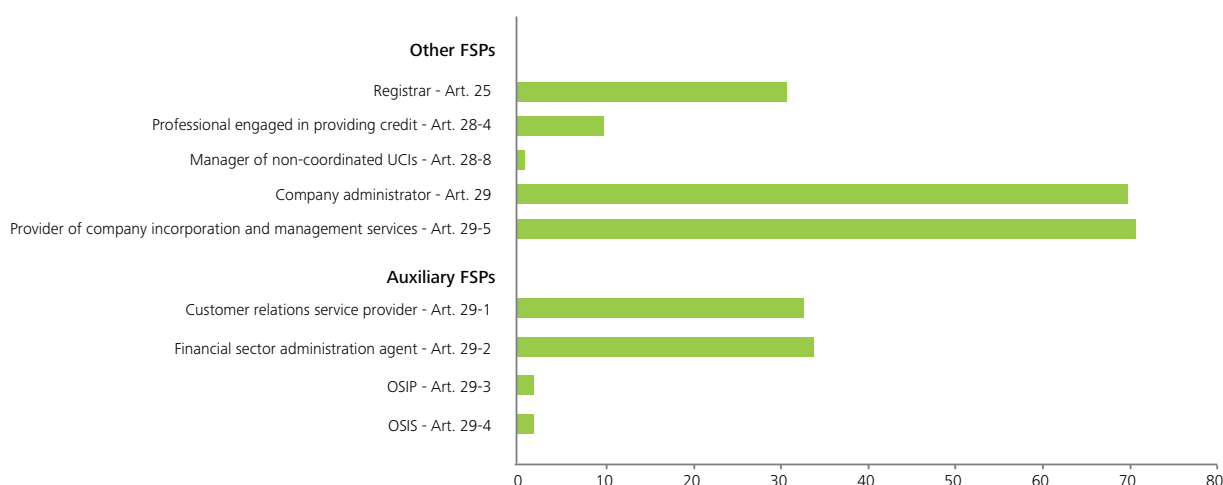
- *Other FSPs*
 - 26 hold a licence to operate as company administrator (Article 29)
 - 23 hold a licence to operate as a provider of company incorporation and management services (Article 29-5)
- *Auxiliary FSPs*
 - 30 hold a licence to operate as a customer relations service provider (Article 29-1)
 - 30 hold a licence relating to administration agents (Article 29-2)

The second subgroup combines the 10 professionals engaged in providing credit (Article 28-4). This licence is 'virtually unique' in the sense that, other than in one case, it is not accompanied by any other licence. It concerns mainly subsidiaries of banks such as Fortis, ING or Dexia, or indeed subsidiaries of international groups such as PK Airfinance. These entities undertake financial or operational leasing activities.

The final subgroup consists of 70 company administrators (Article 29), of which 26 have a registrar's licence (Article 25). Regarding the supplementary licences which such company administrators hold, the following should be noted:

- They are almost always supplemented by a licence pursuant to Article 29-5 relating to providers of company incorporation and management services (only 4 entities do not have this complementary licence – 2 CITCO entities, 1 TMF entity and 1 local entity).
- When company administrators also hold licences under Article 29-1 relating to customer relations service providers, and Article 29-2 relating to administration agents (28 in each case), almost all such entities also have a licence pursuant to Article 25 relating to registrars, with the exception of 4 entities, including one leasing company).

Figure 12: Table setting out licences held by FSPs other than *investment undertakings*



⁴Five companies with a virtually unique status have been excluded from this analysis.

Auxiliary FSPs

Like *other FSPs*, *auxiliary FSPs* do not benefit from the European passport.

Auxiliary FSPs comprise the following 74 financial professionals:

- 37 customer relations service providers (Article 29-1)
- 17 financial-sector administration agents (Article 29-2)
- 43 operators of primary computer systems in the financial sector (OSIP, Article 29-3)
- 53 operators of communications networks and secondary computer systems in the financial sector (OSIS, Article 29-4)

Administration agents (Article 29-2) are, *ipso jure*, authorised to carry out activities as customer relations service providers (Article 29-1). The same applies with regard to OSIPs (Article 29-3), which are authorised *ipso jure* to carry on the activities of an OSIS (Article 29-4).

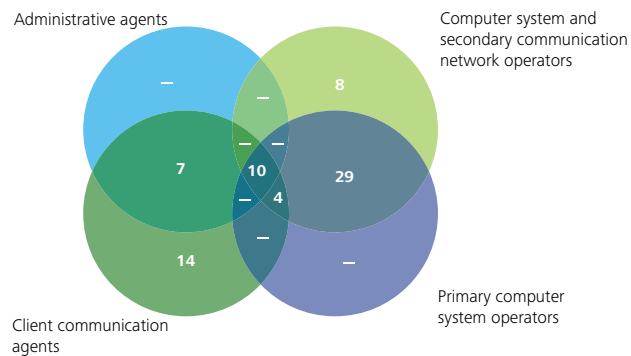
The *auxiliary FSPs* included in our analysis numbered 74 as at 31 December 2009. Almost one third of these entities are local and are not part of a corporate group. A few are part of a bank. The majority of the groups present operate in the realm of IT (Xerox, IBM, HP, etc.).

On the basis of our analysis, it appears that two principal licences co-exist in this category.

The first group consists of 21 entities which are pure administration agents and/or customer relations service providers, with solely licences pursuant to Article 29-1 relating to customer relations service providers and/or pursuant to Article 29-2 relating to administration agents.

The second group consists of the 53 FSPs in the IT sector (i.e. having licences linked to Article 29-3 relating to OSIPs and/or linked to Article 29-4 relating to OSISs) and which are supplemented in 16 cases by licences under Articles 29-1 or 29-2.

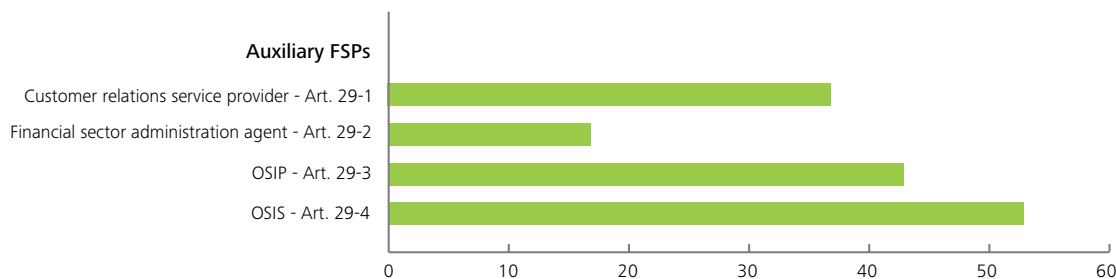
Figure 13: Distribution of the auxiliary FSP licences



This chart does not take into account the two entities which are both customer relations service providers and OSISs.

Source: CSSF report 31 Décembre 2009

Figure 14: Table setting out the licences held by auxiliary FSPs



Deloitte's proposed services

Over many years, Deloitte has developed its competencies and services enabling to support and advise all types of FSPs over the various stages of their development, before incorporation and throughout their existence and growth, providing the following services all along FSP's development

Incorporation

Organisation and regulatory compliance

- Assistance in compiling licence application documents and submission to the CSSF
- Gap analysis and assistance in establishing a set of procedures covering all administrative chapters plus internal controls

Corporate finance

- Business plan, including reviews of different scenarios, possibilities of subcontracting administrative and accounting organisation, etc. Such a business plan forms an integral part of the CSSF licence documentation

Human resources

- Change support in the context of transfer from another entity, recruitment of employees with specialised experience

Direct taxes and VAT

- Tax advice and assistance, structural implementation
- Due diligence

Development

Organisation and regulatory compliance

- Administrative and accounting organisation and compliance review in respect of services offered to clients in line with the requirements of the CSSF
- Manual of procedures covering the following aspects: administrative, IT, accounting, internal controls, etc.
- Proposing compliance tools such as U-Comply
- Rules of conduct in line with the best practice of the financial centre and with MIFID rules
- Offer of training in all the above domains.
- Assistance in communication with the authorities and regulatory hotline
- Within the framework of subcontracting, inventory of services to be provided and drafting service level agreements (SLA)

Operational risk management and internal audit

- Subcontracting or co-sourcing of internal audit work
- Advice concerning the definition of relations with third parties and suppliers, and definition of related risks
- SAS 70 (assistance in compliance with SAS 70, improvement in existing SAS 70, certification)

Anti-money laundering, Anti-Terrorism financing and prevention of fraud, detection and investigation

- Appropriate organisation against money laundering and the financing of terrorism in terms of training and awareness raising, client knowledge, structuring and procedures.
- Assistance in selection and implementation of anti-fraud and AML systems
- Targeted investigation and due diligence

Basel II and liquidity

- Calculation and optimisation of solvency ratio, production of CoREP reporting and regime relating to broad exposure
- Advice, analysis and assistance regarding establishment of ICAAP
- Implementation of a framework relating to liquidity monitoring and monitoring of Basel II, in particular in respect of the advanced method relating to operational risk
- Development of quantitative models relating to credit risk, market risk and operating risk
- Provision of training in all the above areas



Payment Services Directive (PSD)	<ul style="list-style-type: none"> • Training, comparative analysis and project management
Adequacy of IT systems	<ul style="list-style-type: none"> • Accurate advice on long-term implementation, support in terms of IT strategy, review of IT architecture, implementing solutions, IT integration and optimisation • Assistance in all IT projects in terms of banking secrecy, relations with the authorities and subcontracting • Business Continuity Plan and Disaster Recovery Plan
Corporate finance	<ul style="list-style-type: none"> • Assistance in terms of external growth (merger, acquisition, strategic alliance) • Due diligence • Evaluation of FSPs
Human resources	<ul style="list-style-type: none"> • HR policies, development of HR function, evaluation, development and training, recruitment of employees with specialised experience
Capital markets and financial assets	<ul style="list-style-type: none"> • Valuation review and independent valuation of complex financial instruments • Cover of current applicable valuation procedures • Scrutiny of valuation model used • Review of market data input into tariffication models
IMS (Investment Management Services)	<ul style="list-style-type: none"> • Modular assistance in all issues of distribution networks for financial products (cross-border, marketing, regulatory, registration) • Investment policy: Review of monitoring system for investment policies and valuation, support for complex financial instruments, assistance in designing new products and investment strategies, plus advice and assistance in implementing UCITS IV • Corporate governance: Advice on establishing a code of conduct and assistance in the selection of domiciles and service providers
Accounting	<ul style="list-style-type: none"> • Assistance in setting up accounting procedures, regulatory reporting and all work in relation to accounting

Direct taxes and VAT	<ul style="list-style-type: none"> • Tax optimisation • Due diligence • Operational assistance (also in respect of problems linked to the EU Savings Directive, Qualified Intermediary & FATCA, the exchange of tax information, tax treatment of investors, etc.) • Assistance with tax returns (IRC [corporate income tax], ICC [municipal business income tax], IF [wealth tax], withholding tax, VAT) • Assistance in respect of transfer prices • Tax impact of IFRS • Elaboration of automated VAT procedures and specific management tools (e.g. VeriVAT) • Personalised training and tax hotlines
External audit	<ul style="list-style-type: none"> • Audit of company accounts • Review of compliance of circulars and preparation either of analytical audit report (for investment undertakings), or compliance report (for other FSPs) • Consultation on the following aspects: regulatory, accounting, conversion to IFRS, agreed procedures, etc. • Support relating to requests made by the CSSF • Certification of continuing-training records in order to obtain related subsidies

Cessation of operations

Liquidation services	<ul style="list-style-type: none"> • Assistance in setting up a liquidation plan
Human resources	<ul style="list-style-type: none"> • Change support in the context of transfer to another entity and within the framework of liquidation
Direct taxes and VAT	<ul style="list-style-type: none"> • Tax advice and assistance in connection with liquidation, merger, demerger or transfer • Communication with the tax authorities

FSP	Article	Minimum capital EUR	Professional indemnity insurance EUR	Activity covered by the status
Investment undertakings				
Investment advisers	24	50,000	1,000,000 per claim and an aggregate of 1,500,000 per year	Investment advisers shall be professionals engaged in the business of providing personal recommendations to a client, either upon its request or at the initiative of the investment firm, in respect of one or more transactions relating to financial instruments. Investment advisers shall not be authorised to intervene directly or indirectly in the execution of the advice they provide. The simple provision of information is not covered by this Law.
Financial instrument brokers	24-1	50,000	1,000,000 per claim and an aggregate of 1,500,000 per year	Financial instrument brokers shall be professionals engaged in the business of accepting and transmitting, on behalf of clients, orders relating to one or more financial instruments without holding any clients funds or financial instruments. Such activity shall also include bringing together two or more parties thereby bringing about a transaction between those parties.
Agency brokers	24-2	125,000		Agency brokers shall be professionals engaged in the business of executing on behalf of investors, orders relating to one or more financial instruments. Execution of orders on behalf of clients shall mean acting to conclude agreements to buy or sell one or more financial instruments on behalf of clients.
Asset managers	24-3	125,000		Asset managers shall be professionals engaged in the business of managing, on a discretionary and individual basis, investment portfolios including one or more financial instruments, under the terms of a mandate given by the client.
Professionals trading for their own account	24-4	730,000		Professionals trading for their own account shall be professionals engaged in the business of the proprietary trading of own funds in one or more financial instruments in order to engage in dealings, where they provide in addition investment services or conduct in addition investment activities or deal on own account outside a regulated market or an MTF, on an organised, frequent and systematic basis in order to engage in dealings with third parties.
Market makers	24-5	730,000		Market makers shall be professionals engaged in the business of presenting themselves on the financial markets and on a continuous basis as being willing to deal for their own account by buying and selling financial instruments against their proprietary capital at prices defined by them.
Financial instrument underwriters	24-6	125,000 (or 730,000 if carry out placements with underwriting)		Financial instrument underwriters shall be professionals engaged in the business of underwriting financial instruments and/or placing such instruments with or without underwriting.
Distributors of shares/units in UCIs	24-7	50,000 (or 125,000 if accepts or makes payments)		Distributors of shares/units in UCIs shall be professionals engaged in the business of the distribution of the shares/units of Undertakings for Collective Investment licensed for distribution in Luxembourg.
Financial intermediation companies	24-8	125,000	2,000,000 per claim and an aggregate of 3,000,000 per year	Financial intermediation companies shall be professionals engaged in the business of: <ol style="list-style-type: none"> providing personal recommendations to a client, either upon its request or at their own initiative, in respect of one or more transactions relating to financial instruments or insurance products, and accepting and transmitting, on behalf of clients, orders relating to one or more financial instrument or insurance products without holding any clients funds or financial products. Such activity shall also include bringing together two or more parties thereby bringing about a transaction between those parties, and performing, on behalf of associated investment advisors or brokers in financial instruments and/or assurance products, under a sub-contracting contract, the administrative and client reporting services inherent to the professional activities of these associates.
Investment firm operating an MTF in Luxembourg	24-9	730,000		Investment firms operating an MTF in Luxembourg shall be professionals engaged in the business of operating an MTF in Luxembourg apart from professionals who are market operators within the meaning of the Law on Markets in Financial Instruments.

FSP	Article	Minimum capital EUR	Professional indemnity insurance EUR	Activity covered by the status
Other PSFs				
Registrar	25	125,000		Registrars shall be professionals engaged in the business of keeping a register of one or more financial instruments. The keeping of a register comprises the reception and execution of orders concerning such financial instruments, for which they are the necessary accessory.
Professional custodians of financial instruments	26	730,000		Professional custodians of financial instruments shall be professionals engaged in the business of receiving deposits of financial instruments, solely from financial service professionals, for the purpose of safe-keeping, administration (including holding and ancillary services) and facilitating their onward transmission.
Market operators operating an MTF in Luxembourg	27	730,000		Market operators operating an MTF in Luxembourg shall be those persons managing or operating an MTF in Luxembourg authorised in Luxembourg apart from investment firms operating an MTF in Luxembourg.
Operators of currency exchange offices	28-2	50,000		Operators of currency exchange offices (bureaux de change) are professionals who carry out foreign currency purchase and sale transactions in cash.
Debt collection agents	28-3			The business of collecting third parties' debts, to the extent that it is not the legal preserve of bailiffs (huissiers de justice), may be authorised only with the express approval of the Minister of Justice.
Professionals engaged in providing credit	28-4	730,000		Professionals engaged in providing credit are professionals engaged in the business of granting loans to customers for their own account.
Professionals engaged in securities lending	28-5	730,000		Professionals engaged in securities lending are professionals engaged in the business of lending or borrowing securities for their own account.
Administrators of collective savings schemes	28-7	125,000		Administrators of collective savings schemes are professionals, whether natural or legal persons, engaged in the business of administering one or more collective savings schemes. For the purposes of this Article, a collective savings scheme shall be understood to mean any undivided pool of cash deposits managed on behalf of a group of savers acting in common, of which there are at least 20 in number, with a view to obtaining more favourable financial conditions.
Managers of non co-ordinated UCIs	28-8	125,000		Managers of non co-ordinated UCIs are professionals engaged in the business of managing undertakings for collective investment other than UCIs established in Luxembourg or UCITS authorised in accordance with Directive 85/611/EEC as amended by Directive 2001/107/EC. Managers of non co-ordinated UCIs may engage in the provision of central administration services for entities managed by them.
Company administrators	29	125,000		Company administrators acting as financial service professionals shall be those legal entities or natural persons engaged in the business of allowing one or more companies to establish their registered office at their premises for the conduct of their activities consistent with their corporate objects, and of providing any manner of related services.
Providers of company incorporation and management services	29-5	125,000		Providers of company incorporation and management services are professionals, be they natural or legal persons, engaged in the business of providing services in respect of the incorporation and management of one or more companies.

FSP	Article	Minimum capital EUR	Professional indemnity insurance EUR	Activity covered by the status
Auxiliary FSPs				
Customer relations service providers	29-1	50,000		<p>Client relations service providers are professionals engaged in the business of providing one or more of the following services on the behalf of Luxembourg and non-Luxembourg credit institutions, FSPs, pension funds, insurance undertakings and reinsurance undertakings:</p> <ul style="list-style-type: none"> • the production of confidential documents in hard-copy or electronic format for the personal use of clients of credit institutions, FSPs, investors in UCIs, insurance or reinsurance undertakings and contributors, members or beneficiaries of pension funds; • the archiving or the destruction of the documents referred to in the previous indent; • the provision of documents or information to the persons referred to in the first indent concerning their assets and the services offered by the professional in question; • mail management giving access to confidential data of the persons referred to in the first indent; • the compilation, under the terms of a specific mandate, of the various positions held by the persons referred to in the first indent with various financial professionals.
Financial services administration agents	29-2	125,000		<p>Financial services administration agents shall be professionals engaged in the business of providing administration services inherent to the professional activity of the principal under the terms of a sub-contract agreement for Luxembourg and non-Luxembourg credit institutions, FSPs, UCIs, pension funds, insurance undertakings or reinsurance undertakings.</p>
Operators of financial services industry primary computer systems	29-3	370,000		<p>Operators of financial services industry primary computer systems shall be professionals responsible for the running of computer systems enabling the production of accounting and financial statements which are part of the computer facilities of Luxembourg and non-Luxembourg credit institutions, FSPs, UCIs, pension funds, insurance and reinsurance undertakings.</p>
Operators of financial services industry secondary computer systems and communications networks	29-4	50,000		<p>Operators of financial services industry secondary computer systems and communications networks shall be professionals responsible for the running of computer systems other than those enabling the production of accounting and financial statements which are part of the computer and communication facilities of Luxembourg and non-Luxembourg credit institutions, FSPs, UCIs, pension funds, insurance and reinsurance undertakings.</p>

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