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At the heart of regulatory and tax environments

Professionals of the Financial Sector (PSF) in Luxembourg

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Contents

Foreword

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Are you ready to navigate the complexities of an ever-evolving regulatory landscape?

Our 2025 guide is designed to help PSF organizations stay ahead by providing crucial insights and updates on Luxembourg's regulatory and tax environment for PSF.

Key regulatory developments

- On 28 July 2023, the draft Bill of Law no. 8286 was released aiming at modernizing the current Luxembourg Accounting Law of 19 December 2002 by regrouping accounting provisions that are currently spread over different texts into one single law; revising certain definitions; providing new accounting and audit requirements; and extending the undertakings in scope of this new law.
- On 6 February 2024, the CSSF published Circular CSSF 24/853, updating the framework for the Long Form Report specific to Investment Firms. More recently, on 9 January 2025, the CSSF published Circular CSSF 25/870 amending Circular CSSF 24/853 on the revised Long Form Report for Investment Firms. This Circular further includes practical rules concerning the self-assessment questionnaire to be submitted by investment firms and the mission and related reports of the *réviseurs d'entreprises agréés*;
- On 18 July 2024, the Luxembourg Official Journal published the Law of 15 July 2024 in respect of Non-Performing Loans, which transposed the NPL Directive into Luxembourg law. Luxembourg's new NPL regime introduces a new PSF category—the credit servicer—and significantly amends the LFS.

Apart from regulatory updates, our brochure offers comprehensive guides to navigate regulatory challenges. This includes:

- A comprehensive overview of the Digital Operational Resilience Act (DORA) challenges for PSF;
- A panorama of ESG challenges for PSF and their clients, ranging SFDR to CSRD reporting requirements;
- Considering the emerging interest for crypto and digital assets, a dedicated section has been included, describing the key considerations for PSF.

Key tax developments

Our tax brochure presents a detailed guide on direct and indirect taxes, showcasing the relevant tax challenges for PSF. This chapter further features hot tax topics applicable to PSF and their clients including Pillar II and ATAD 3.

Individual fast-reference sheets

Lastly, we present a profile analysis of PSF, together with individual fast-reference sheets for each PSF setting out the most significant characteristics.

We hope you will gain a deeper insight into PSF regulation and enjoy this regulatory update.

This booklet has been prepared by our leading audit, tax, and regulatory compliance specialists. We have strived to ensure the accuracy of the information contained within this brochure. Nevertheless, Deloitte cannot be held responsible for any errors or omissions.

Introduction

As of 30 November 2024, 250 professionals of the financial sector (PSF) were subject to the prudential supervision of the CSSF compared to 251 as of 31 December 2023. By the end of September 2024, they employed about 17,269 people in total compared to 16,798 as of 31 December 2023, representing a notable increase. Their provisional net results as of 30 November 2024 amounted to €309 million, or €337 million prorated, representing a 17% increase compared to 2023 (€287 million).

In the ever-evolving PSF landscape, a new category has been introduced. Credit servicers (gestionnaires de crédit) are now considered PSF, requiring CSSF approval and supervision.

This document is a practical tool summarizing the advantages and conditions of obtaining PSF status licenses. We present the different PSF statuses that make up Luxembourg's dynamic financial sector landscape, while also focusing on these structures' tax matters. Lastly, fast-reference sheets are provided for each sub-group, summing up the required conditions for retaining PSF status licenses.

To enlighten readers on the world of PSF, we begin by providing a brief but precise insight into the legal, regulatory and tax conditions—including the prudential supervision framework—that apply to PSF in Luxembourg.

Evolution in the number of PSF by category

Year	Investment firms	Specialized PSF	Support PSF	Total
2006	85	111	0	**196**
2007	92	68	55	**215**
2008	100	90	67	**257**
2009	110	102	74	**286**
2010	109	113	79	**301**
2011	116	119	87	**322**
2012	109	124	83	**316**
2013	110	126	82	**318**
2014	112	123	81	**316**
2015	107	124	78	**309**
2016	108	119	77	**304**
2017	102	108	79	**289**
2018	97	109	74	**280**
2019	99	105	74	**278**
2020	98	98	71	**267**
2021	101	96	69	**266**
2022	95	100	65	**260**
2023	92	99	60	**251**
11/2024	93	97	60	**250**

Legal Environment

1 Legislative framework and key obligations

1.a. Definition of PSF

PSF are defined as those persons *"whose regular occupation or business is to exercise a financial sector activity or one of the connected or ancillary activities referred to in sub-section 3 of section 2 of [Chapter 2, part I of the LFS] on a professional basis"*, to the exclusion of credit institutions and those persons contemplated in paragraph (2) of Article 1-1 of the Law relating to the financial sector of 5 April 1993 (hereinafter the "LFS").

PSF can thus be defined as regulated entities providing financial services, which are not solely reserved for credit institutions, i.e., the receipt of deposits from the public.

The PSF category encompasses three sub-groups, classified and defined as follows[1], depending on the type of business conducted and the nature of services provided:

Investment firms (article 24-1 to 24-9 of the LFS)

With the Law of 21 July 2021, the articles affecting investment firms have been updated in order to harmonize the Luxembourg Regulation with the European Regulation. Consequently, the provisions for investment firm activities have been updated in the Law of 5 April 2021 as amended.

They are defined as undertakings providing or performing respectively, on a professional and regular basis, investment services or investment operations for third parties, as defined in section A of Annex II of the LFS:

1. Reception and transmission of orders in relation to one or more financial instruments (Article 24-1).
2. Execution of orders on behalf of clients (Article 24-2).
3. Dealing on own account (Article 24-3).
4. Portfolio management (Article 24-4).
5. Investment advice (Article 24-5).
6. Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis (Article 24-6).
7. Placing of financial instruments without a firm commitment basis (Article 24-7).
8. Operation of a Multilateral Trading Facility (MTF) (Article 24-8).
9. Operation of an Organized Trading Facility (OTF) (Article 24-9).

The financial instruments referred to as part of the services and operations above are as follows (section B of Annex II of the LFS):

1. Transferable securities.
2. Money-market instruments.
3. Units in undertakings for collective investment undertakings.
4. Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivative instruments, financial indices or financial measures which may be settled physically or in cash.
5. Options, futures, swaps, forward rate agreements and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event).
6. Options, futures, swaps, and any other derivative contracts relating to commodities that can be physically settled provided that they are traded on a regulated market or an MTF.
7. Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in point 6, and not being for commercial purposes, which have the characteristics of other derivative financial instruments.
8. Derivative instruments for the transfer of credit risk.
9. Financial contracts for differences.
10. Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this section, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market or an MTF or an OTF.
11. Emission allowances consisting of any units recognized for compliance with the requirements of Directive 2003/87/EC.

In the same way as EU credit institutions, investment firms licensed in another Member State are, by virtue of Article 30 of the LFS, authorized to conduct their business in the Grand Duchy of Luxembourg, either by establishing a branch or using the freedom to provide services by means of a simple notification to the authorities of the other European Union (EU) Member States.

These investment firms may only provide the ancillary services referred to in section C of Annex II of the LFS in Luxembourg in conjunction with one of the above-mentioned investment services or operations.

1. See licenses in detail on first page of section III PSF profile analysis and specific data

Investment firms benefit from the European passport to offer their services and products.

These ancillary services are:

1. Safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management and excluding providing and maintaining securities accounts at the top tier level.
2. Granting credits or loans to an investor to allow him to carry out a transaction in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction.
3. Advice to undertakings on capital structure, industrial strategy and related matters; advice and services relating to mergers and the purchase of undertakings.
4. Foreign exchange services where these are connected with the provision of investment services.
5. Investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments.
6. Services related to underwriting.
7. Investment services and activities as well as ancillary services of the type included under section A or C of appendix II of the LFS relating to the underlying of derivatives included under points 5, 6, 7 and 10 of section B, where these are connected with the provision of investment or ancillary services.

Specialized PSF[2]

Specialized PSF do not benefit from the European passport but may carry out financial operations in Luxembourg.

Specialized PSF provide financial services in various sectors such as investment funds, company incorporation, management and domiciliation, securities lending, specific loan operations (leasing and factoring) or debt collection.

A list of the investment services provided by this type of PSF is given in the section PSF profile analysis and specific data.

Support PSF

This category is specific in that it may not receive deposits from the public and acts principally as subcontractor of operational functions for the account of other financial sector professionals. They correspond to the PSF defined in Articles 29-1 to 29-6 of the LFS.

The services provided by this type of PSF are as follows:

1. Client communication agents;
2. Administration agents of the financial sector;
3. IT systems and communication network operators of the financial sector;
4. Dematerialization service providers of the financial sector; and
5. Conservation service providers of the financial sector.

A comprehensive definition of the services provided by this category of PSF is given in the section PSF profile analysis and specific data.

Credit servicers

The Law of 15 July 2024 on the transfer of non-performing loans (the "NPL Law") transposes, among others, Directive (EU) 2021/2167 of the European Parliament and of the Council of 24 November 2021 on credit servicers and credit purchasers and amending Directives 2008/48/EC and 2014/17/EU (the "NPL Directive") into Luxembourg law.

2. Law of 28 April 2011

PSF must set up relevant measures and internal procedures in order to prevent and combat money laundering and terrorist financing.

In accordance with Article 1(1a-2) of the Law of 5 April 1993 on the financial sector (LFS), credit servicers may perform one or more of the following activities:

- Collect or recover from the borrower any payments due related to a creditor's rights under a non-performing credit agreement or to the non-performing credit agreement itself;
- Renegotiate with the borrower any terms and conditions related to a creditor's rights under a non-performing credit agreement, or of the non-performing credit agreement itself, in line with the credit purchaser's instructions, where the credit servicer is not a credit intermediary as defined in Article 3, point (f) of Directive 2008/48/EC or in Article 4, point (5) of Directive 2014/17/EU;
- Administer any complaints relating to a creditor's rights under a non-performing credit agreement or to the non-performing credit agreement itself; and
- Inform the borrower of any changes in interest rates or charges or of any payments due related to a creditor's rights under a non-performing credit agreement or to the non-performing credit agreement itself.

In accordance with Article 28-14 of the LFS, a person cannot perform the credit servicer activity as a regular occupation or business without CSSF written authorization.

PSCD *(Prestataires de Services de Communication de Données)*

These actors introduced by the Law of 30 May 2018 are entities providing at least one of the following activities:

- Approved Publication Arrangement (APA)
- Consolidated Tape Provider (CTP)
- Approved Reporting Mechanism (ARM)

1.2. Legal requirements

Although PSF are not commercial entities like others, they are nonetheless governed by the modified Law of 10 August 1915. They are, however, also governed by the LFS, which is completed by a multitude of national rules, CSSF circulars or other laws governing all aspects of the very diversified activities carried on by PSF.

Modified LFS

This Law forms the basis of rules governing players in the financial sector and transposes into Luxembourg law many European directives applicable to the financial industry and particularly the banking sector.

This Law sets forth in particular the regulation on access to the financial services industry, professional obligations and other prudential rules and rules of conduct, prudential supervision, proceedings for the reorganization and winding up of financial sector professionals, as well as deposit guarantee and investor compensation schemes.

1.3. Professional obligations, prudential rules and rules of conduct

The LFS specifies, particularly in part II, the professional obligations and rules that PSF and credit institutions must meet or observe. It should be noted that among these core requirements, some are only applicable to investment firms.

Applicable to all PSF

1. KYC[3] and combating money laundering and terrorist financing (Article 39 of the LFS and Article 3 to 5 of the modified Law of 12 November 2004)

Pursuant to the modified Law of 12 November 2004 and to the amended CSSF Regulation 12-02, PSF are subject to a set of rules necessary to combat money laundering and terrorist financing, giving rise to obligations in terms of due diligence in relation to their clients, appropriate internal organization and cooperation with authorities.

When initiating business relationships and throughout the term thereof, for any transaction in excess of €15,000[4] or if money laundering or terrorist financing[5] is suspected, and if in doubt about the initial identification of clients, PSF must take due diligence measures, including among others:

- Identifying clients on a through documentation basis and checking that such documents are genuine;
- Identifying the beneficial owner of any legal entity, structure or group; and
- Obtaining information about the nature of the business relationship contemplated and, throughout this business relationship, examining the transactions performed and the origin of funds to make sure that flows are consistent with the PSF's knowledge of their clients' activities.

3. 'Know Your Customer' refers to the due diligence obligations vis-à-vis clients who are satisfied by proven knowledge of clients and the transactions they perform
4. Threshold reached in one or several transactions
5. In this case, the threshold of €15,000 does not apply

The monitoring measures taken are adapted to the risks inherent in the apparent nature of the business relationship. If these measures are introduced for any new client, they must nonetheless be appropriately reiterated for the PSF's existing clients.

If the PSF's client is an entity subject to the modified Law of 12 November 2004 or another law or regulation requiring similar supervision, such as a credit institution, or a natural or legal person subject to heavy transparency requirements[6], the PSF is not obliged to apply the same due diligence as above.

In the event that money laundering or terrorist financing enquiries are conducted by the Luxembourg authorities and in order to meet the relevant legal requirements, PSF must keep documents concerning the due diligence measures taken for five years after the end of the business relationship. The same period of five years applies to the evidence supporting transactions from the date of execution or the end of the business relationship.

PSF must introduce appropriate internal measures and procedures to meet all the requirements described in the previous paragraphs with a view to preventing money laundering and terrorist financing.

To this end, PSF must, in particular, train their employees and raise their awareness. They must also apply a unique ID or specify an account number to the instructing party of an intercommunity transfer (the instructing party's address, name and account number are always required for a transfer outside the EU).

2. Obligation to cooperate with authorities (Article 40 of the LFS and Article 5 of the modified Law of 12 November 2004)

In anti-money laundering and the fight against terrorism matters, PSF must cooperate with the Luxembourg authorities through their representative[7], managers and employees. The representatives, managers or employees report by means of a declaration, as soon as possible and spontaneously, any suspicion of money laundering or terrorist financing to the State Prosecutor at the Luxembourg District Court. Similarly, they provide the State Prosecutor with all information necessary for procedures to be applied.

In such a case, the PSF must not perform any transaction it considers suspicious, and it must not inform the client or the third party involved of the investigations in progress.

3. Professional secrecy (Art. 41 of the LFS)

In the same way as credit institutions and other specific players in the financial sector in Luxembourg, natural and legal persons subject to the supervision of the CSSF, as well as all directors, members of management and supervisory bodies, managers, employees and other persons working for the PSF, or natural and legal persons involved in the liquidation of PSF, and all the persons designated, employed or appointed for any duty as part of a liquidation procedure, are required to keep secret any information confided to them in the context of their professional activities or appointment.[8]

Disclosing such information covered by professional secrecy is punishable by the penalties laid down in Article 458 of the Penal Code, which makes provision for a prison sentence of between eight days and six months as well as fines from €500 to €5,000.

This obligation is limited: either the disclosure of such information is authorized or required by law, or it is required as part of exchanges of information with other domestic or foreign authorities in charge of financial sector prudential supervision and themselves subject to professional secrecy rules.

6. Refer to Article 3-1 (2) of the modified law of 12 November 2004 for more information
7. Person appointed by the PSF, approved by the CSSF and interfacing with the CSSF in these matters
8. This obligation to maintain professional secrecy extends in the same way to the persons referred to in Article 16 of the modified law of 23 December 1998 on the creation of the CSSF (CSSF staff, registered company auditors, experts)

Furthermore, the obligation does not apply specifically to shareholders or partners whose status or capacity is a precondition for the PSF to be licensed insofar as knowledge of the information is required for the sound and prudent management of the entity. The duty of professional secrecy does not apply either to credit institutions or support PSF, provided that the services these professionals extend are governed by a clear services agreement.

Lastly, the duty is not effective for entities of a financial conglomerate regarding the disclosure of information required to perform supplementary supervision: through internal control departments of the group to combat money laundering and terrorist financing and for the relevant persons at the head of the group, concerning information disclosed to the State Prosecutor with the latter's consent.

In February 2018, Article 40 of the LFS was modified. The aim of this amendment was to modernize the current provisions and to facilitate the provisions on outsourcing.

Applicable only to investment firms

1. Organizational requirements (Art. 37-1 of the LFS)

Even though all PSF are subject to organizational requirements, Article 37-1 strengthens these organizational obligations for investment firms since they provide investment services and operations for third-party clients who must be protected by sound and standardized management structures.

Therefore, investment firms must:

- Establish adequate policies and procedures, including their managers, employees and tied agents, to comply with their legal obligations;
- Define appropriate rules governing transactions performed by their managers and employees;
- Maintain and apply effective organizational and administrative arrangements with a view to preventing conflicts of interest as defined in Article 37-2 of the LFS from adversely affecting the interests of their clients;
- Take reasonable steps to ensure continuity and regularity in the performance of their services and activities. To this end, they must establish appropriate and proportionate systems, resources and procedures;
- Have a well-organized administrative and accounting system;
- Where they rely on third parties for the performance of operational functions which are critical for the provision of services or the performance of activities, take reasonable steps to avoid undue additional operational risk;
- Ensure records are kept of all services and transactions undertaken by them, in accordance with the provisions of the Commercial Code, which must be sufficient to allow the CSSF to monitor compliance with requirements and, in particular, obligations towards clients; and
- Where they hold financial instruments or funds belonging to clients, make appropriate arrangements to safeguard clients' ownership rights, especially in the event of insolvency, and to prevent the use of clients' financial instruments or funds for their own account except with clients' express consent.

2. Conflicts of interest (Art. 37-2 of the LFS)

Anticipating the existence of a residual risk in spite of the measures described above relating to the organizational or administrative arrangements to be made to prevent and manage conflicts of interest, the LFS advises investment firms to clearly inform their clients of the general nature and sources of conflicts of interest before undertaking business on their behalf. In any case, investment firms must take all reasonable steps to identify conflicts of interest between themselves—i.e., their managers, employees and tied agents, or any person directly or indirectly linked to them by control—and their clients or between one client and another that arise in the course of providing any investment and ancillary services, or a combination thereof.

3. Rules of conduct when providing investment services to clients (Art. 37-3 of the LFS)

The overall aim is to ensure that the investment firm has sufficient and adequate structures to serve clients appropriately, openly and in line with the client's risk profile.

As part of the investment activities and services provided to clients, investment firms must act fairly and honestly in the best interest of the client. To do so, they must particularly:

- Provide clients with clear and understandable information about themselves and the services they offer, for example about the financial instruments and investment strategies proposed, and the costs of such services;
- Respectively obtain or seek the necessary information to assess their clients' knowledge and experience, financial situation or investment objectives, whether they provide investment advice services and asset management services or not. In certain circumstances, this may not be compulsory for investment firms providing only client order execution and/or receipt and transmission services;
- Create a file with the documents approved by the parties specifying the rights and obligations of each of the parties for the provision of investment services; and
- Send their clients reports on the services provided.

4. Best execution[9] (Art. 37-5 of the LFS)

Through an efficient system applying an order execution policy known and approved by clients, investment firms must achieve the best possible result for clients when executing orders, given the relevant parameters, i.e., price, cost, speed, likelihood of execution and settlement, size and nature of the order.

For each category of financial instrument, the order execution policy particularly includes information about the execution systems and factors impacting the choice of the execution system, to guarantee that systems offering the best possible result for the execution of clients' orders are used.

Investment firms must be able to prove to their clients at any time that they executed their orders in accordance with their execution policy.

5. Client order handling rules (Art. 37-6 of the LFS)

Investment firms authorized to execute orders on behalf of clients must implement procedures, which provide for the prompt and fair execution of client orders, relative to other client orders or their own trading interests. These procedures provide for execution depending on the date orders are received by the investment firm.

1.4. Reorganization, winding-up, and penalties

Here we examine the legal framework applicable to certain PSF suffering serious financial difficulties, as well as the penalties applied to PSF and more especially their managers, before focusing on the details of the authorization procedure.

1. Reorganization procedure (Article 122 of the modified Law of 18 December 2015 on the failure of credit institutions and certain investment firms

Like the next section on winding-up, the reorganization procedure or suspension of payments only applies to PSF responsible for managing third party funds:

- Execution of orders on behalf of clients (Article 24-2);
- Dealing on own account (Article 24-3), Portfolio management (Article 24-4), Underwriting of financial instruments and/ or placing of financial instruments on a firm commitment basis (Article 24-6);
- Placing of financial instruments without a firm commitment basis (Article 24-7), Transfer agents or registrars (Article 25), Professional depositaries of financial instruments (Article 26); and
- Professional depositaries of assets other than financial instruments (Article 26-1).

Suspension of payments, which may only be sought of the Court by the CSSF or the PSF in question, may occur in the following cases:

9. Or duty to execute orders on terms most favourable to the client

- The PSF finds itself in an insoluble liquidity crisis;
- The entire ability of the PSF to meet its commitments is compromised; or
- The PSF's license has been withdrawn but the withdrawal decision has not yet become final.

Appointed by the judicial authorities, the administrator is responsible for managing the reorganization measures, and as such must authorize in writing any act or decision made by the PSF under penalty of it being null and void. The scope of the transactions subject to this authorization procedure may be adapted. In this management role, administrators partake in the governance of the PSF and make proposals that are submitted to the company's decision-making bodies.

2. Legal winding-up proceedings

A PSF may only go into voluntary winding-up if it informed the CSSF at least one month before calling the general meeting to decide on the winding-up. This voluntary winding-up decision shall not preclude the CSSF or the State Prosecutor from asking the Court for an order declaring the procedure for judicial winding-up applicable.

The dissolution and winding-up of the PSF in question occur when:

- The suspension of payments system is obviously not sufficient to remedy the situation;
- The PSF's financial situation is such that it can no longer meet the commitments to all of its debtors, obligees and holders of participatory rights; or
- The authorization has been withdrawn and the withdrawal decision has become final.

When ordering the winding-up, the Court shall appoint an official receiver and one or more liquidators. Please refer to the details of the modified Law of 18 December 2015 on the failure of credit institutions and certain investment firms in Article 129 for a description of the manner in which the winding-up is to be carried out.

3. Administrative and criminal penalties (Articles 63 and 64 of the LFS)

The persons responsible for the administration and management of PSF supervised by the CSSF may be fined from €250 to €250,000 in the event that:

- They fail to comply with applicable laws, regulations, statutory provisions or other requested information.
- They refuse to provide accounting documents or other requested information.
- They have provided documentation or other information that proves to be incomplete, incorrect or false.
- They preclude performance of the CSSF's powers of supervision, inspection and investigation.
- They contravene the rules governing the publication of balance sheets and accounts.
- They fail to act in response to injunctions of the CSSF.
- They act such as to jeopardize the sound and prudent management of the PSF concerned.
- They do not comply with the provision of Regulation (EU) No 575/2013 and its implementing measures, insofar as these provisions shall apply to them.

In the event of more serious acts, criminal sanctions are provided for that combine a prison sentence of between eight days and five years and a maximum fine of €125,000.

A PSF may only go into voluntary winding-up if it informed the CSSF at least one month before calling the general meeting to decide on the winding-up.

2 Authorization procedure

After defining the core legal bases forming the rules applicable to PSF, we will now describe in further detail the steps necessary to obtain a PSF's "birth certificate": the authorization procedure to obtain the required PSF license.

2.1. License

To ensure that the financial sector is recognized for its quality and reliability, the regulating body requires that players in the sector, i.e., persons engaged in business in the financial sector on a regular and professional basis, or in any business related or complementary to an activity in the financial sector, undergo a license procedure to obtain the desired status. In addition, such activities may not be carried out (and the license will not be issued) through another person or as an intermediary.

However, pursuant to Article 1-1 (2) of the LFS, the license is not required for those persons:

"[...] b) which provide investment services exclusively for their parent undertaking, for their subsidiaries or for another subsidiary of their parent undertaking;

c) which provide a service under this Law, exclusively to one or more undertakings forming part of the same group as the undertaking providing the service, unless otherwise provided; [...]."

Legal entities whose company's purpose requires that they obtain a license under the LFS may be incorporated with this company purpose even before obtaining such a license from the Ministry of Finance, provided they applied for a license to the CSSF and undertook in writing not to conduct the business before obtaining it.

A change to the company's purpose, corporate name or legal form of a company already incorporated is issued directly by the CSSF. Similarly, the CSSF's license is sufficient to create and acquire subsidiaries in Luxembourg and abroad. The creation of agencies and branches in Luxembourg is no longer subject to a license.

Furthermore, the license that investment firms must have to extend their business to investment services or activities, or ancillary services not governed by their current license, now falls within the exclusive scope of the CSSF.

A company or other legal person, which has a license for a specific financial sector business, must not have a company purpose covering a business in the financial sector, which is not also covered by such license.

2.2. License procedure

The license is subject to obtaining a written authorization from the Ministry of Finance, which handles the license documentation filed to obtain the desired status. This written request is made to the CSSF, which prepares an application aiming to meet the requirements of the LFS[10].

The application (see next point) may give rise to additional questions or requests after being examined.

Before transmitting the application to the CSSF, the applicant may contact the CSSF to request information on the qualification of an activity, on the need for an authorization, on the status requested, on the application documentation for the authorization file or any other important question relating to the applicant's project. The applicant may also request a meeting to present the project and to discuss certain aspects of it.

The absence of an answer from the authority within 12 months of receiving the application shall be deemed notification of a decision refusing it. An appeal against the CSSF's decision may be lodged with the administrative tribunal within one month after which it will be time-barred.

It should be noted that an authorization from the CSSF is required for any PSF established in Luxembourg wishing to change its purpose, name, legal form or to create or acquire agencies, branches or subsidiaries in Luxembourg or abroad. The same is true for any investment firm wishing to extend its business to other investment services or activities or to other ancillary services not covered by its license.

Once obtained, the license is valid for an unlimited length of time and the PSF may immediately commence business.

Moreover, the LFS specifies that once a license is obtained, the members of the administrative, management and supervisory bodies of the PSF must notify the CSSF on their own initiative and in writing, in a complete, consistent and comprehensible manner, of any change to the material information on which the CSSF based its decision. This information particularly concerns the professional standing of the members of the above-mentioned bodies, the structure of the PSF's shareholding as well as its central administrative office and its infrastructure. By disclosing such information, the CSSF will have updated data.

2.3. Application file

The license application file must be sent together with all information as may be needed for the assessment thereof and with a schedule of operations specifying the type and volume of business envisaged and the administrative and accounting structure planned. In practice, this application for status as PSF generally includes the following information[11], which reflects a part of the requirements to be met to obtain the license:

- Presentation of the natural or legal person, where applicable, of the group to which this person belongs, with a presentation of the financial statements available for the last three years.
- The reasons for and objectives of establishing the PSF in Luxembourg.
- The information concerning the identity of shareholders.
- A three-year business plan including the balance sheet and income statement.
- The company's draft articles of Association.
- The CVs together with certificates of respectability of the directors and managers of the company in Luxembourg as well as criminal records from the authorities in their respective country of residence.

10. If the activities contemplated and the services provided involve insurance products, the Commissariat aux assurances, in addition to the CSSF, shall approve the license documentation to ensure it complies with the modified law of 7 December 2015 on the insurance sector
11. This list is not exhaustive and the applicant must ensure it complies with all regulations applicable and in force at the time of applying for the license

- Presentation and demonstration by the applicant of the existence in Luxembourg of the central administrative office in accordance with CSSF Circular 95/120 or 20/758 and of its registered offices.[12]
- The name of the independent auditor who must be a registered company auditor with appropriate professional experience. The PSF's annual accounts must effectively be entrusted to an auditor with such experience and any change to the approved auditor must be justified and authorized beforehand by the CSSF.
- Authorization shall be conditional on participation by investment firms in an investors' compensation scheme set up in Luxembourg and operated by the CSSF, meaning that it must provide cover in respect of claims arising out of the inability of an investment firm to:
  - Repay money owed to or belonging to investors and held, administered or managed on their behalf in connection with investment business; and
  - Return to investors any instruments belonging to them and held, administered or managed on their behalf in connection with the investment business.

Subject to the application of Article 195, paragraph 2 of the modified Law of 18 December 2015 on the failure of credit institutions and certain investment firms, the aggregate investment business of each investor is covered, regardless of the number of accounts, the currency in which they are denominated and their location within the EU, up to a value equivalent to €20,000.

2.4. Professional standing and experience

The personal data of authorized directors or managers is obtained to ascertain their professional standing and experience. The persons responsible for management must be empowered to determine the direction taken by the business and must prove their level of skill by having previously carried out similar activities with a sufficient level of responsibility and autonomy. They must be at least two in number and receive their authorization from the CSSF.

Pursuant to company law, a legal entity appointed as director must designate a permanent representative to fulfil these duties for and on behalf of the legal entity (Article 441-3 of the modified Law of 10 August 1915 on commercial companies). Under Article 441-9 of the same Law, a legal entity appointed as director is liable to the company, in accordance with ordinary law, for fulfilling the duties entrusted and for any misdeeds committed in its management.

Any change to the persons responsible for the day-to- day running must be notified to the CSSF, which shall be free to request additional information. The CSSF checks that such new persons comply with the legal requirements in terms of professional standing and experience.

In accordance with the rules of procedure of the Luxembourg Law Society, a lawyer may not be involved in the day-to-day management of a financial sector professional.

Authorization shall be conditional on participation by investment firms in an investors' compensation scheme set up in Luxembourg and operated by the CSSF.

2.5. Central administration and organization

As the decision-making center, the PSF must have a sound internal governance system in Luxembourg with a clear and consistent organization and distribution of tasks, efficient processes for detecting and monitoring risks, appropriate internal control including sound administrative and accounting procedures and mechanisms for ensuring information system control and security[13].

The scope of the applicable CSSF circulars covering the aspects explained above varies according to the category of PSF, i.e., investment firms (most restrictive environment), specialized PSF or support PSF (least restrictive environment)[14].

2.6. Shareholding

Authorization to hold the status is subject to disclosing to the CSSF the identities of the shareholders and partners, whether direct or indirect, natural or legal persons, any qualifying holding[15] and the amounts of such holdings.

Authorization shall be conditional on participation by investment firms in an investors' compensation scheme set up in Luxembourg and operated by the CSSF.

12. A natural person must prove that he/she effectively conducts business in Luxembourg
13. On this subject, refer to CSSF Circular 95/120 for specialized and support PSF or 20/758 for investment firms
14. On this subject, refer to section 4 of this chapter and Appendix 1
15. Qualifying holdings means a direct or indirect holding of 10% of the capital or voting rights and/or the ability to significantly influence the business management of the PSF to be licensed

Thereby, the CSSF seeks to guarantee firstly the sound and prudent management of the PSF and secondly the transparency of the shareholding structure within the PSF to clearly identify the authorities responsible for the prudential supervision of the PSF and, where applicable, perform consolidated supervision of the group to which it belongs.

Refer to Article 18 of the LFS for additional requirements regarding CSSF notification for cases of acquisition or sale of PSF in Luxembourg.

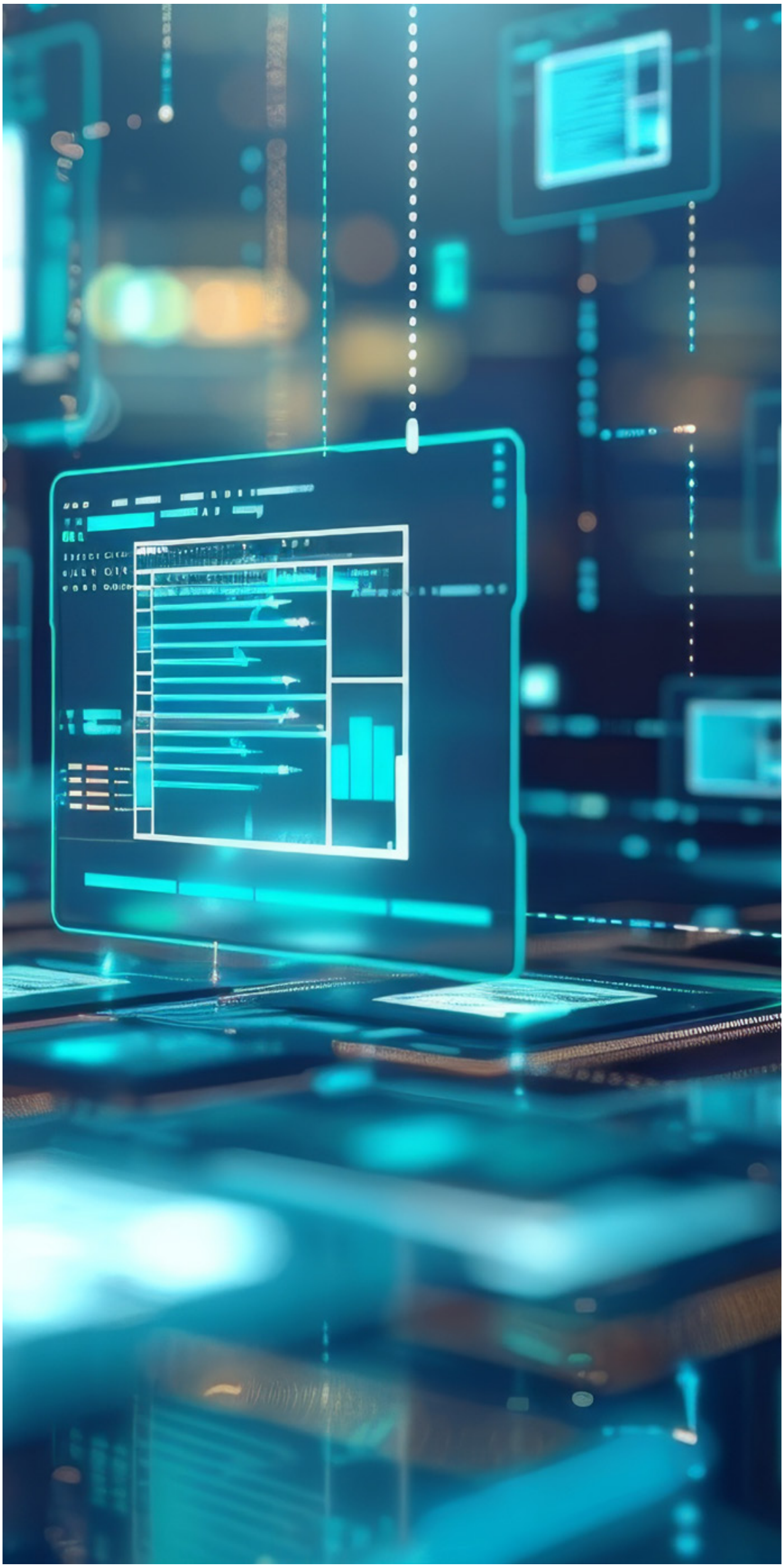
Furthermore, it is essential that the shareholders or partners of a PSF have sufficient financial resources that may be used if necessary.

2.7. Minimum capital or financial base

Conducting business as a financial sector professional is subject to a minimum capital or financial base requirement which varies depending on the risks involved in the various PSF statuses, the major decisive factor of which lies in whether third-party funds are managed or not. The capital or financial base requirement is between €75,000 and €750,000 depending on the PSF's operations.

For a detailed description of the minimum capital requirements, please refer to the individual data sheets of each status and to the fast-reference tables on the chapter PSF profile analysis and specific data and in Appendix 2 - PSF in a nutshell.

Note that when a PSF holds several licenses, it must comply with the highest minimum capital of the statuses obtained.



The CSSF requires that the direct shareholders finance all ownership interest with their own equity, after deduction of any other ownership interests or losses carried forward. The aim is clearly to prevent direct shareholders from refinancing their ownership interest using borrowed funds (Article 20 of the LFS). Therefore, in particular, the share capital may not be brought by means of a loan contracted by the PSF shareholder with the PSF.

The financial base includes the share capital subscribed and paid up, issue premiums, legally formed reserves and amounts carried forward, minus any potential loss in the current fiscal year. According to the same Article, it must be permanently available to the PSF and be invested in its own interest.

Owing to prudential concerns, a PSF may not grant loans to its shareholders, whether directors or employees. It is vital that any acquisition of interests in the share capital of a financial sector professional be made using one's own funds and not borrowed money. Now, granting advances and loans to the shareholders amounts to giving the share capital back to shareholders.

In this context, note should be taken of Article 430-19 (1) of the modified Law of 10 August 1915 on commercial companies which stipulates: "A company may not directly or indirectly, advance funds or make loans or provide security with a view to the acquisition of its shares by a third party" except under certain conditions.

2.8. External audit

Authorization shall be conditional on the PSF having its annual accounts audited by one or more *réviseurs d'entreprises agréés* (approved statutory auditors) who can show that they possess adequate professional experience. Those *réviseurs d'entreprises agréés* (approved statutory auditors) shall be appointed by the body responsible for managing the PSF, usually the board of directors, board of managers, or the executive board. Any change in the *réviseurs d'entreprises agréés* must be authorized in advance by the CSSF.

2.9. License withdrawal

Although issued for an unlimited length of time, the license will be withdrawn if:

- The PSF does not make use of the license within 12 months of it being granted.
- The PSF expressly waives its license.
- The PSF has not conducted any of the activities for which the license was obtained over a period of six months.
- The conditions of granting PSF status are no longer met.
- The license was obtained through misrepresentation or by any other irregular means.
- In the case of a market operator operating an MTF or an OTF or of an investment firm, it has seriously and systematically infringed one of the provisions governing the operating conditions applicable to it.
- The PSF (other than an investment firm) has seriously and systematically infringed Articles 36, 36-1 or 37 of the LFS.

The decision to withdraw the license may be deferred to the administrative tribunal, within one month, after which the appeal will be time-barred.

The board of directors of a PSF notifies the CSSF of any planned dissolution or voluntary winding- up with at least one month's notice prior to calling the general meeting to vote on the dissolution or winding-up.

A closing balance sheet must be drawn up and sent to the CSSF. The conditions of a voluntary winding- up must also be disclosed to the CSSF.

It is essential that the shareholders or partners of a PSF have sufficient financial resources that may be used if necessary.

3 Prudential supervision

3.1. Competent authority: CSSF

Article 42 of the LFS specifies that the CSSF, the entity established by the modified Law of 23 December 1998, is the competent authority for financial sector professionals.

It is responsible for the cooperation and exchange of information with other authorities and namely informs the competent authorities of other Member States responsible for the supervision of credit institutions and investment firms that it is in charge of receiving requests for exchanges of information or cooperation.

The CSSF conducts its activity in the public interest and satisfies itself that the laws and regulations relating to the financial sector as well as international agreements and Community law are complied with.

The prudential supervision role fulfilled by the CSSF on the financial sector is defined in part III of the LFS and the CSSF has regulatory power by means of regulations, circulars and instructions, which are addressed to financial sector players.

3.2. Scope

The following PSF fall within the scope of the CSSF's prudential supervision:

- PSF organized and existing under the laws of Luxembourg (Activities conducted by these entities in another EU/EEA Member State, both by establishing a branch and via the freedom to provide services, are also subject to the prudential control of the CSSF. Certain areas of prudential supervision, particularly compliance with rules of conduct for the provision of investment services to clients, fall within the scope of the supervisory authority in the host Member State).
- Branches of investment firms that are based outside the EU/EEA.
- Branches of PSF other than investment firms based inside or outside the EU/EEA.

The supervision of branches established in Luxembourg by investment firms from another EU/EEA Member State is based on the principle of supervision by the regulatory authority in the country of origin. However, certain specific aspects of the supervision fall within the scope of the CSSF, as the regulatory authority in the host Member State, particularly aspects relating to combating money laundering and terrorist financing.

3.3. Means of supervision

The CSSF has several instruments to exercise its supervision. The key means are as follows:

- Regular receipt of financial information used to permanently monitor the PSF' business and related risks. In addition, there is a regular check of the capital adequacy ratio and the limitation of large exposure for investment firms (Article 56 of the LFS).
- The report drawn up on a yearly basis by the registered company auditor. This report includes a certificate relating to combating money laundering and terrorist financing and a management letter dealing in particular with compliance with the LFS and applicable CSSF circulars.

- For investment firms, a detailed analytical audit report (CSSF Circular 03/113 as amended by CSSF Circulars 10/486, 13/571, and 21/768) broadly covering the risk control and internal control system, including compliance with rules of conduct and a description and assessment of the Internal audit and Compliance functions (refer to section 5 "Role of the réviseur d'entreprises agréé for PSF" for a detailed view of the role of the registered company auditor and the scope of relevant certificates).[16]
- The CSSF may also expressly ask a registered company auditor to audit one or more aspects of the PSF's business or operations.
- The CSSF is also sent, for specialized and support PSF, the annual internal audit reports on the controls performed over the last period and the reports by the PSF's management on the status of internal control. For investment firms, once a year, the authorized management shall confirm compliance with CSSF Circular 20/758 by way of a single written sentence followed by the signatures of all the members of the authorized management to the CSSF, as well as provide the ICAAP report and the summary reports of the internal control functions.
- On-site audits. Furthermore, since 2009 the CSSF has stepped up its work in the field by conducting an increasing number of this type of audit including welcome visits for newly licensed PSF within the first months following the ministerial authorization.
- By virtue of CSSF Regulation 16-07, the CSSF is also competent to receive complaints from clients sent to PSF and to take action with them to settle these disputes amicably.
- Under the provisions of Article 57 of the LFS, the CSSF must grant prior authorization to PSF wishing to have a qualifying holding.[17]
- Lastly, the CSSF also has powers to sanction, i.e., rights of injunction and suspension in the event that legal provisions are breached or in the absence of guarantees with respect to the management and durability of the PSF's operations and commitments. The penalties also referred to in Article 59 of the LFS, where the PSF has failed to remedy the injunctions within the allotted time, extend from suspending the persons responsible for the PSF's governance and management, to suspending the voting rights attached to the stocks or shares held by shareholders or partners having a negative influence on the sound and prudent management of the PSF, or suspending operations or a given business line of the PSF.

16. A reform of the Long Form Report is currently ongoing. Please refer to page 51, paragraph d.
17. Defined as being more than 10% of the capital or of the voting rights of the company in which the PSF invested

3.4. Supervision of investment firms on a consolidated basis

Consolidated supervision of investment firms is addressed by CSSF Circular 00/22.

This circular only targets investment firms (companies falling within the scope of Article 24 of the LFS) holding direct or indirect interests in other investment firms, financial institutions or credit institutions.

Supervision on a consolidated basis concerns at least the following:

- Supervision of the solvency and capital adequacy in relation to market risks.
- Supervision of large exposures.
- Appropriate organization of the group, particularly on administrative, accounting and internal control levels and in terms of group structure in general.

3.5. Financial information to be regularly reported to the CSSF

CSSF Circular 05/187 as amended and supplemented by CSSF Circular 10/433 presents the outlines of financial information to be submitted to the CSSF.

3.6. Investment firm classification

On 26 June 2021, a new prudential regime entered into force for investment firms, composed of Regulation (EU) 2019/2033 (the Investment Firms Regulation, or "IFR") and Directive (EU) 2019/2034 (the Investment Firms Directive, or "IFD").

Consequently, investment firms are now categorized into three different classes. The IFR/IFD regime applies to small and non-interconnected investment firms (Class 3); and other small and non-interconnected investment firms (Class 2). Large and systemically relevant investment firms (Class 1) will continue to fall under the prudential regime of the CRR/CRD VI.

For Class 2 investment firms, the assessment of own funds must consider a broad range of aspects, namely:

a. The permanent minimum capital requirement;

b. The overheads requirement; and

c. The K-factor requirement.

For Class 3 investment firms, part (c) does not apply.

As for liquidity, the regulation determines that firms must hold liquid assets, such as cash and government bonds, for an amount at least equal to one third of the overheads requirement. In addition, investment firms that belong to Class 2 are obligated to constantly monitor and manage the concentration risk. As they are limited to hold an exposure to an individual client or group of connected clients of 25% of their own funds, further IFR/IFD lay out a comprehensive set of remuneration practices and rules.

As the global framework increasingly seeks to strengthen the ability to deal with the impacts of climate change, the EBA are producing a report introducing technical criteria for assessing exposures to activities primarily related to environmental, social and governance (ESG) factors. As of 26 December 2022, Class 2 investment firms must publish a report containing details about ESG-related risks.

The CSSF Circular 21/784 has introduced the Reporting Handbook for Investment Firms, a guide which combines, in one single document, the details as well as the technical specifications of the periodic prudential reporting of investment firms. It applies to all Class 2 and Class 3 investment firms.

The table below summarizes all the reports to be submitted to the CSSF:

Class 1	Class 1 Minus	Class 2	Class 3
Investment firms considered as credit institutions			Small and non-interconnected investment firms to which simplified requirements apply
The firm deals on own account and/or underwrite financial instruments. The firm is not a commodity/emissions allowance dealer.			
Total consolidated assets > 30 billion	• Total consolidated assets > 15 billion OR • Total consolidated assets > 5 billion • The firm elects to be subject to the CRR • The firm is part of a group containing an EU credit institution and subject to consolidated supervision under CRR • The authority is satisfied that the election does not reduce your own funds requirements and is not for purposes of regulatory arbitrage	All investment firms unless they meet the specified criteria to be either “Class 1”, “Class 1 Minus” or “Class 3”.	• Investment firms that meet all the following: • AUM < €1.2 billion; • COH < (i) €100 million/day for cash trades; or (ii) €1 billion/day for derivatives; • ASA, CMH, DTF, NPR or CMG, and TCD is zero; • The on-and-off balance sheet total of the investment firm is < €100 million; • The total annual gross revenue from investment services and activities of the investment firm is less than €30 million, calculated as an average on the basis of the annual figures from the two-year period immediately preceding the given financial year.
CRR - CRDIV Single supervisory mechanism, if located in the Eurozone	• CRR - CRDIV	IFR - IFD	IFR - IFD with exemption to report the following: • Part 2 on own funds • Part 3 on capital requirement • Part 4 on concentration risk • Part 6 on disclosure by investment firms • Part 7 on reporting by investment firms

The table below summarizes all the reports to be submitted to the CSSF:

Table Ref	Title of the report	Frequency	Deadline
I.	Financial situation	Monthly	The 20th of the next month
II. 1.	Financial advisers	Monthly	The 20th of the next month
III. 2. A.	Brokers	Monthly	The 20th of the next month
II. 2. B.	Commission agents	Monthly	The 20th of the next month
II. 3.	Private portfolio managers	Monthly	The 20th of the next month
II. 4.	Professionals acting for their own account	Monthly	The 20th of the next month
II. 5.	Professional custodians of securities or other financial instruments	Monthly	The 20th of the next month
II. 6.	Distributors of units of investment funds	Monthly	The 20th of the next month
II. 7.	Underwriters	Monthly	The 20th of the next month
II. 8.	Registrar and transfer agents	Monthly	The 20th of the next month
II. 9.	Market makers	Monthly	The 20th of the next month
II. 10.	Professionals performing cash-exchange transactions	Monthly	The 20th of the next month
II. 11.	Debt recovery	Monthly	The 20th of the next month
II. 12.	Professionals performing credit offering	Monthly	The 20th of the next month
II. 13.	Professionals performing securities lending	Monthly	The 20th of the next month
II. 14.	Professionals performing money transfer services	Monthly	The 20th of the next month
II. 15.	Administrators of collective savings funds	Monthly	The 20th of the next month
II. 16.	*Managers of non-coordinated UCIs (REPEALED)*		
II. 17.	Client communication agents	Monthly	The 20th of the next month
II. 18.	Administrative agents of the financial sector	Monthly	The 20th of the next month
II. 19.	IT systems and communication networks operators of the financial sector	Monthly	The 20th of the next month
II. 20.	Professionals performing services of setting-up and management of companies	Monthly	The 20th of the next month
II. 21.	Corporate domiciliation agents	Monthly	The 20th of the next month
II. 22.	Professionals authorized to exercise all the activities permitted by Article 28 of the law of 15 December 2000 on postal services and financial postal services	Monthly	The 20th of the next month
III. 1.	Off-balance sheet	Quarterly	The 20th of the next month
III. 2.	P&L	Quarterly	The 20th of the next month

4 Key laws, CSSF circulars, and regulations

While this regulation can be regarded as central to the practical system introduced by the lawmaker to combat money laundering and terrorist financing, it must be taken as part of a broader regulatory fabric based on the modified Law of 12 November 2004 and the LFS (Articles 39 and 40).

The CSSF regulations and circulars form the core "practical" dispositions with which PSF must comply. They apply to all or some PSF, meet legal obligations specific to the financial industry (combating money laundering and terrorist financing) or organizational requirements for one of the three categories of PSF, and further specify the systems introduced by the CSSF as part of its financial sector supervision (regular reporting) or impose financial ratios (capital adequacy). They provide guidance in establishing and maintaining the relevant financial or financial sector ancillary activities.

The main regulations and circulars issued by the CSSF are presented below. A fast-reference table of the regulations and circulars specifying their respective scopes of application is included in Appendix 1.

4.1. CSSF Regulation 16-07 and CSSF Circular 17/671 (as amended by CSSF Circular 18/698) relating to the out-of- court resolution of complaints

These are applicable to all PSF.

This regulation aims at defining the rules applicable to the requests for the out-of-court resolution of complaints filed with the CSSF and is specifying certain obligations incumbent on professionals in relation to the handling of complaints.

The procedure for handling the requests aims at facilitating the resolution of complaints against PSF without judicial proceedings. It is not a mediation procedure. The CSSF's intervention shall be subject to the principles of impartiality, independence, transparency, expertise, effectiveness and fairness.

The regulation points out the following obligations:

- Each PSF shall have a complaint management policy that is defined, endorsed and implemented by the management. It shall be set out in a written document and shall be formalized in an internal complaint settlement procedure made available to all relevant staff. Any possible conflicts of interests shall be able to be identified and mitigated.
- The PSF shall ensure that each complaint as well as each measure taken to handle it are properly registered.
- Clear, precise and up-to-date information on the complaint handling process shall be provided.
- Data relating to complaint handling shall be analyzed, on a permanent basis, in order to enable the identification and treatment of any recurring or systemic problem, as well as any potential legal and operational risks.
- The PSF shall provide contact details of the person responsible at the level of the management of the implementation and the efficient operation of the policy. The latter is required to communicate to the CSSF and to provide it with an as comprehensive as possible answer and cooperation. On an annual basis, a table including the number of complaints registered by the PSF, classified by type of complaints, as well as a summary report of the complaints and of the measures taken to handle them, must be communicated to the CSSF.

CSSF Circular 17/671 provides details concerning the regulation, mentioning namely that the recording of complaints must be computerized and secured; that the respect of the policy must regularly be controlled by the compliance and internal audit functions; and that annual documents (table and report) shall be communicated to the CSSF no later than 1 March of each year and shall cover the previous calendar year.

4.2. CSSF Regulation 12-02 on the fight against money laundering and terrorist financing as amended by CSSF Regulation 20-05

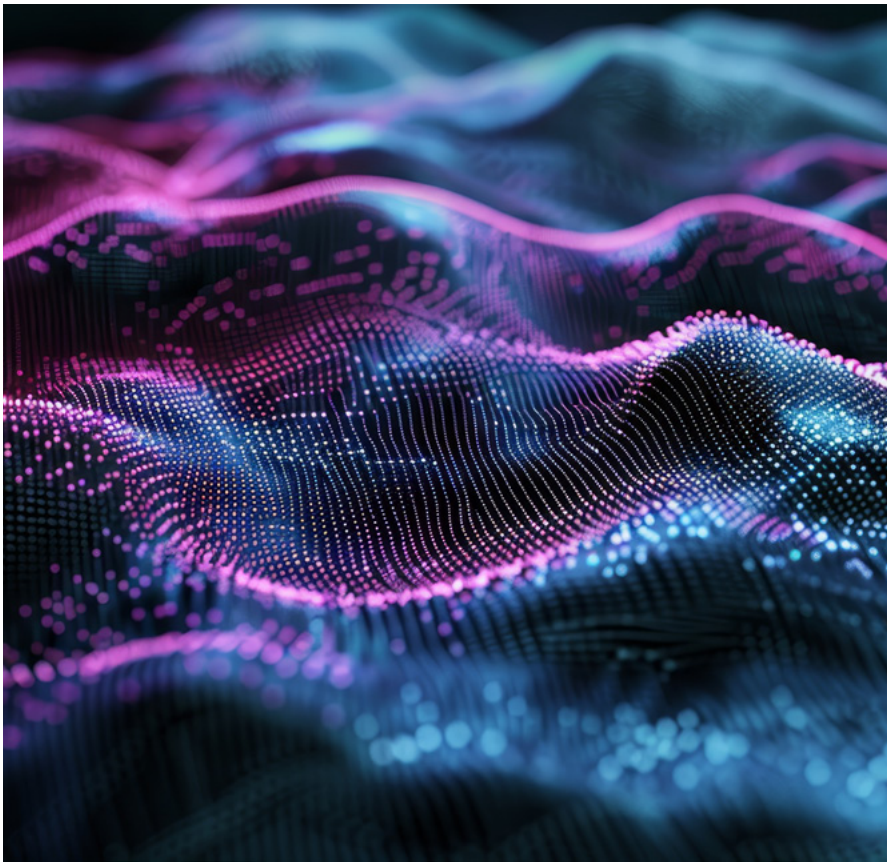
While this regulation can be regarded as central to the practical system introduced by the lawmaker to combat money laundering and terrorist financing, it must be taken as part of a broader regulatory fabric based on the modified Law of 12 November 2004 and the LFS (Articles 39 and 40). Together, these form the cornerstone of the subject, supplemented by other circulars, particularly CSSF Circular 17/660 on instructing party information accompanying transfers of funds. This is in accordance with the EU Regulation 2015/847 and the CSSF Circular 17/650 relating to predicate tax offences. CSSF Regulation 12-02 was amended in August 2020 by the CSSF Regulation 20-05, and CSSF Circular 17/650 was amended in July 2020 by the CSSF Circular 20/744.

The modified law of 12 November 2004 points out the following elements:

- **Scope:**
  This law, relating to combating money laundering and terrorist financing, applies to PSF in Luxembourg, to branches and majority subsidiaries based in a third-party country (outside the EU), and to Luxembourg branches of foreign professionals.

Professional obligations:

- Obligation to apply customer due diligence (cf. chapter 2 - Article 3)
- Obligation to have adequate internal organization (cf. chapter 2 - Article 4)
- Obligation to cooperate with authorities (cf. chapter 2 - Article 5)
- Obligation to comply with the rules set forth in the EC Regulation 2015/847 dated 20 May 2015 on instructing party information accompanying transfers of funds



CSSF Regulation 12-02, as amended, reinforces and completes the applicable regulatory framework (which evolved following the Law dated 18 February 2018) with regards to the following topics:

- Risk-based approach: equivalent countries are not exempted from risk assessment.
- Overall risk related to the activity.
- Individual risk related to the business relationship.
- Customer due diligence:
  - Adequate documentation of all business relationships by adequate client questionnaire.
  - Minimum documentation for legal entities.
  - Verification of the validity of the proxies' mandate.
  - Thresholds of ownership and control that may be below 25%.
  - Information on the source of funds required for all clients.
  - Documentation and safekeeping all information, documents, analysis and decisions for client due diligence.
  - Politically exposed persons to be detected with 'progressing' methods, including information obtained from the client, public sources, private information databases or other adequate measures.
- Adequate internal management requirements: training program goes beyond an annual training session.
- Cooperation with authorities.
- Review by the *réviseur d'entreprises agréé*.

This regulation gives a formal and legally binding nature to existing professional guidance set out previously by CSSF circulars.

CSSF Circular 11/529 specifies the requirements for the risk analysis inherent to each PSF's business activities that must be set down in writing. The management shall first identify the risks of money laundering or terrorist financing. The management shall further set up a methodology in order to categorize these risks, and afterwards define and implement measures to mitigate the identified risks.

CSSF Circular 17/650 introduced new requirements for professionals subject to the CSSF supervision and to requirements relating to money laundering and terrorist financing as amended by CSSF Circular 20/744:
PSF now must consider the new predicate tax offenses such as aggravated tax fraud and tax evasion; namely the tax crimes related to direct and indirect taxes. CSSF Circular 17/650 includes in its appendix examples of indicators likely to reveal potential laundering of a predicate tax offense. CSSF Circular 20/744 issued in July 2020 amended annex 1 of the CSSF Circular 17/650 and introduced new indicators to be taken into account in the context of collective investment activities.

4.3. CSSF Circular 20/758 (as amended by CSSF Circulars 21/785 and 22/806) – central administration, internal governance, and risk management

This circular replaces CSSF Circular 12/552 as amended for investment firms and is applicable from January 1, 2021.

The CSSF recently published updates to its CSSF Circular 12/552 dealing with internal governance and risk management:
The CSSF Circular 20/758 is applicable to investment firms; and the CSSF Circular 12/552 as amended remains, applicable to professionals performing lending operations.

The CSSF Circular 12/552 is thus once again amended in order to incorporate the principles of the EBA in terms of internal governance, as well as the regulatory requirements as set out in the CRR.

The CSSF decided to distinguish regulatory requirements applicable to investment firms through the CSSF Circular 20/758 and credit institutions and professionals performing lending operations through the CSSF Circular 12/552 as amended.

The CSSF circulars now apply to financial holding companies and mixed financial holding companies as well as to group companies when head offices are located in Luxembourg. The principle of proportionality is clarified depending on the level of complexity observed by the investment firm. The analysis of the application of principle must be effective, documented, and then validated by the management body in light of the activities, their volume, and their complexity in order to ensure sound and prudent monitoring of its risks.

This circular gathers the regulatory obligations that investment firms PSF will need to satisfy. As regards professionals performing lending operations as defined in Article 28-4 of the modified LFS, only the chapter on credit risk in the risk management section of the amended CSSF Circular 12/552 shall apply (Part III Chapter 3, except sub-chapter 3.4, and Part III Chapter 2 paragraph 12).

This new CSSF Circular repeals CSSF Circular 12/552 (which remains applicable for credit institutions and PSF having the Article 28-4) and introduces a new governance framework specifically applicable to investment firms. It is jointly published with CSSF Circular 20/757, highlighting the main changes between CSSF Circular 12/552 and CSSF Circular 20/758.

The CSSF Circular 20/758 implements four EBA guidelines in Luxembourg, updating the governance framework in force of investment firms:
EBA Guidelines on internal governance (EBA/GL/2017/11);
Joint ESMA and EBA Guidelines on the assessment of the suitability of members of the management body and key function holders (EBA/GL/2017/12);
EBA Guidelines on the management of interest rate risk arising from non-trading book activities (EBA/GL/2018/02); and EBA Guidelines on corrections to modified duration for debt instruments (EBA/GL/2016/09).

The implementing procedures on central administration as specified in CSSF Circular 95/120 are also integrated, as well as all the provisions on risk management. Thus, while the majority of the provisions in the CSSF Circular 20/758 (replacing CSSF Circular 12/552) are not new per se, there is a strong emphasis on further formalization needed in order to document internal governance arrangements and the way internal control activities are conducted.

What is the three-lines-of-defense model?
The institutions shall establish internal governance arrangements, which are consistent with the three-lines-of-defense model:

- The first line of defense consists of business units that take or acquire risks under a predefined policy and limits, and carry out controls.
- The second line is formed by the support functions, including the financial and accounting function, the IT function, as well as the compliance and risk control functions which contribute to the independent risk control.
- The third line consists of the internal audit function which provides an independent, objective and critical review of the first two lines of defense.

The three-lines-of-defense are complementary, each line of defense assuming its control responsibilities regardless of the other lines.

What is new for the board of directors?
The concept of "fit and proper" is introduced, meaning that the collective skills of a board of directors should be in line with the complexity and the challenges of the business and that sufficient time must be dedicated to the role of director, with disclosure of other mandates and on-going training required. CSSF Circular 20/758 reflects the final guidelines from the European Banking Authority (EBA) on the assessment of the suitability of members of the management body and key function holders in terms of reputation, experience and governance.

Independent board members are recommended (especially for larger institutions): independent means the absence of "any conflict of interest which might impair his/her judgment because he/she is bound by a business, family or other relationship with the institution, its controlling shareholder or the management of either". The chairman cannot be a member of the authorized management.

At least annually, the board of directors should assess and approve the alignment of the risk and capital profile with business strategy, the adequacy of the organizational and operational structure and the efficiency and effectiveness of the internal control, including appointments and revocations of the persons in charge of the internal control functions (internal audit, compliance and risk control) in written.

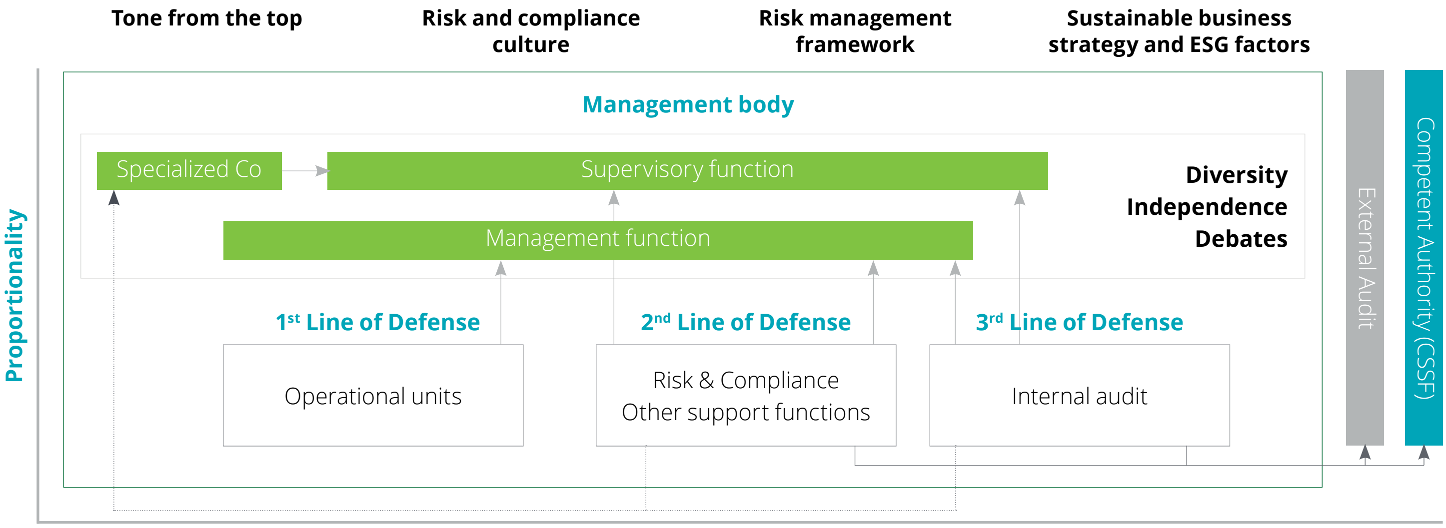
What is new for the authorized management?
The same "fit and proper" concept as for the board of directors applies and the authorized management should have an absolute understanding of the organizational and operational structure of the institution, in particular in terms of the underlying legal entities.

Regularly and at least annually the authorized management reports to the board of directors on the implementation, adequacy, effectiveness and compliance with the internal governance arrangements, including the state of compliance and internal control. An annual written and signed confirmation of full compliance with the CSSF Circular 20/758 shall be transmitted to the CSSF and explanations in case of non-full compliance.

The authorized management implements all the strategies and guiding principles through written policies and procedures, in particular the risk policy (with risk tolerance and limits) and the capital and liquidity policy.

What is new for the internal control functions?
At least once a year, each internal control function shall prepare a summary report on its activities and operation, which should include a statement to the authorized management of the main recommendations on existing or emerging problems, significant shortcomings and irregularities since the last report, the measures taken in this respect, etc. This summary report is submitted to the board

The three lines of defense model



of directors and, where appropriate, the specialized committees for approval and to the authorized management for information.

A new product approval process shall be defined in written. In particular, it describes the changes in the activities subject to the approval process as well as the implementation of the approval process, including the responsibilities. It includes a risk analysis including compliance aspects and can be triggered by the internal control functions.

The outsourcing policy should include reporting requirements to which the service providers and control mechanism which the institution implements in this respect are subject from inception to the end of the outsourcing agreement. For each outsourced activity, a person must be designated to manage the outsourcing relationship and access to confidential data. Specific rules are required for IT outsourcing.

In addition to the new CSSF Circular 20/758 and in light of the COVID-19 pandemic, the CSSF Circular 21/796 outlines rules for governance and security requirements for supervised entities to perform tasks or activities through tele-work.

The CSSF reiterates its concerns on adequate identification and assessment of all forms of concentration risks, not only credit. In particular, it can take the form of intra-risk concentration (groups of customers or counterparties, countries, sectors, specific products or markets) or inter-risk concentration as a result of various risks combined. Intra-risk or inter-risk concentration may result in economic and financial losses as well as in a significant and negative impact on the risk profile of the institution, so that the various consequences should be assessed as well.

A pricing mechanism that takes into account all risks incurred should be implemented, documented, approved by the authorized management and supervised by the risk control function.

The objective is to act as an incentive to effectively allocate the financial resources in accordance with the risk tolerance and the principle of sound and prudent business management. While the circular pays specific attention to the liquidity transfer-pricing system, other forms of risks should be considered in the exercise.

What is new for the other functions?
The Information Security Officer is in charge of the protection of the information. An escalation mechanism should be in place to report any exceptional issue to the highest level of the hierarchy, including the board of directors.

A policy on management of conflicts of interest, notably for transactions with related parties (not only should they be at arms' length, but they should not impair solvency, liquidity situation or risk management capacities from a regulatory or internal point of view) as well as internal whistleblower arrangements should be in place.

Specific requirements

Know your structure

- The management body should fully know and understand the legal organizational and operational structure of the institution

Outsourcing

- The management body approves regularly reviews and updates the outsourcing policy

Complex structures and nonstandard activities, or potentially nontransparent

- Guiding principles set up the bank to ensure that complex and unusual activities or potentially nontransparent are subject to an enhanced assessment and an ongoing follow up of risks with a particular focus on financial crime.

New product approval

- Apply to all **new products, services, markets systems** and **processes or customers**
- Should be align with risk strategy and appetite
- All necessary conditions to address the requirements of the new activity should exist
- The risk management and compliance functions should be involved and provide **a full and objective assessment of risks**
- No new activity should be undertaken before formal **approval**
- The compliance function should systematically provide **a prior assessment** and documented opinion for new products or significant changes to existing products.

Management of conflicts of interest

- **All conflicts of interest** existing or potential must be identified, assessed, managed and mitigated or avoided when conflicts continue to exist, the policy determine

4.4. CSSF Circular 95/120 (as amended by CSSF Circular 22/806) – central administration

This circular is applicable to specialized and support PSF. It has been replaced by CSSF Circular 12/552 as amended for investment firms and recently by CSSF Circular 20/758. However, the concepts, the principles are the same.

This circular reflects Article 17 of the LFS and stipulates that to obtain a license for PSF status, the entity must not merely have a legal registered office in Luxembourg, but its central administrative office, thus inferring the existence of its decision-making center and its administrative center in Luxembourg.

The circular specifies the meaning of "central administration" which corresponds to managerial and business functions, as well as operational and control functions. It further defines the notion of "center" to and from which extend all the PSF's components, implying the existence of sufficient technical and human resources necessary for its operations.

The first notion does not simply stop at the managers (of which there must be at least two) authorized by the CSSF, who are responsible for managing the PSF and empowered to direct the PSF's business. It further includes the persons responsible for the various administrative and business units or departments forming the entity's infrastructure, who must also, in principle, be permanently based in Luxembourg.

If the PSF conducts business abroad through branches, the day-to-day running of such branches is carried out by managers assigned to them who are granted powers by the registered office bodies. The latter must be able to monitor and be involved in such branches' operations and major decisions.

The second notion of "center" implies that the PSF has, in Luxembourg:

- Its own skilled operating staff in sufficient numbers to carry out the decisions made;
- Its own operating systems, i.e., procedures and technical infrastructure;
- Documentation relating to operations;
- Support functions in accounting and data processing; and
- Internal control.

4.5. CSSF Circular 96/126 (as amended by CSSF Circular 22/806)on administrative and accounting organization

This circular applies to specialized and support PSF. CSSF Circular 96/126 was recently updated by CSSF Circular 22/806 on outsourcing arrangements.

More specifically, the organization must satisfy the following requirements:

- The PSF must have sufficient, skilled operating staff whose tasks, duties, powers and reporting relationships are described and set out in an organizational chart. The principle of separation of tasks must be observed in order to prevent mistakes and improper acts,
- Correct conduct of operations requires that PSF draft complete, clear and monitored procedures describing execution systems, i.e., the logical steps involved in operations from initiation to archiving, as well as the documents used and the regular checks to be performed.
- All the commitments made by the PSF and the related decisions must be documented. This documentation must be kept up to date, retained according to legal requirements and be easy to consult.
- The administrative infrastructure of the business functions must guarantee correct application of decisions made.
- Accounting must be based on an accounting department responsible for the accounting management of the PSF. This department must centralize the accounting entries recorded by other departments, as applicable, and is responsible for preparing the PSF's annual accounts and regular reports to be sent to the CSSF.

Reflecting Article 17 (2) of the LFS that requires PSF to furnish evidence of good administrative and accounting organization, this circular follows on from the previous Circular 95/120 and provides guidelines on how such an organization functions. The recommendations made in this circular are to be adapted to each PSF according to operations and size.

The department in charge of the day-to-day management of the organization is responsible for implementing the rules, which are defined in writing and reflect its powers and the way they are delegated while pursuing the following goals:

- Correctly manage assets and property;
- Adequately conduct operations;
- Fully and correctly record operations and produce reliable and swiftly available information; and
- Implement the decisions made by management and by persons acting on its authority and under its responsibility and ensure compliance with rules governing the PSF's business.

A procedures manual is drafted and contains at least the procedures applying to administrative organization and accounting, plus definitions of positions and related responsibilities.

The accounting management must:

- Identify and record all the transactions undertaken by the entity;
- Explain changes to the accounting balances from one cut-off to the next by tracking flows that have impacted the accounting items;
- Draw up the accounts in accordance with the accounting and valuation rules defined by accounting legislation and applicable CSSF regulations;
- Produce and disclose information on a regular basis to the supervisory authority;
- Keep all accounting documents according to the legal provisions in force;
- Prepare, as applicable, financial statements according to the chart of accounts in force in the shareholder's country of origin with a view to preparing consolidated accounts; and
- Produce reliable management information that is swiftly available to management so that it can closely monitor the entity's financial situation and its compliance with budgetary data. This information will be used as a management control instrument and will be all the more effective if it is based on cost accounting.

4.6. CSSF Circular 98/143 (as amended by CSSF Circulars 04/155 and 22/806) – internal control

This circular is applicable to specialized and support PSF. It has been replaced by CSSF Circular 12/552 for investment firms and recently by CSSF Circular 20/758. However, the concepts, the principles are the same.

This circular presents and develops the principles of adequate internal control applicable to PSF in accordance with Article 17 (2) of the LFS.

To satisfy the following aims:

- The objectives set by the undertaking are achieved.
- Resources are used efficiently and economically.
- Risks are adequately managed, and assets are protected.
- Financial and management information is complete and reliable.
- Laws and regulations as well as in-house policies, plans, rules and procedures are observed.

The circular specifies the respective responsibilities of the entity's board of directors and management and the internal control system to be introduced.

It must comprise three components:

- It must comply with CSSF Circulars 95/120 and 96/126 examined above for specialized and support PSF and CSSF Circular 20/758 for investment firms.
- There must be a system of identifying, measuring, limiting and reporting on the PSF's operational and financial risks.
- There must be an internal audit function to regularly assess internal control.

This internal control system must also include various levels of control set out as follows in the circular:

- Daily controls performed by operating staff.
- Ongoing critical controls performed by people responsible for the administrative processing of operations.
- Controls performed by managerial staff on the activities and duties for which they are directly responsible.
- Controls performed by the internal audit department, which must have a number of characteristics: internal audit must be independent, be conducted on a permanent basis and be described, together with the relevant objectives and, powers within an audit charter. The members of this department must also be objective and have proven professional skills. Lastly, the extent of the audit work may not be restricted, and it must be carried out according to an audit plan containing the audit engagements which give rise to written reports highlighting recommendations.

4.7. CSSF Circular 07/307 (as amended by CSSF Circulars 13/560, 13/568, 14/585 and 23/841) – rules of conduct in the financial sector

This circular, which applies solely to investment firms, defines the organizational requirements and rules of conduct in the financial sector (transposing the Directive on Markets in Financial Instruments (MiFID) 2004/39/EC and Directive 2006/73/EC).

Regarding organizational requirements, chapter 3 of this circular includes the board of directors' responsibility, the authorized management's responsibility and provides further detail about risk management, compliance and internal audit functions.

In October 2013, the European Securities and Markets Authority (ESMA) published the French version of its guidelines on remuneration policies and practices (MiFID). CSSF Circular 14/585 transposes these guidelines into Luxembourg regulation in the form of an annex V of CSSF Circular 07/307.

The rules of conduct are set forth under the following principles:

1. Client categorization (chapter 5)
The MiFID provides for a differentiated application of the rules of conduct depending on the type of client. It draws a distinction between retail clients, professional clients and eligible counterparties.

2. The assessment of whether the service to be provided is suitable for and appropriate to the client (suitability and appropriateness tests) (chapter 6)
Article 37-3 (4) of the LFS and Article 41 (2) of the MiFID Grand-Ducal regulation require that when undertakings provide investment advice or portfolio management services, they must take into account the client's knowledge of and experience in investing, its financial situation and investment objectives so as to recommend suitable investment services and instruments (suitability test).

When the investment service provided is other than investment advice or portfolio management, undertakings must check, in accordance with Article 37-3 (5) of the LFS, whether the client has the necessary experience and knowledge to understand the risks involved in the investment product or service proposed or requested (appropriateness test).

3. Conflicts of interest (chapter 7)
All undertakings must take reasonable measures to detect potential conflicts of interest between their own interests (including those of their managers, employees and any tied agents), on the one hand and, on the other, their duties to each of their clients, and between the diverging interests of two or more of their clients, the undertaking having obligations vis-à-vis each of their clients.

4. Benefits (inducements) (chapter 8)
Article 30 of the MiFID Grand-Ducal regulation provides that, to be acceptable, remuneration, commission or non-monetary benefits paid to or collected by a firm in connection with an investment service must firstly aim to improve the quality of the service provided to the client, and secondly, be disclosed to the same. Furthermore, benefits paid to or collected by an undertaking must not prevent it from fulfilling its obligation to act in the client's best interests.

5. Obligation of best execution (chapter 9)
Article 37-5 of the LFS and Articles 51 to 54 of the MiFID Grand-ducal regulation set forth in detail the reasonable steps to be taken by firms to obtain the best possible result for their clients taking into account price, costs, speed, likelihood of execution and settlement, size, nature or any other consideration relevant to the execution of the order.

6. Client order handling rules (chapter 10)
Undertakings are required to introduce procedures and provisions guaranteeing prompt and fair execution of client orders relative to other client orders or their own trading interests.

7. Information to existing and potential clients (chapter 11)
Superseded CSSF Circular 2000/15 already included an obligation to make adequate disclosure of relevant information in dealings with clients, with the aim of enabling the client to make a well- considered investment decision on an informed basis. The obligations of which the undertakings have to inform their clients are considerably reinforced by the MiFID Law. Thus, all information, including marketing communications, addressed by the undertaking to existing or potential clients, must be fair, clear and not misleading.

8. The need for a written document establishing the rights and duties of the parties (chapter 12)
Under paragraph (7) of Article 37-3 of the LFS, undertakings providing clients with investment services must establish in writing the terms and conditions governing the provision of services and the rights and duties of the parties. They may be incorporated by reference to other documents or legal texts. A framework agreement or the general terms and conditions between the undertaking and the client may, if necessary, fulfill this requirement.

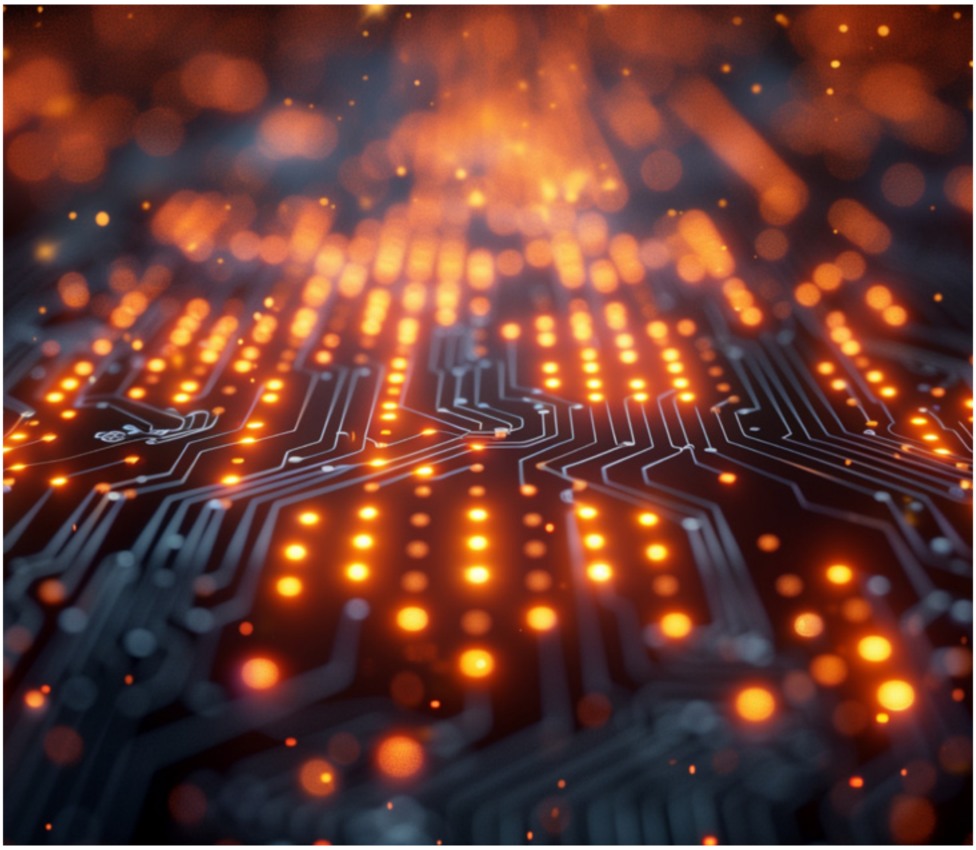
9. Reports to be provided to clients (chapter 13)
The MiFID Law provides that reports on the execution of orders which do not come within the scope of portfolio management (Article 47 of the MiFID Grand-ducal regulation), reports concerning portfolio management (Article 48 of the MiFID Grand- ducal regulation) and statements of clients' financial instruments and funds (Article 50 of the MiFID Grand- ducal regulation) must be sent to clients on a regular basis. The detailed rules concerning information to be sent to clients and the frequency of reports vary depending on the nature of the investment service provided and the client category, i.e., retail or professional.

10. Records to be retained (chapter 14)
Under Article 61 (3) of the MiFID Grand-ducal regulation, the CSSF is responsible for drafting and updating a list of minimum obligations regarding records with which undertakings are required to comply. Account is taken, inter alia, of the terms of Article 37-1 (6) of the LFS requiring that undertakings keep a record of any service they have provided and of any transaction they have executed to enable the CSSF to monitor their compliance with all obligations arising under MiFID, namely their obligations towards their clients.

11. Rules applicable in specific competitive situations (chapter 15)
The undertaking must refrain from taking or from attempting to take clients from a competitor using methods contrary to fair competition practices. It must not, in particular, seek to receive and use for this purpose any confidential information about a competitor's clients that is available to a member of its staff previously employed by the competitor. It shall also ensure that employees do not make any active use of such information for the same purpose.

4.8. CSSF Circular 07/290 (as amended by CSSF Circulars 10/451, 10/483, 10/497 and 13/568) - definition of capital adequacy ratio

CSSF Circular 07/290 as amended by CSSF Circulars 10/451, 10/483, 10/497 and 13/568 applies solely to investment firms, excluding all enterprises only authorized to provide investment advisory services and/ or receive and communicate orders from investors without holding any funds



and/ or securities of their clients. It defines a capital adequacy ratio, seeking to ensure that investment firms have sufficient capital with regard to credit, dilution, operational and foreign exchange risks, risks of basic product price fluctuations and portfolio risks.

The capital adequacy ratio is the ratio between eligible capital and the global capital required to cover the different types of risks. Investment firms must have sufficient capital at all times to cover their global capital requirement on an individual basis and, as applicable, on a consolidated basis. Eligible capital forming the numerator of the ratio includes tier-1 capital, tier-2 capital, and tier-3 capital.

4.9. CSSF Circulars 01/28, 01/29, 01/47 and 02/65 - concerning domiciliation

In the context of the modified Law of 31 May 1999 governing domiciliation of companies, these four CSSF circulars address various aspects of the domiciliation activity in Luxembourg.

CSSF Circular 01/28 stipulates the persons and companies authorized to operate as corporate domiciliation agents.

CSSF Circular 01/29 lists the minimum content of a corporate domiciliation agreement.

CSSF Circular 01/47 defines the professional duties applying prior to and after entering into a domiciliation agreement for corporate domiciliation agents subject to CSSF supervision. It also provides general guidelines for domiciliation agents encountering conflict of interest situations.

Lastly, CSSF Circular 02/65 provides further detail to the modified Law of 1999 as regards the notion of registered office.

4.10. CSSF Circular 10/437 - guidelines concerning compensation policies in the financial sector

This circular aim to improve the way financial institutions take, manage and control risks, by defining guidelines namely on the structure of compensation and the process of preparing and implementing compensation policies.

From this perspective, CSSF Circular 10/437 stipulates the scope of application, the exclusions, the structure of the compensation policy, and the disclosure, monitoring and entry into effect of the guidelines.

4.11. CSSF Circular 24/850 (replacing CSSF Circular 12/544) - optimizing the supervision of support PSF with a risk-based approach

The new circular 24/850 is repealing the CSSF circular 12/544 and 19/727, replacing the risk assessment report (RAR) by the self-assessment questionnaire (SAQ) and simplifying the descriptive report (DR) to be provided on an annual basis by Support PSF.

Under the new circular, the *réviseur d'entreprises agréés* will prepare:

1. A separate report according to a model provided by the CSSF for each year/period, and based on the self-assessment questionnaire (SAQ) submitted by the support PSF.

2. A management letter, which will be limited to statutory audit.

The above-mentioned requirements and regulatory framework are applicable for the first time for financial years closing on 31 December 2023, or after 31 December 2023.

4.12. CSSF Circular 18/698 – relating to investment fund managers incorporated under Luxembourg law

This circular applies to investment fund managers (IFMs) under Luxembourg law and sets out the specific anti-money laundering and terrorist financing provisions applicable to IFMs and entities exercising the function of registrar agent.

The important points of this circular are:

- A list of all important definitions, such as “delegate” and “key functions”.
- The conditions for obtaining and maintaining approval for an IFM.
- The organization of the IFM with the conditions of exercise for the members of the IFM governing body (1,900 hours and 20 mandates maximum per year).
- The system of central administration and internal governance, with the requirements in terms of organization, procedures, and reporting.
- The specific organizational arrangements including the framework and limits of the delegation.
- The conditions for obtaining and maintaining the approval of IFMs that have UCI management activities.

Any new IFM must, as part of the approval file, be submitted to the CSSF, include a risk management procedure (RMP) in accordance with the appropriate framework. Next, an update must be communicated to the CSSF at least once a year within five months of the end of the IFM financial year.

4.13. CSSF Circular 20/750 (as amended by CSSF Circular 22/828) – relating to requirements regarding information and communication technology (ICT) and security risk management

This circular implements in Luxembourg the EBA Guidelines on ICT and security risk management (EBA/GL/2019/04, “the guidelines”). The guidelines establish the requirements for credit institutions, investment firms, payment institutions and electronic money institutions to mitigate and manage their ICT risks, aiming to ensure a consistent and robust approach across all EU Member States. However, the circular extends the scope of the guidelines to include all PSF. The guidelines give financial institutions a better understanding of the supervisory expectations for risk management, covering areas such as ICT governance and strategy, ICT risk management frameworks, information security, ICT operations management, ICT project and change management, and business continuity management. The guidelines are principle- based and flexible enough to be applied to all the sector’s relevant institutions.

4.14. Law of 10 July 2020 establishing a register of fiducies and trusts and Law of 13 January 2019 on the register of beneficial owners (the “RBE Law”)

These laws dated January 2019 and July 2020 implement the transparency requirements of European regulations on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing.

Under Directive 2018/843 of the European Parliament and the Council of 30 May 2018 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (the Fifth AML Directive), Member States are required to maintain inter-connected and publicly available national ultimate beneficial owner (UBO) registries. Following the adoption of the Law of 13 January 2019 (the “RBE Law”) establishing a register of beneficial owners of Luxembourg entities, Luxembourg is fully transposing the Fifth AML Directive into national law by establishing a register of fiducies and trusts (the “RFT Law”). The RFT Law repeals the Law of 10 August 2018 on the information that Luxembourg fiducies must obtain and hold, as its relevant provisions have been directly incorporated into the RFT Law.

The law has several components:

- **Obliged entities:** all fiducies (including foreign) and express trusts for which a fiduciaire or a trustee is established or domiciled in Luxembourg, as well as all fiducies and express trusts for which the fiduciaire or trustee is established in a third country, where the fiduciaire or trustee enters into a business relationship in Luxembourg with a professional subject to the AML Law of 12 November 2004.
- **Obligation for trustees and fiduciaires to obtain and keep data relating to beneficial owners:** trusts or fiducies will need to be transparent about all the parties involved in these particular structures, including the person who set up the fiducies/ trust, the fiduciaire/trustee, and the beneficiaries that the assets belong to. Failing to comply with the new law could lead to fines of up to €1.250 million. Trusts/fiducies can apply for exemptions if the beneficiaries are at risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or if the beneficial owner is a minor or legally incapable.
- **Administration of the register of fiducies and trusts:** the Administration of Registration, Domains and VAT

(AED) will oversee the register wherein the trustees and fiduciaries will have to enter certain information they are obliged to collect.

- **Access to the register of fiducies and trusts:** in principle, access to the register will be reserved for national authorities; self-regulatory bodies exercising their supervisory role in the fight against money laundering and the financing of terrorism; and for professionals in the context of applying customer due diligence measures. However, the law leaves the door open to any natural or legal person who demonstrates a legitimate interest in the prevention of the use of the financial system for the purpose of money laundering or terrorist financing.
- **Cooperation:** the Financial Intelligence Unit (FIU), supervisory authorities, and self-regulatory bodies will be able to cooperate closely and exchange any information obtained, which is necessary to fulfill their respective missions in the fight against money laundering and the financing of terrorism. In addition, the supervisory authorities will be able to cooperate with their foreign counterpart authorities.

4.15. CSSF Circular 20/743 - on the provision in Luxembourg of investment services or performance of investment activities and ancillary services

The circular is an amendment of CSSF Circular 19/716, which specifies the concept of services provided "in Luxembourg". In this matter, the circular clarifies the procedure that third-country firms must comply with in order to benefit from the regime laid down in Article 32-1 of the LFS, after which third-country investment firms may benefit from the free provision of services and EU passporting in Luxembourg.

If one of the following conditions is met, the CSSF considers the investment service as provided in Luxembourg:

- The third-country firm has an establishment (e.g., a branch) in Luxembourg;
- The third-country firm provides an investment service to a retail client established or situated in Luxembourg; or
- The place at which the "characteristic service" is supplied, i.e., the essential service for which payment is due, is in Luxembourg.

4.16. CSSF Circular 20/750 (amended by CSSF Circular 22/828) - requirements regarding information and communication technology (ICT) and security risk management

This circular implements in Luxembourg the EBA Guidelines on ICT and security risk management (EBA/GL/2019/04, "the guidelines").

The guidelines establish the requirements for credit institutions, investment firms, payment institutions and electronic money institutions to mitigate and manage their ICT risks, aiming to ensure a consistent and robust approach across all EU Member States. However, the circular extends the scope of the guidelines to include all PSF.

The guidelines give financial institutions a better understanding of the supervisory expectations for risk management, covering areas such as ICT governance and strategy, ICT risk management frameworks, information security, ICT operations management, ICT project and change management, and business continuity management. The guidelines are principle-based and flexible enough to be applied to all the sector's relevant institutions.

Key regulatory aspects

Along with implementing the guidelines, the circular:

- Updates the existing CSSF Circular 12/552 (replaced by the CSSF Circular 20/758 for investment firms from 1 January 2021) to align it with the guidelines; and
- Repeals CSSF Circular 19/713, which implemented EBA/GL/2017/17.

The new CSSF Circular 22/828, published in December 2022, amends the additional requirements for payment service providers (PSPs), which are required to provide an up-to-date and exhaustive risk assessment to the CSSF annually.

The CSSF has developed a standardized PSP ICT assessment form to be used by all PSPs. The aim is to explain the CSSF's data expectations regarding these PSP ICT assessments to improve their harmonization and comparability.

All PSPs must submit the completed PSP ICT assessment form to the CSSF no later than 31 March each year, which covers the previous calendar year.

4.17. CSSF Circular 22/806 on outsourcing arrangements

CSSF Circular 22/806 ("The Circular"), which amends and expands the scope of CSSF Circular 20/758, created a harmonized set of provisions that apply to all entities under CSSF supervision and cover all types of outsourcing.

The Circular includes both business process outsourcing and ICT outsourcing, and several circulars regarding ICT outsourcing legislations will be either repealed (13/554, 15/611, 17/654 and 21/785) or amended (12/552 and 18/698). The Circular's extended scope includes a wide range of entities, such as:

- PSF, including branches;[18]
- Credit institutions, including branches;[18]
- Investment firms, including branches;[18]
- Payment institutions and electronic money institutions, including branches; and[18]
- POST Luxembourg, governed by the Law of 15 December 2000 on postal financial services.

In addition, the Circular includes the following entities **if they perform ICT outsourcing:**

- Investment fund managers (IFMs) within the meaning of CSSF Circular 18/698.
- Undertakings for collective investment in transferable securities subject to Part I (UCITS).
- Central counterparties (CCPs).
- Approved publication arrangements (APAs) with a derogation and authorized reporting mechanisms (ARMs).
- Market operators operating a trading venue within the meaning of the LFS.
- Central securities depositories (CSDs).
- Administrators of critical benchmarks within the meaning of point (25) of Article 3(1) of the Benchmark Regulation.

The Circular became effective on 30 June 2022 for all outsourcing agreements entered, reviewed, or amended after this date. For all existing arrangements, entities had until 31 December 2022 to review and comply with the Circular's requirements.

To comply with the Circular, entities can choose to apply the proportionality principle and tailor the Circular's internal governance, central administration, and risk management requirements proportionally to the entity's size, nature, risk assessment and complexity. The entity's management must document and approve this decision.

Key changes

The Circular introduces several noteworthy changes in addressing the risks of outsourcing activities to third parties.

- Financial institutions must establish appropriate due diligence and risk management procedures when engaging third-party service providers. This ensures outsourcing risks are adequately identified, assessed and mitigated.
- The Circular substitutes the concept of "materiality" with "critical or important function," to align with the terminology of the Markets in Financial Instruments Directive (MiFID II) and the Payment Services Directive (PSD2). Entities must assess their functions' criticality or importance according to specific criteria.
- Entities in scope must ensure their outsourcing register covers the requirements of section 4.2.3 of the Circular, and include information on the outsourcing agreements that follows the requirements of section 4.2.7.
- Another change is regarding notifications. Entities must inform the CSSF of every new critical outsourced activity at least three months before the outsourcing becomes effective and one month before the outsourcing becomes effective to regulated Luxembourg PSF.
- Finally, while CSSF Circular 17/654 on Cloud Computing has been repealed, its major principles have been incorporated into the Circular and remain the same, including the need to identify a cloud officer and a resource operator.

18. The Circular also applies, to some extent, to branches of legal entities whose main offices are located in different EU Member States.

The EU's digital asset regulations

Thibault Chollet
Partner in Operations and Digital Transformation

Laurent Collet
Partner in Strategy and Operations Services

Giulia Pescatore
Senior Manager in Strategy and Innovation

The Digital Finance Package

The EU is expanding its regulatory landscape with its digital finance package. Launched by the European Commission, this comprehensive framework aims to promote responsible innovation, ensure a harmonized market for digital assets, and provide clear guidelines across Member States.

The package's primary goals include:

- Harmonizing regulations: by standardizing the rules across all EU Member States, the package simplifies compliance for businesses operating within the single market.
- Promoting innovation: the framework encourages responsible innovation and competition in the EU's financial services sector.
- Enhancing security: its measures aim to mitigate risks and protect market integrity, ultimately benefiting both consumers and businesses.

Two cornerstones of this package are:

- Regulation (EU) 2023/1114, or the Markets in Crypto-Assets (MiCA) Regulation; and
- Regulation (EU) 2022/858, or the Distributed Ledger Technology (DLT) Pilot Regime.

Both regulations contribute to a broader strategy to harness DLT's potential in the financial sector, enabling the safe and regulated adoption of DLT-based assets and technologies to enhance financial markets' efficiency and transparency. By providing structured frameworks, these initiatives ensure that innovations like crypto-assets and DLT can be explored and implemented without compromising market integrity or investor protection.

It is important to note that MiCA and the DLT Pilot Regime cover different sets of assets, with the former focusing on crypto-assets and the latter mainly covering traditional financial instruments like stocks and bonds. In their DLT-based form, these tokenized financial instruments retain their MiFID II regulatory classification and obligations, ensuring continuity in their legal and regulatory treatment.

MiCA

On 9 June 2023, the EU's Official Journal published MiCA, marking an important development for European cryptocurrency markets. This groundbreaking European initiative contrasts sharply with the largely unregulated and unstandardized global cryptocurrency market.

MiCA's overarching purpose is to address risks regarding consumer protection, financial stability and market integrity while fostering innovation in the DLT and crypto space. It provides specific rules for both crypto-asset issuers and crypto-asset service providers (CASPs).

For issuers, MiCA specifies several key requirements:

- Disclosure: issuers must provide a comprehensive white paper detailing the crypto-asset offering and its project objectives, rights and obligations, and associated risks. This ensures that investors have clear and accurate information to make informed decisions.
- Authorization and registration: significant crypto-assets, such as stablecoins, require issuers to obtain authorization by demonstrating compliance with operational, governance and capital requirements.
- Ongoing obligations: issuers must maintain robust operational procedures, governance frameworks, risk management processes, and sufficient capital reserves. Regular updates and reports to regulatory authorities are mandatory for transparency and compliance.

For CASPs, MiCA establishes a licensing regime to standardize operations across the EU. Entities performing certain activities are categorized as CASPs, thereby falling under MiCA's scope. These activities include:

- Facilitating the buying and selling of crypto-assets by providing a marketplace for trades (i.e., trading platforms);
- Offering custody services to safeguard users' crypto-assets (i.e., custodian wallet providers);

- Exchanging crypto-assets to fiat currency or other crypto-assets;
- Acting as intermediaries to execute trading orders on behalf of clients;
- Assisting in crypto-asset placement and distribution;
- Providing advisory services regarding investments in crypto-assets;
- Managing portfolios containing crypto-assets on behalf of clients; and
- Facilitating the transfer of crypto-assets between wallets.

To operate within the EU, CASPs must obtain authorization from national competent authorities by meeting specific criteria, such as:

- Operational and security standards: CASPs must implement robust internal controls, IT systems and cybersecurity measures to protect client assets and data. This includes ensuring the integrity and security of trading platforms and safeguarding against fraud and cyber-attacks.
- Conduct of business rules: CASPs must adhere to high standards of conduct, including treating customers fairly, providing clear and accurate information, and managing conflicts of interest. They must also ensure their clients' funds and assets are properly segregated from their own to avoid misuse.
- AML and counter-terrorist financing (CTF) compliance: CASPs must implement comprehensive AML and CTF procedures, including customer due diligence, transaction monitoring, and reporting suspicious activities to the relevant authorities. This helps protect the crypto-asset market from being used for illicit purposes.

While MiCA excludes decentralized projects like bitcoin with no clear issuer, CASPs dealing with these assets are treated as issuers. Most unique non-fungible tokens (NFTs) are not covered, such as digital art and music, but identical NFTs will be regulated.

As a regulation, MiCA has applied directly in each EU Member State since 30 December 2024, without the need for national adoption.

DLT Pilot Regime

Enacted on 30 May 2022, the DLT Pilot Regime allows market infrastructures to use DLT for trading and settling securities transactions.

The regulation aims to reduce regulatory uncertainty and test the benefits of DLT in financial services, informing potential future rules on trading and settling financial instruments on DLT.

The DLT Pilot Regime became effective on 23 March 2023, and was implemented in Luxembourg through the Law of 15 March 2023 (the "DLT Law". The DLT Law also amended existing legislation, such as:

- The LFS;
- The Law of 5 August 2005 on financial collateral arrangements; and
- The MiFID II law.

The DLT Pilot Regime applies to DLT-based financial instruments as defined by MiFID II, which must be issued, recorded, transferred and stored using DLT. It introduces three new types of DLT market infrastructures:

1. DLT multilateral trading facilities (DLT MTFs), which are MiFID trading venues where operators require a MiFID II license;
2. DLT settlement systems (DLT SSs), which are used for post-trade activities, including clearing and settlement, where operators require a license under the Central Securities Depository Regulation (CSDR); and
3. DLT trading and settlement systems (DLT TSSs), which combine the DLT MTF and DLT SS services.

To operate a DLT MTF, DLT SS or DLT TSS, market participants must submit an authorization request to their Member State's competent authority, including:

- Business types and organizational structure;
- Description of the DLT used;
- Proof of sufficient guarantees for commitments and customer indemnification; and
- Transition strategy.

The authorization is provisional, lasting up to six years, and is only valid for the duration of the pilot regime.

To support trading and settlement using DLT, the regulation offers certain exemptions from MiFID II, MiFIR and CSDR obligations deemed too restrictive, such as:

- Operators of DLT MTFs can apply for an exemption from MiFIR's Article 26 requirements on transaction reporting.
- Investors can be admitted to DLT MTFs and DLT SSs without an intermediary, including natural persons.
- Transactions can be settled using DLT-based payment systems, such as e-money tokens, instead of cash settlement.
- Securities traded on DLT MTFs do not need to be recorded with a CSD.

However, certain thresholds must be respected for financial instruments using the DLT market:

- Financial instruments traded or registered on DLT platforms should not exceed €6 billion at admission or registration, and if the market value exceeds €9 billion, an exit transition strategy must be activated.
- Shares: market cap/tentative market of less than €500 million.
- Bonds: less than €1 billion, with derivative-linked bonds excluded.
- Corporate bonds: €200 million.
- Units of UCITS: less than €500 million.

In March 2026, ESMA will evaluate the results of the DLT Pilot Regime and report to the European Commission. This may lead to the regime becoming permanent and extended to other financial instruments.

DAC8 Directive

On 17 October 2023, the approval of Directive 2023/2226/EU (the eighth Directive on Administrative Cooperation, or "DAC8") ushered in a crucial development in European financial regulation, aiming to improve collaboration between national tax authorities across the EU. To tackle tax fraud and evasion, DAC8 supports tax authorities in tracking the exchange of crypto-assets and the resulting earnings.

DAC8 was finalized and published in the Official Journal of the EU in October 2023. Member States have until 31 December 2025 to implement these changes, with most applying from 1 January 2026 and the first reports due by 31 January 2027.

Key elements of DAC8

All CASPs must ensure thorough compliance with reporting obligations to maintain transparency, register in an EU Member State, and report their activities. Reportable crypto-assets include those used for payments or investments, such as asset-referenced tokens (ARTs) and certain NFTs.

To ensure comprehensive oversight and adherence to regulatory standards, CASPs will need to collect and verify detailed information about users for their reports, including:

- Jurisdiction(s) of residence;
- Date and place of birth for individuals;
- Identification data for legal entities;
- Aggregate gross amounts paid and received;
- Fair market value (FMV) of crypto-assets held as of 31 December; and
- Due diligence and sanction processes.

Under DAC8, the automatic exchange of data now covers advance tax rulings for high-net-worth individuals (HNWIs) to reduce tax evasion and fraud. Its enhancements include increased reporting requirements for tax identification numbers (TINs) and updated penalties for non-compliance with reporting obligations.

Due diligence procedures must be executed by 31 December of the reportable period, either by the platform operator or an outsourced third-party service provider. The data must then be reported to tax administrations and shared with reportable sellers by 31 January N+1.

Non-compliance

Non-compliance can lead to reputational damage and operational difficulties, such as increased scrutiny from tax authorities and disruptions to business activities.

Significant fines will be imposed for non-compliance. While each Member State determines specific penalties, fines could reach up to €250,000 per infraction as seen with DAC6 and DAC7.

To enhance the framework's effectiveness, national tax authorities will collaboratively enforce sanctions across EU Member States.

What does this mean for PSF?

- **Investment firms**

Investment firms licensed under Articles 24.1 to 24.9 of the LFS must navigate regulatory requirements for both crypto-assets under MiCA and tokenized financial instruments under MiFID II and the DLT Pilot Regime. Each license type faces specific implications to ensure compliance with both sets of regulatory initiatives.

Investment firms providing investment advice and portfolio management for tokenized financial instruments must meet the same regulatory requirements as those for traditional financial instruments under MiFID II. However, if they provide these services for crypto-assets, they must obtain a CASP authorization under MiCA.

For investment firms receiving and transmitting orders and executing orders on behalf of clients, if the underlying assets are tokenized financial instruments, they are subject to MiFID II. However, if they provide these services for crypto-assets, they must obtain CASP authorization under MiCA.

For trading-related services, such as operating an MTF, it depends on whether PSF enable the exchange of crypto-assets or the trading of tokenized financial instruments. While the respective CASP authorization applies for crypto-assets, for financial instruments, PSFs are subject to MiFID II. In addition, they can leverage the DLT Pilot Regime to benefit from exemptions. To do so, they can apply for DLT MTF authorization, or opt for a DLT TSS license if they want to perform post-trade services like clearing and settlement.

- **Specialized PSF**
    - **Central administrations**

MiCA will empower central administrations to assist clients, such as funds, in managing and valuing crypto-assets within their portfolios. They can collaborate with clients to incorporate crypto-assets into investment strategies, oversee the wallets containing these assets, offer valuation and risk management services, and ensure adherence to regulatory standards.

With issuances of tokenized financial instruments increasing, central administrations can also offer these services for securities issuers, such as tokenized bonds, money-market funds and private equity.

- - **Custodian and depositary banks**

Operationally, the custody of DLT-based assets is significantly different from traditional assets. This offers custodian and depository banks a significant opportunity to store and safekeep both crypto-assets and tokenized financial instruments.

The regulatory regime is significantly different for each asset type. MiCA mandates wide-ranging requirements for crypto-asset custodians, as well as a specific authorization as a CASP. In comparison, tokenized financial instruments are subject to MiFID, where no DLT-specific requirements exist.

5 Hot topics and regulations impacting PSF

5.1. ESG impact on the PSF regulatory landscape

While climate change and sustainability were once strictly confined to corporations' corporate social responsibility agendas, in recent years, they have become essential regulatory topics in Luxembourg and globally.

Sustainability is the focal point of a growing number of norms and directives impacting all financial sector players, requiring firms to integrate ESG risks into their business model and risk appetite.

This section summarizes the main sustainability regulations that apply to PSF.

1. Capital Requirements Directives (CRD) IV, V and VI, and Capital Requirements Regulations (CRR) I, II and III

The Capital Requirements package—Directive 2013/36/EU (CRD IV) and Regulation EU N° 575/2013 (CRR)— entered into force on 16 April 2013, and became law after its publication in the Official Journal of the European Union on 27 June 2013. While mainly designed for banks, the package also applied to investment firms.

While CRD IV aimed to implement the Basel III capital accords, it did not completely conform to Basel III. This is because Basel III is a set of internationally agreed standards promoted by supervisors and central banks, which needed to be transposed and adapted to EU and national laws.

CRD IV covered the prudential supervision of credit institutions by national authorities and detailed their supervisory powers and related tools. It also replaced the former CRDs, 2006/48/EC and 2006/49/EC.

The CRD IV imposed:

- A "bonus cap" of 100% of staff members' fixed remuneration, to prevent entities from granting higher bonuses to staff to encourage them to take excessive risks. The bonus cap can be raised to 200% with shareholder approval, or with the approval of 75% of the shareholders present if the approval quorum could not be reached;
- Regulations for staff members earning more than €1 million per year to boost transparency;
- Requirements to ensure supervisors' effective risk management and risk monitoring;
- Rules to ensure the diversity of board members (but no gender quota) to reduce the risk of groupthink and improve the board's risk oversight;
- The disclosure of information regarding entities' profits, taxes and subsidies on a country-by-country basis; and
- Requirements to reduce credit institutions' reliance on external credit ratings by incorporating new internal rating-based approaches (IRB).
- CRD IV also imposed rules regarding additional capital to be held by credit institutions:
  - Basel III Pillar Two, which allows national supervisors to introduce several measures—including additional capital requirements—to deal with higher- than-normal risk.
  - CRD IV introduced two capital buffers:
    - The capital conservation buffer, which is equal to 2.5% of institutions' risk-weighted assets to allow organizations to overcome losses incurred in more than one year; and
    - The countercyclical capital buffer, which is set by the Member State's authority. This buffer should be between 0% and 2.5% of institutions' risk-weighted assets, collected during high credit growth, and released during downturns to minimize their impact.

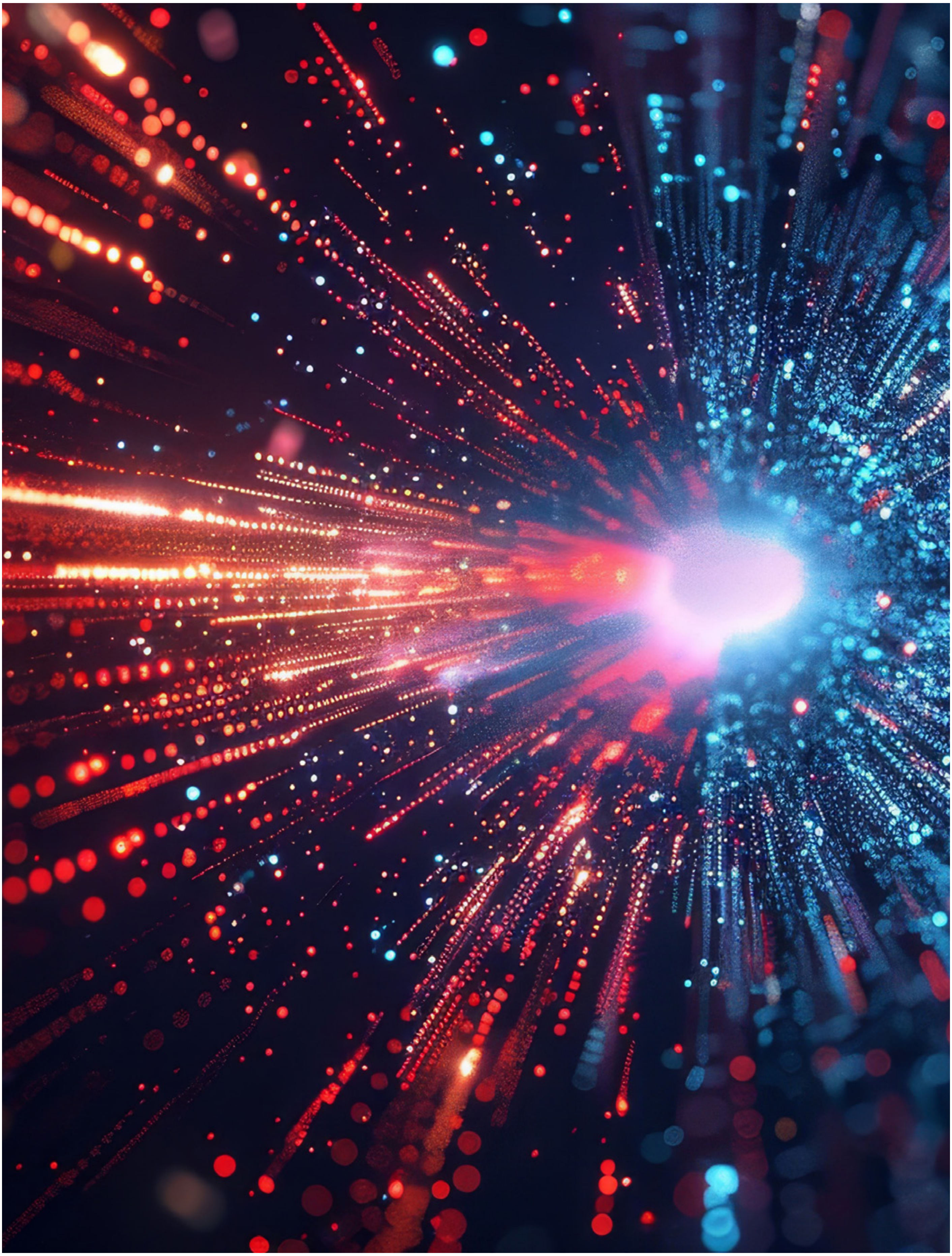
On 7 June 2019, a reform package was issued to further improve EU credit institutions' resilience, implementing Regulation (EU) No 2019/876 (CRR II) and Directive (EU) 2019/878 (CRD V) of the European Parliament and of the Council.

CRD V and CRR II amended the previous directive and regulation to improve entities' ability to bear risks. They strengthened entities' solvency, liquidity positions and risk management to better absorb economic shocks, while allowing entities to continue their operations and activities. They also introduced new rules regarding exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers, and capital conservation measures.

CRD V further amended CRD IV to establish a new proportionate and risk- based European prudential framework for investment firms.

On 27 October 2021, the European Commission published a legislative proposal to implement the December 2017 Basel III reforms (Basel IV), which included CRD VI and CRR III (the "banking package"). On 27 June 2023, the Council of the EU and the European Parliament reached a provisional agreement on these amendments.

On 19 June 2024, the new banking package was published in the Official Journal of the European Union, updating CRD IV and CRR.



The banking package incorporates the remaining elements of the Basel III regulatory reforms, including the output floor, credit risk, market risk, and operational risk. It also introduces updates in non-Basel areas, such as fit and proper rules, third-country branches, and ESG risks.

As part of the package, the EBA has been assigned around 140 mandates to develop new regulatory products, including implementing technical standards (ITS), regulatory technical standards (RTS) and guidelines. These aim to strengthen the supervisory framework, provide clarity to the industry and ensure fair competition.

CRR III and CRD VI entered into force on 9 July 2024. CRR III has mostly applied since 1 January 2025; however, some of its provisions have applied since 9 July 2024, while others will be phased in over the next few years.

The European Commission has announced that the market risk rules and the Fundamental Review of the Trading Book (FRTB) will apply from 1 January 2026. CRD VI must be transposed into national law by 10 January 2026 and will be effective from 11 January 2026, except for its third-country branch provisions, which will apply from 11 January 2027.

2. EU Taxonomy

Regulation EU No. 2020/852 (the "EU Taxonomy") was created to help the EU meet its European Green Deal objectives and climate and energy targets.

The EU Taxonomy, which has applied since January 2023, is a classification system that defines a list of environmentally sustainable activities. It aims to boost investor security, protect private investors from greenwashing, help companies become more climate friendly, and enable "green" companies to stand out from their competitors and benefit from higher investments.

According to Article 3 of the EU Taxonomy, to be qualified as environmentally sustainable, an economic activity must:

1. Contribute significantly to one or more of the following environmental objectives:
   a. Climate change mitigation;
   b. Climate change adaptation;
   c. Sustainable use and protection of water and marine resources;
   d. Transition to a circular economy;
   e. Pollution prevention and control; and
   f. Protection and restoration of biodiversity;
2. Not significantly harm any of the other environmental objectives;
3. Comply with the minimum safeguards; and
4. Comply with technical screening criteria set out in the EU Taxonomy Delegated Acts.

The European Commission has also published the Commission Delegated Regulation (EU) 2022/1214. This includes, under strict conditions, specific nuclear and gas energy activities in the list of economic activities covered by the EU Taxonomy, alongside specific disclosure requirements for companies related to their activities in the gas and nuclear energy sectors.

On 10 December 2021, the Commission Delegated Regulation (EU) 2021/2178 was published in the Official Journal of the European Union. It specifies the content and presentation of information disclosed by undertakings subject to Article 19a or 29a of Directive 2013/34/EU (the "Accounting Directive") concerning environmentally sustainable economic activities, and the methodology to comply with this disclosure obligation.

The EU Taxonomy applies to:

1. All financial undertakings currently subject to the Corporate Sustainability Reporting Directive (CSRD). The Commission Delegated Regulation (EU) 2021/2178 defines the specific key performance indicators (KPIs) to be reported and the template to be used by the type of financial undertaking. Quantitative and qualitative information should be reported in the management report under the environmental section; and
2. Financial market participants offering financial products classified as Article 8 or Article 9 under the Sustainable Finance Disclosure Regulation (SFDR) and marketed in the EU. The Commission Delegated Regulation (EU) 2023/363 defines the specific KPIs to be reported and the template to be used by type of financial products. Each Article 8 and 9 product should report their EU Taxonomy-aligned commitments in the pre-contractual document and their EU Taxonomy-aligned investments in the periodic report.

On 8 November 2024, the European Commission published a notice on the interpretation and implementation of certain legal provisions of the Disclosures Delegated Act under Article 8 of the EU Taxonomy on the reporting of Taxonomy-eligible and Taxonomy-aligned economic activities and assets.

Implementation timeline for financial undertakings in the scope of CSRD

FY 2024

Reporting on **Taxonomy eligibility and alignment** for:

- Activities on environmental objectives 1 and 2
- Additional activities on specific gas and nuclear energy sectors

Reporting on Taxonomy eligibility for:

- Environmental objectives 3-6

FY 2025

Reporting on **Taxonomy eligibility and alignment** for:

- All environmental objectives
- Additional activities on specific gas and nuclear energy sectors

Environmental objective 1: climate change mitigation
Environmental objective 2: climate change adaptation
Environmental objective 3-6: Sustainable use and protection of water and marine resources / Transition to a circular economy / Pollution prevention and control / Protection and restoration of biodiversity

3. Sustainable Finance Disclosure Regulation (SFDR)

In 2018, the European Commission issued the EU Sustainable Finance Action Plan to promote sustainability in the financial sector, which included the SFDR.

Implemented on 10 March 2021, the SFDR aims to improve transparency in the market for sustainable investment products, prevent greenwashing, and increase transparency around sustainability claims made by financial market players.

It imposes comprehensive sustainability disclosure requirements for a broad range of ESG metrics at both the entity and product levels.

The SFDR applies to:

- Discretionary portfolio management by credit institutions or investment firms;
- Alternative investment funds (AIFs) and undertakings for collective investment in transferable securities (UCITS);
- Insurance-based investment products (IBIPs); and
- Pension products, pension schemes and pan-European personal pension products (PEPPs).

The SFDR's Level 1 requirements, which have applied since March 2021, introduced three new fund categories, as prescribed by its Articles 6, 8 and 9.

- Article 6: funds that do not promote ESG characteristics.
- Article 8: funds that, among others, promote one or more ESG characteristics, given that the companies in which the investments are made implement good governance practices.
- Article 9: funds with sustainable investment objectives.

Additionally, the SFDR Level 1 targets entity disclosures on certain topics, such as the entity's policies regarding principal adverse impacts (PAIs) and related actions. It does not include technical details on calculating and presenting this information, but states the data should be reported on a "comply or explain" basis.

Introduced in January 2022, the SFDR Level 2 focused on detailed entity and product-level disclosure requirements, especially regarding sustainability factors, risks and technical disclosure.

On 6 April 2022, the European Commission published the SFDR's RTS to provide in-scope entities with additional guidance. Applying from 1 January 2023, the SFDR's RTS provided clarification on:

- The mandatory disclosure of SFDR Article 8 and 9 products;
- PAIs and related disclosure obligations (Annex I); and

- Pre-contractual (Annexes II and III) and periodic (Annexes IV and V) reporting templates for SFDR Article 8 and 9 products.

On 14 September 2023, the European Commission launched public and targeted consultations to enable stakeholders to address the SFDR's main shortcomings. Among others, it raised several key questions regarding:

- The SFDR's current requirements;
- Its interaction with other sustainable finance legislation;
- Potential changes to the disclosure requirements for financial market participants; and
- A potential establishment of a categorization system for financial products.

Published in May 2024, the summary report of the consultations confirmed that stakeholders widely supported the SFDR's objectives. However, most respondents highlighted several key limitations of the framework, including:

1. Limited coordination within the wider sustainable finance framework and challenges in how the SFDR interacted with the EU Taxonomy, the CSRD, and the sustainability rules under MiFID II and the Insurance Distribution Directive (IDD).
2. Unclear legal definitions and the necessity to improve the legal clarity of key concepts, such as "sustainable investment" and "transition".
3. Fragmented disclosure requirements for all financial products offered in the EU, and the necessity for the EU to enforce standardized disclosure requirements for all financial products, regardless of their sustainability claims.

These consultations also revealed some consensus points, such as:

- The importance of categories being easily understandable by retail investors;
- The necessity to integrate the transition finance concept with a specific category for products with a transition focus, rather than following a binary "sustainable" versus "non-sustainable" approach; and
- The need for underlying criteria to apply to all types of financial products.

On 18 June 2024, the European Supervisory Authorities (ESAs) also published a joint opinion on the assessment of the SFDR, emphasizing the need for more user-friendly disclosures. The current disclosures are perceived as being overly complex, hindering all investors—but especially retail ones—from making informed decisions.

At the time of writing, legislators have not yet shared an official timeline on the update of the SFDR's RTS stemming from the consultations.

On 21 August 2024, ESMA published its *Guidelines on funds' names using ESG or sustainability-related terms* (the "Guidelines").

By establishing clear criteria for fund names, ESMA aims to prevent the misleading use of ESG terms and ensure investor protection.

The Guidelines apply to UCITS management companies and AIFMs, covering both open-ended and closed-ended funds. To use these terms, funds must have at least 80% of investments that meet environmental and social characteristics or sustainable investment objectives.

The Guidelines also apply exclusion criteria for different terms used in fund names:

- "Environmental", "impact" and "sustainability"-related terms: exclusions according to the rules applicable to Paris-aligned Benchmarks (PAB); and[19]
- "Transition, "social" and "governance"-related terms: exclusions according to the rules applicable to Climate Transition Benchmarks (CTB).[20]

These provisions could impact these funds' strategy and documentation, including marketing communications.

To allow funds time to transition to the new requirements, the Guidelines applied from 21 November 2024 for new funds and from 21 May 2025 for existing funds.

4. MiFID II and ESG amendments

The Markets in Financial Instruments Directive (MiFID), published in November 2007, introduced a comprehensive set of rules for firms that provide investment services and activities linked to financial instruments. It aimed to improve financial markets' fairness, efficiency, and transparency.

MiFID II came into force in January 2018 to strengthen the regulation of securities markets and increase investor protection. Under MiFID II, firms providing investment advice and portfolio management services were required to collect information on their clients' financial objectives, but not their sustainability preferences.

In June 2020, the European Commission published its proposed changes to MiFID II (Delegated Regulation 2021/1253). The amendments incorporated ESG characteristics to reorient investments toward "green" corporations, help realize the EU's net-zero carbon emission goals by 2050, and mitigate the risk of greenwashing. They apply to banks and investment firms that manufacture and distribute MiFID products.

The amendments came into force on 2 August 2022, requiring in-scope organizations to include sustainability risk factors and preferences in their organizational requirements, such as providing staff with appropriate training on sustainability topics and keeping updated records of their clients' sustainability preferences. They should also periodically assess if their products meet sustainability targets.

Additionally, organizations must collect information on their new clients' sustainability preferences and update their existing clients' profiles, while recording any changes in these preferences. Entities must also include sustainability factors in their policies and procedures and their advisory process and portfolio management, while avoiding greenwashing.

The Delegated Regulation 2021/1269 also amended the MiFID II framework for financial product manufacturers, including new product governance requirements that applied from 22 November 2022. It introduced an analysis for financial product manufacturers to consider sustainability-related factors in their target market identification processes.

Additionally, the MiFID amendments require entities to frequently review their financial products to consistently apply sustainability-related objectives and proper product governance arrangements, to ensure their products align with their clients' needs.

On 23 September 2022, ESMA published its *Final Report on Guidelines on certain aspects of the MiFID II suitability requirements* to ensure their uniform and harmonized implementation.

This Final Report is divided into four main sections:

1. **Informing clients about the suitability assessment and its scope:** general guidelines on how to clearly inform clients about the suitability assessment and its purpose.
2. **Know your client and know your product:** guidelines on the necessary arrangements to understand clients' preferences and investment products, the extent of the information to be collected from clients (proportionality), the reliability and update of client information, and requirements for legal entities or groups.
3. **Matching clients with suitable products:** guidelines on discussing the necessary arrangements to ensure an investment's suitability, the costs and complexity of equivalent products, and the costs and benefits of switching investments.
4. **Other related requirements:** including clarifications on staff qualifications and record keeping.

19. Exclusions for EU Paris-aligned Benchmarks are listed in Article 12(1)(a)-(g) of the Commission Delegated Regulation (EU) 2020/1818.
20. Exclusions for EU Climate Transition Benchmarks are listed in Article 12(1)(a)-(c) of the Commission Delegated Regulation (EU) 2020/1818.

5. Corporate Sustainability Reporting Directive (CSRD)

The CSRD requires organizations to provide more detailed reporting on sustainability information, placing ESG reporting under similar quality, control and audit obligations as financial reports. The aim is to help investors, consumers and other stakeholders evaluate companies' sustainability performance.

In this context, organizations will need to report sustainable information in their management reports using a machine-readable format, known as digital tagging,[29] and provide limited assurance.

The European Financial Reporting Advisory Group (EFRAG) has developed European Sustainability Reporting Standards (ESRS) for these sustainability statements, which require organizations to:

- Disclose whether they have defined clear ESG targets and their plans to achieve them;
- Perform a double materiality assessment by considering:
  - The impact materiality, meaning the company's impact on people and the environment; and
  - The financial materiality, which considers the financial impact of sustainability issues on the entity; and
- Include qualitative and quantitative sustainability data in their management report, including both forward-looking and a retrospective analysis, with plans for the short, medium, and long-term.

The CSRD applies to all large EU-based corporations, non-EU companies or groups with an annual turnover of more than €150 million generated in an EU Member State in the last two years, and listed small and medium-sized enterprises (SMEs). Companies that meet at least two of the following criteria are in scope of the CSRD:

- €50 million or more of net turnover
- €25 million or more in assets
- More than 250 employees

These criteria bring approximately 50,000 companies in scope of the CSRD, representing three-quarters of the EEA's businesses.

The CSRD's application will be phased in over several years, depending on the company type.

Timeline of CSRD and ESRS implementation

2023

5 January
CSRD entry into force

31 July
Adoption of the first package of ESRS including cross-cutting and topical standards

2024

1 January
Entities already **subject to NFRD** and **other large and listed entities with over 500 employees**

Mandatory limited assurance of reported information begins

2025

1 January
Large EU subsidiaries of non-EU entities and large and listed entities with <500 employees (first reporting in 2026)

2026

1 January
Listed SMEs and **insurance companies and credit institutions** that are SMEs (reporting in 2027)

2027

2028

1 January
Third country companies with net turnover above 150 million in the EU if they have at least one subdiadiary or branch in the EU exceeding certain thresholds

In July 2024, given that some companies had already begun implementing the CSRD to meet the 2024 financial year disclosure requirements, EFRAG published a report covering observed practices and challenges of the early CSRD implementation phase. Key insights and main challenges included:

- The transition towards a more evidence-based double materiality assessment, while qualitative judgment is still predominant at this stage;
- The need for cross-departmental collaboration, as approximately 80% of companies face data retrieval issues; and
- The necessity for standardized ESG reporting processes and additional resources, including IT transformation, to achieve effective reporting.

5.2. Non-performing loans (NPLs): Luxembourg financial reform

On 18 July 2024, the Luxembourg Official Journal published the NPL Law, which transposed the NPL Directive into Luxembourg law.

Luxembourg's new NPL regime introduces a new PSF category—the credit servicer—and significantly amends the LFS.

Application scope

Aligned with the NPL Directive, the NPL Law applies to:

i. Credit purchasers: natural or legal persons purchasing creditor rights under an NPL.
2. Credit servicers: legal entities managing and enforcing creditor rights under an NPL on behalf of credit purchasers.
3. Credit service providers: third parties to whom specific credit servicing activities are outsourced by credit servicers.

In respect of points ii. and iii., credit servicing activities include:

- Collection of payments;
- Renegotiation of credit terms;
- Administration of complaints; and
- Informing borrowers of changes in terms.

The NPL Law applies to transfers of creditor rights under NPLs issued by EU credit institutions. However, as per the Luxembourg Consumer Code, it excludes activities performed by credit institutions and certain investment managers.

When a Luxembourg creditor transfers or assigns an NPL to a credit purchaser outside the EU, the purchaser must designate a representative based in an EU Member State.

This representative is fully responsible for ensuring the credit purchaser complies with the NPL Law. Before the transfer or assignment is completed, the transferring creditor must confirm a representative has been appointed, otherwise the transfer or assignment cannot proceed.

The CSSF will communicate with this EU-based representative for all compliance matters regarding the NPL Law, either alongside or instead of the credit purchaser.

Credit servicers as a specialized PSF

The NPL Law also introduces a harmonized licensing regime for credit servicers. These entities are now recognized as specialized PSF under the LFS, and require CSSF authorization and regulation.

To register as credit servicers under the CSSF, entities must meet the following criteria:

- Capital requirements: a minimum capital of €75,000, or €150,000 if authorized to receive and hold funds.
- Corporate governance: at least two directors, robust internal controls, compliance mechanisms, and borrower protection measures.

Under Article 9 of the NPL Law, credit servicers must also keep records of all relevant correspondence, instructions, and agreements for five to 10 years post-termination.
They must act in good faith, respect borrower privacy, avoid coercion, and provide clear information. This applies to both credit servicers and purchasers involved in servicing activities.

Under Article 7 of the NPL Law, credit servicers PSF can outsource certain activities to credit service providers, subject to written agreement and CSSF notification. However, servicers retain full responsibility for compliance.

Credit servicers with CSSF authorization can operate across the EU without additional licenses. Likewise, those authorized in other EU countries can provide services in Luxembourg, subject to notification.

Although credit purchasers do not require CSSF authorization, they must appoint authorized credit servicers or equivalent entities for NPLs involving consumers. Non-EU purchasers must designate an EU representative, which must also be communicated to the CSSF.

Under Articles 10 and 11 of the NPL Law, credit purchasers and institutions must report their NPL transactions to the CSSF every six months, including purchaser identities, outstanding balances, and transaction details. Credit institutions must also disclose transfer details to potential purchasers before any contract.

The NPL Law in Luxembourg marks a significant step towards enhanced financial stability in the EU. By implementing stringent regulatory frameworks and comprehensive management protocols, this legislation aims to effectively manage and reduce NPLs while safeguarding borrower rights and maintaining market integrity.

5.3. Digital Operational Resilience Act (DORA): A comprehensive overview

A significant part of the European Commission's digital finance package, DORA aims to bolster the resilience of the EU financial sector against digital risks and disruptions.

Regulatory background

The European Commission submitted the DORA proposal in late 2020. It underwent several phases of approval, including a favorable vote from the European Parliament on 10 November 2022 and final adoption by the Council of the EU on 28 November 2022.

DORA was published in the Official Journal of the European Union on 27 December 2022 and came into force on 16 January 2023.

Objectives and scope

DORA's primary objectives are to:

- Mitigate risks stemming from the financial sector's increasing interconnectivity;
- Address the evolving risk profile due to the growing adoption of digital financial services;
- Acknowledge and manage the reliance on third-party providers that underpin the financial sector's stability; and
- Establish a unified supervisory approach to operational resilience across the single market.

We believe DORA will push financial institutions to fully understand how their ICT, operational resilience, cyber and third-party risk management (TPRM) practices affect their critical functions' resilience and develop new operational resilience capabilities, such as advanced scenario testing methods.

After a tight 24-month implementation period, financial institutions have been expected to fully comply with DORA requirements since 17 January 2025. However, the CSSF's Results of the DORA readiness survey, published in October 2024, showed more than 70% of responding entities perceived themselves as not ready or partially ready. These results further confirm that DORA is a very ambitious regulation with a compliance journey going beyond January 2025.

PSF: To be or not to be compliant

While DORA applies to financial entities with licenses defined by European regulations or directives, the PSF sector is a local license ecosystem. This means that DORA only applies (whether directly or indirectly) to certain PSF types.

- Investment firms: DORA applies directly.
- Specialized PSF: DORA does not apply unless the entity has the ARM license.
- Support PSF: DORA applies indirectly to support PSF—specifically those under Article 29.3—as they are ICT service providers. Their DORA requirements will be detailed in their contractual arrangements with financial sector clients.

DORA pillars

DORA is structured around five main pillars:

1. ICT risk management: entities must implement robust ICT risk management frameworks.
2. ICT incident reporting: entities must report major ICT-related incidents.
3. Operational resilience testing: entities must regularly test their digital operational resilience.
4. ICT TPRM: entities must oversee and manage risks posed by ICT third-party providers (TPPs).
5. Information and intelligence sharing: DORA enhances the mechanisms for sharing information related to cyber threats and operational resilience.

ICT risk management requirements: Broadening focus across critical business functions

DORA's ICT risk management framework holds firms' management bodies fully accountable for:

- Managing ICT risks;
- Setting and approving digital operational resilience strategies; and
- Reviewing TPPs' ICT policies.

Competent authorities can impose administrative penalties and remedial measures for compliance breaches, whether on the firm or individually.

Firms must establish risk tolerances for ICT disruptions supported by KPIs and risk metrics. They must identify their critical or important functions (CIFs) and map their assets and dependencies. This requires:

- A broader operational resilience capability;
- A clear definition of risk appetite for disruptions beyond technology failures or cyber incidents; and
- Accurate mapping of connections between ICT assets, processes and systems.

Lastly, the ICT risk management framework should enable measures and processes to identify, prevent and protect against these ICT risks, as well as detect, respond, recover and learn from ICT disruptions.

ICT incident classification and reporting: Enhancements on existing requirements
Aiming to streamline existing EU incident reporting obligations for financial institutions, DORA introduces a new comprehensive classification, notification and reporting framework. This pushes firms to improve their ability to collect, analyze, escalate and disseminate information regarding ICT incidents and cyber threats.

Digital operational resilience testing: New challenging requirements
DORA mandates security and resilience tests on ICT systems and applications for all in-scope firms except microenterprises. These tests should be performed on critical ICT systems at least annually.

Firms must fully address vulnerabilities identified through these tests. Additionally, advanced threat-led penetration testing (TLPT) is required every three years for systemically important and mature firms. This TLPT approach aligns significantly with the European Central Bank's Threat Intelligence-based Ethical Red Teaming (TIBER-EU) framework.

This involves significant planning and mapping to include TPPs supporting CIFs in advanced testing exercises, which are not commonly included in the financial sector's current TLPT exercises.

TPRM: Strengthening the European financial service framework
While DORA's TPRM requirements align with ESA, ESMA, and European Insurance and Occupational Pensions Authority (EIOPA) guidelines, they extend to a broader provider scope beyond ICT or cloud outsourcing. Since January 2025, firms must include specified contractual terms in ICT service contracts, increasing pressure to negotiate these terms with providers where previous attempts have failed.

Critical TPP oversight framework: Pioneering third-party oversight regime
DORA reinforces the ESAs' oversight, subjecting designated critical TPPs to extensive supervisory powers. The ESAs can assess these TPPs, require changes in security practices, and impose sanctions if compliance is not met.

Implementation timeline
In-scope entities have needed to comply with DORA's requirements since 17 January 2025. The ESA has developed common RTS and ITS over the 24 months following DORA's entry into force.

As of December 2024, five RTS and ITS were adopted by the European Commission, and three RTS are yet to be adopted.

Luxembourg developments
In Luxembourg, the CSSF's guidance has set specific expectations regarding DORA compliance. The following CSSF circulars provide specific frameworks and strengthen digital operational risk management:

- CSSF Circular 24/847: ICT-related incident reporting framework.
- CSSF Circular 22/806: Outsourcing arrangements, focusing on ICT cloud/non-cloud outsourcing.
- CSSF Circular 22/811: Monitoring requirements for UCI administrators related to ICT resources and continuity planning.
- CSSF Circular 20/750: ICT and security risk management.

Last but not least, through its support PSF licensing regime, Luxembourg has almost 20 years of experience in critical TPP oversight.

Impact and next steps

DORA will significantly influence how the financial sector perceives operational resilience and highlight financial entities' dependence on their ICT systems and providers.

Entities must involve stakeholders in their compliance journey, such as operations, information security, IT and risk officers. The management body remains responsible for overall compliance and is expected to maintain up-to-date knowledge of ICT risks and their impacts.

Compliance with DORA will require substantial investment in ICT governance, ICT and cyber risk management, and TPRM. In-scope entities must identify and address their capability, resource and expertise shortfalls, as well as focus on areas like ICT risk governance, incident and cyber threat analysis, sophisticated scenario testing, and ICT outsourcing processes.

Having a clear compliance roadmap will be crucial for a smooth transition.

6 Role of the *réviseur d'entreprises agréé* for PSF

6.1. The *réviseur d'entreprises agréé's* mission in relation to investment firms

The role of the *réviseur d'entreprises agréé* regarding investment firms is fully set out in the CSSF Circular 24/853 as amended and the amended CSSF Circular 03/113, and supplemented by CSSF Circulars 13/571 and 21/768.

These circulars define, in general, the role and mission of the réviseur d'entreprises agréé regarding the statutory audit of the annual accounts, and more specifically, they stipulate the subjects that must be analyzed in the analytical audit report.

Report on the annual accounts

The annual accounts must be audited following the International Standards on Auditing (ISAs) published by the International Federation of Accountants (IFAC), adapted or completed as required by national legislation or practices.

The CSSF has significantly updated the Compliance regulatory framework for investment firms.

On 6 February 2024, the CSSF published Circular 24/853 to enhance the Long Form Report's content, objective and scope, aligning the reporting with current supervisory and prudential priorities.

Under the revised approach, investment firms must annually report key aspects of CSSF Circular 20/758 and MiFID through a self-assessment questionnaire (SAQ), which is tailored to their business model's nature, size and complexity.

Additionally, their *réviseur d'entreprises agréé* must issue reports to help the CSSF evaluate the firm's compliance with:

- MiFID;
- Client asset protection under Article 7 of the Grand-Ducal regulation of 30 May 2018; and
- Anti-money laundering and counter-terrorist financing (AML/CFT) laws and regulations.

Revised reporting schedule

The updated LFR requires investment firms to produce the following reports:

1. **SAQ:** this report addresses governance and MiFID topics. Depending on the answers given in the general information section, investment firms may need to complete up to six thematic sections.
2. **Agreed-Upon Procedures (AUP) report:** prepared by the réviseurs d'entreprises agréés, this annual report covers specific MiFID aspects, ensuring comprehensive coverage over a three-year cycle.

   The **first year's** AUP report covers the following topics for a selected list of clients:
   1. Client categorization (nine tests)
   2. Appropriateness and suitability (13 tests)
   3. Need of a written agreement on the parties' rights and obligations (two tests)
   4. Product governance (18 tests)

   The **second year's** report covers the following topics for all clients:
   1. Personal transactions (one test)
   2. Conflicts of interest (six tests)
   3. Inducements (five tests)
   4. Best execution (12 tests)
   5. Record keeping (three tests)
   6. Tied agents (eight tests)

   The **third year's** report covers the following topics:
   1. Complaints handling (one test)
   2. Staff skills, knowledge and expertise (five tests)
   3. Information to clients and potential clients (18 tests)
   4. Reporting to clients (16 tests)
   5. Sustainability-related disclosures (six tests)

   The AUP report follows a risk-based approach designed by the CSSF, where the previous year's reported findings may influence the AUP's scope on a case-by-case basis.
3. **MiFID Report:** this report assesses the reliability of the responses given in the SAQ concerning the protection of financial instruments and funds belonging to clients.
4. **AML/CFT Report:** this report ensures the investment firms' compliance with relevant laws and regulations, such as the AML/CFT Law, Grand-Ducal regulation 2010, and Regulation (EU) 2015/847.

More recently, on 9 January 2025, the CSSF published Circular CSSF 25/870 amending Circular CSSF 24/853 on the revised long form report for investment firms.

By this update, the application of Circular CSSF on the revised long form report of investment firms is extended to all investment firms under Luxembourg Law, including their branches, from the financial year ending December 31, 2024.

However, considering the principle of proportionality, the CSSF introduces a reduced scope of the requirements for the investment firms that are subject to the provisions of Circular CSSF 24/853

for the first time as from the year ending December 31, 2024.

These investment firms (the "Partial Scope IF") are exempted from the requirement to submit the Agreed Upon Procedure (AUP) reports as part of their revised LFR.

This Circular further includes practical rules concerning the self-assessment questionnaire to be submitted by investment firms and the mission and related reports of the réviseurs d'entreprises agréés.

Submission procedures

Investment firms must adhere to precise submission timelines for these reports.

- The SAQ must be transmitted electronically within four months after the financial year ending 31 December 2023, and within three months for subsequent financial years. The firm's authorized management must approve and electronically sign the SAQ before its submission.
- The AUP, MiFID, and AML/CFT reports must be submitted electronically within seven months after the financial year ending 31 December 2023, and within six months for subsequent financial years.

All submissions must be made via the CSSF's eDesk portal, which offers an application programming interface (API) for structured document submissions to ease the filing process.

The revised Compliance Report framework introduced by CSSF Circular 24/853, as amended by CSSF Circular 25/870, underscores the CSSF's commitment to enhancing regulatory compliance through detailed, risk-based reporting mechanisms, significantly increasing the scrutiny of investment firms' governance.

6.2. The *réviseur d'entreprises agréé*'s mission regarding specialized PSF

At the time of writing, there is no circular dedicated to the mission of the *réviseur d'entreprises agréé* regarding specialized PSF.

However, *réviseur d'entreprises agréé* must certify in a compliance report that the specialized PSF complies with professional AML obligations and rules of conduct.

The *réviseur d'entreprises agréé* must also issue a letter of recommendation annually to the board of directors, which should be forwarded to the CSSF. In particular, this letter contains observations regarding compliance with the laws and circulars that apply to the PSF, including:

- Compliance with part II of the LFS and the provisions laid down by CSSF Regulation 12-02 on the fight against money laundering and terrorist financing as amended.
- Article 36-1 of the LFS.
- CSSF Circular 95/120 on central
- administration, as amended by CSSF Circular 22/806.
- CSSF Circular 96/126 on administrative organization and accounting procedures, as amended by CSSF Circular 22/806.
- CSSF Circular 98/143 on internal control, as amended.
- CSSF Circulars 01/47 and 01/29 applicable to company administrators, if relevant.
- CSSF Circular 22/806 on outsourcing arrangements.

Lastly, the réviseur d'entreprises agréé is legally required to promptly report any serious facts discovered during the audit to the CSSF.

6.3. The *réviseur d'entreprises agréé*'s mission regarding support PSF

In January 2024, the CSSF released Circular 24/850 (the "Circular"), which outlined new rules for support PSF and their *réviseur d'entreprises agréé* for submitting the descriptive report (DR) and the annual SAQ.

- Superseding the previous guidelines of CSSF Circulars 12/544 and 19/727, the Circular introduces an annual SAQ for support PSF to submit, replacing the former risk assessment report.
- The Circular provides detailed engagement rules for *réviseur d'entreprises agréé* regarding support PSF statutory audits, introducing a management letter and a separate report on specific testing procedures to be prepared annually.
- These requirements are subject to the proportionality principle and risk-based approach, which apply based on the type of authorization and risk exposure. For certain authorizations under Articles 29-1, 29-2, 29-3, 29-5, and 29-6 of the LFS, different testing procedures are mandated, with some following a CSSF rotation plan.
- The *réviseur d'entreprises agréé* is required by law to promptly report any serious facts discovered during the audit to the CSSF.

The Circular's requirements apply starting from financial years ending on or after 31 December 2023.

7 Accounting requirements

PSF are subject to the accounting principles set forth by the modified Law of 19 December 2002 (title II, chapters II and IV) for the annual accounts and by the modified Law of 10 August 1915 (section XVI) on commercial companies, for consolidated accounts.

The annual accounts must give a true and fair view of the PSF's assets, liabilities and income statement. Furthermore, the presentation of the balance sheet and the income statement may not change from one year to the next.

Under the modified Law of 19 December 2002 (the "Accounting Law"), a Grand-Ducal regulation made with the benefit of an opinion of the *Commission des normes comptables* (CNC) determines the form and content of the layouts of the balance sheet and the profit and loss account.

According to Grand-Ducal regulation of 18 December 2015, the balance sheet is presented as follows:

Assets	Capital, reserves, and liabilities
A. Subscribed capital unpaid **I. Subscribed capital not called** **II. Subscribed capital called but unpaid**	**A Capital and reserve** **I. Subscribed capital** **II. Share premium account** **III. Revaluation reserve** **IV. Reserves** 1. Legal reserve 2. Reserve for own shares 3. Reserves provided for by the articles of association 4. Other reserves, including the fair value reserve a. Other available reserves b. Other non-available reserves **V. Profit or loss brought forward** **VI. Profit or loss for the financial year** **VII. Interim dividends** **VIII. Capital investment subsidies**
B. Formation expenses	**B. Provisions** 1. Provisions for pensions and similar obligations 2. Provisions for taxation 3. Other provisions
C. Fixed assets **I. Intangible fixed assets** 1.Intangible assets 2. Concessions, patents, licenses, trademarks and similar rights and assets if they were: a. acquired for valuable consideration and need not be shown under C.I.3 b. created by the undertaking itself 3. Goodwill, to the extent that it was acquired for valuable consideration 4. Payments on account and intangible fixed assets under development	**C. Creditors** 1. Debenture loans a. Convertible loans: i. becoming due and payable within one year ii. becoming due and payable after more than one year b. Non-convertible loans: i. becoming due and payable within one year ii. becoming due and payable after more than one year 2. Amounts owed to credit institutions: a. becoming due and payable within one year b. becoming due and payable after more than one year

II. Tangible assets

1. Land and buildings
2. Plant and machinery
3. Other fixtures and fittings, tools and equipment
4. Payments on account and tangible assets either under construction or in the course of construction

III. Financial assets

1. Shares in affiliated undertakings
2. Loans to affiliated undertakings
3. Participating interests
4. Loans to undertakings with which the undertaking is linked by virtue of participating interests
5. Investments held as fixed assets
6. Other loans

3. Payments received on account of orders in so far as they are not shown separately as deductions from stocks:
   a. becoming due and payable within one year
   b. becoming due and payable after more than one year
4. Trade creditors:
   a. becoming due and payable within one year
   b. becoming due and payable after more than one year
5. Bills of exchange payable:
   a. becoming due and payable within one year
   b. becoming due and payable after more than one year
6. Amounts owed to affiliated undertakings:
   a. becoming due and payable within one year
   b. becoming due and payable after more than one year
7. Amounts owed to undertakings with which the undertaking is linked by virtue of participating interests:
   a. becoming due and payable within one year
   b. becoming due and payable after more than one year
8. Other creditors
   a. Tax authorities
   b. Social security authorities
   c. Other creditors:
      i) becoming due and payable within one year
      ii) becoming due and payable after more than one year

D. Current assets

I. Stocks

1. Raw materials and consumables
2. Work in progress
3. Finished goods and goods for resale
4. Payments on account

II. Debtors

1. Trade debtors:
   a. becoming due and payable within one year
   b. becoming due and payable after more than one year
2. Amounts owed by affiliated undertakings:
   a. becoming due and payable within one year
   b. becoming due and payable after more than one year
3. Amounts owed by undertakings with which the undertaking is linked by virtue of participating interests:
   a. becoming due and payable within one year
   b. becoming due and payable after more than one year
4. Other debtors:
   a. becoming due and payable within one year
   b. becoming due and payable after more than one year

III. Investments

1. Shares in affiliated undertakings
2. Own shares
3. Other investments

IV. Cash at bank and in hand

D. Deferred income

E. Prepayments

According to Grand-Ducal regulation of 18 December 2015, the profit and loss account is presented as follows:

1. Net turnover

2. Variation in stocks of finished goods and in work in progress

3. Work performed by the undertaking for its own purposes and capitalized

4. Other operating income

5. Raw materials and consumables and other external expenses
   a) Raw materials and consumables
   b) Other external expenses

6. Staff costs
   a) Wages and salaries
   b) Social security costs
      i) Relating to pensions
      ii) Other social security costs
   c) Other staff costs

7. Value adjustments
   a) In respect of formation expenses and of tangible and intangible fixed assets
   b) In respect of current assets

8. Other operating expenses

9. Income from participating interests
   a) Derived from affiliated undertakings
   b) Other income from participating interests

10. Income from other investments and loans forming part of the fixed assets
    a) Derived from affiliated undertakings
    b) Other income not shown under a)

11. Other interest receivable and similar income
    a) Derived from affiliated undertakings
    b) Other interest and similar income

12. Share of profit or loss of undertakings accounted for under the equity method

13. Value adjustments in respect of financial assets and of investments held as current assets

14. Interest payable and similar financial expenses
    a) Concerning affiliated undertakings
    b) Other interests and similar expenses

15. Tax on Profit or loss

16. Profit or loss after taxation

17. Other taxes not shown under items 1 to 16

18. Profit or loss for the financial year

The Accounting Law permits small-size undertakings to draw up abridged balance sheets, profit and loss accounts, and notes to annual accounts.

According to the modified Law of 19 December 2002, the notes to the accounts must contain information concerning in particular:

- The accounting policies and measurement bases applied to the various items of the annual accounts
- The name and registered office of undertakings in which the undertaking, either itself or through a person acting in its own name but on the undertaking's behalf, holds at least 20% of the capital with the percentage of capital held as well as the amount of capital and reserves and the profit/loss of the last year of the undertaking in question for which the accounts have been approved
- The average number of staff employed during the financial year
- The amount owed by the undertaking becoming due and payable after more than five years as well as the undertaking's entire debts secured by collateral on assets furnished by the undertaking with an indication of the nature and form of the collateral
- The name and registered office of the company, which prepares the consolidated accounts of the largest group of companies of which the undertaking is a subsidiary, etc.

The minimum content of the notes to the annual accounts is stipulated in section 8 of the modified law of 19 December 2002.

The law of 30 July 2013 reforming the Commission des Normes Comptables and amending various provisions relating to the accounting and annual accounts of undertakings as well as consolidated accounts of certain forms of companies has introduced requirements for support PSF which are thereby required to comply with the standard chart of accounts (*plan comptable normalisé*). They are no longer exempt and have to file their annual accounts applying the eCDF platform.

The Accounting Law permits small-size undertakings to draw up abridged balance sheets, profit and loss accounts, and abridged notes to annual accounts provided they do not exceed at least two of the three limits mentioned in the Law dated 18 December 2015 (relating to the total balance sheet, the net turnover and the average number of full-time staff employed during the financial year). These options do not apply to undertakings whose securities are admitted to trading on a regulated market of any Member State of the European Union. Please refer to our brochure "Illustrative Annual Accounts in accordance with Luxembourg GAAP" dated November 2020 for more detail.

Support PSF are, since the law of 30 July 2013, required to comply with the standard chart of accounts.

Modernization of Luxembourg's Accounting Law

7.1. The New Law

On 28 July 2023, the Bill of Law no. 8286 (the "New Law") was introduced. It addresses topics regarding accounting, annual financial statements, consolidated financial statements and related reports of undertakings, and abolishes the "commissaire" function.

The New Law is expected to come into effect in the next two years. It aims to:

- Modernize the current Luxembourg Accounting Law (the "Accounting Law") by regrouping accounting provisions currently spread over different texts into one single law;
- Revising certain definitions;
- Providing new accounting and audit requirements; and
- Extending the undertakings in scope of the New Law.

The different laws' accounting provisions consolidated in the New Law include:

- Elements from the Commercial Code (Book I, Title II), which address "bookkeeping and annual inventory";
- The amended 2002 Law, which in its Title II focuses on "annual accounts and related reports"; and
- The amended 1915 Law, which in its Title XVII covers "consolidated accounts and related reports".

It will also incorporate the terminology changes of Directive 2013/34/EU, such as replacing "annual accounts" with "financial statements" and "profit and loss account" with "income statement".

These amendments are aimed at providing greater clarity and integrating established accounting practices.

7.2. Bottom-up approach

The Accounting Law currently follows a "top-down" approach, where the general regulations are designed for large companies, with specific derogations and exemptions provided for SMEs.

The New Law proposes a shift to a bottom-up approach, focusing on small entities as the norm and layering additional obligations for larger entities.

7.3. Introduction of micro-entities and changes for small entities

The New Law introduces a new category of micro-entities with specific exemptions and simplifications, and also raises thresholds for small entities to reduce their administrative burden.

Under certain conditions, **micro entities** may benefit from the following simplifications:

- No disclosure requirement in annual accounts (balance sheet and income statement in an abbreviated format);
- No management report;
- No audit requirement by a *réviseur d'entreprises agréé*; and
- Light publication requirements.

Holding entities, credit institutions/PSF, insurance and reinsurance companies, securitization vehicles and reserved alternative investment funds (RAIFs) are excluded from the micro-enterprise category.

Small-sized entities may benefit from the following simplifications:

- Financial statements to include a balance sheet and an income statement in an abbreviated format, and disclosures;
- No management report;
- No audit requirements by a réviseur d'entreprises agréé for regulated entities; and
- Income statement does not need to be published.

7.4. Introduction of large holding entities

Under the Accounting Law, a holding company only requires an audit if it meets two of the following thresholds for two consecutive financial years:

i. Balance sheet: €4.4 million
ii. Net turnover: €8.8 million
iii. Average number of full-time employees during the financial year: 50.

Given their typically low turnover and small staff, most holding companies do not require statutory audits.

However, the New Law introduces a new category of large holding companies, defined as those with balance sheets exceeding €500 million. These large holding companies will need to have their financial statements audited annually by a réviseur d'entreprises agréé.

Most holding companies will continue to be classified as "small entities" under the New Law.

Thresholds for holding entities

	Holding	"Large Holding"
Total Balance sheet	≤ €500 M	> €500 M
Accounting regime	Small entity*	
Additional disclosure	Information on participations held**	
Audit requirements	No	**Yes**

* *Subject to the review of the 3 criteria (i.e. provided that the holding company is NOT a medium or large company).*
** *Information required (Art 324-4 para. 1 point 7)*

7.5. New requirements for dissolved and liquidated entities

The New Law also clarifies that general accounting principles will continue to apply to companies both before and after dissolution or liquidation.

The annual financial statements of dissolved companies in liquidation, including balance sheets and profit and loss accounts, should be filed with the Luxembourg Trade and Companies Register (RCS) and published in the Luxembourg Electronic Official Gazette (RESA). These annual financial statements should be presented —but not approved— in the general meeting.

The New Law confirms the requirement to file and publish interim financial statements at the end of each financial year, and the obligation to draw financial statements at the liquidation's closing.

7.6. Commissaire abolition

The New Law also abolishes the commissaire role (supervisory auditor). This change seeks to improve transparency, lessen complexities, and update Luxembourg's regulations.

The New Law also provides financial supervision alternatives for small entities, which can voluntarily request a contractual audit if necessary.

7.7. New valuation options

For both standalone and consolidated accounts, the New Law allows a company with intangible assets with indefinite useful life, including goodwill, to elect a new accounting principle. This would consist of an annual robust impairment test performed at the closing date and disclosed in the notes to the financial statements (Article 323-4 point 12).

The value adjustments relating to goodwill may not be reversed (Article 323-4-point 6 al. 4).

Where the useful life of the goodwill cannot be reliably estimated, goodwill should be depreciated over a maximum period that may not exceed 10 years. (Article 323-4 point 11).

Regarding the fair value option:

- For financial instruments, companies can choose between applying a summary of IAS 39 (the current version of the Accounting Law) and applying the accounting requirements of IFRS 9 (including related disclosures). In this respect, the New Law introduces a direct reference to IFRS 7, IFRS 9, IFRS 13 and IAS 32, as adopted and endorsed by the EU.
- For investment properties, companies can apply IAS 40.
- Other categories of assets could also be measured at fair value, such as biological assets (IAS 41) and rights of use (IFRS 16).

7.8. Other topics

The New Law also clarifies and defines other topics, such as:

- "Control" in the context of a group, especially in the presence of structures with a general partner versus limited partners (agent versus principal).
- "Joint control" and "significant influence".
- The length of the accounting year and use of a "floating" accounting year, often used in IFRS.
- Recognition of deferred tax assets (under certain conditions) for both statutory and consolidated financial statements.
- Incorporation of the Bill of Law No. 8158 regarding country-by-country reporting (CbCR) with a minor adjustment of the threshold for Luxembourg branches.

Additionally, some of the CNC's Q&As will be embedded in the New Law, including:

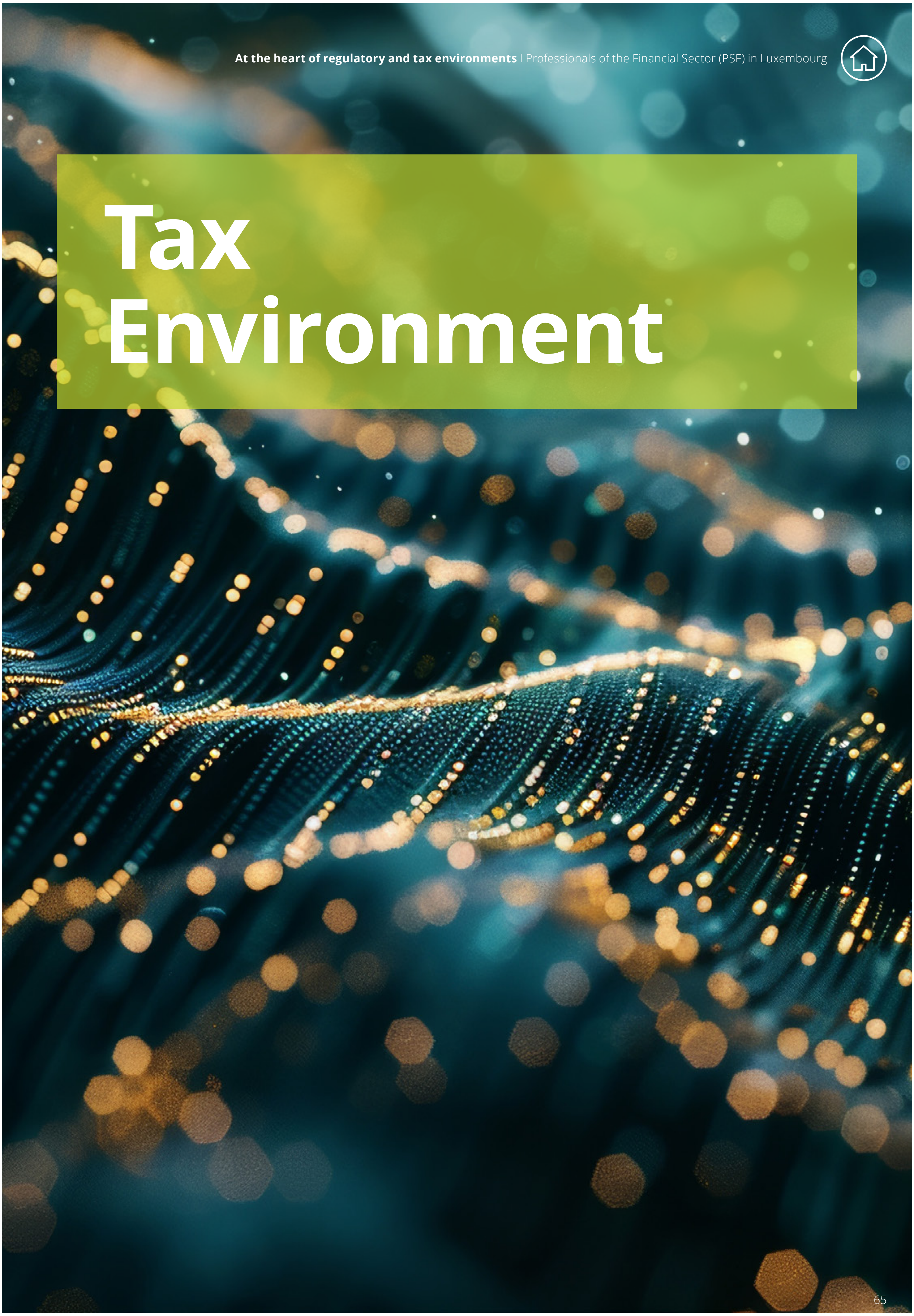
- Q&A CNC 19/019
- Q&A CNC 20/021
- Q&A CNC 21/022
- Q&A CNC 21/024 (R)
- Q&A CNC 21/025
- Q&A CNC 22/026

7.9. Timeline

While the New Law's approval date is uncertain, it could take effect as early as the 2025 financial year. Therefore, entities should start preparing for these impending changes.

The legislative process is expected to accelerate, and once approved, the New Law will modernize Luxembourg's accounting landscape, aligning it with contemporary business needs and international standards.

Tax Environment



1 Corporate Income Tax (CIT)

1.1. Taxable income

CIT is calculated on the operating profit given in the balance sheet. Certain restatements must be made to obtain the taxable base at which the tax rate applies, as certain income categories are exempt and certain expenses are not tax deductible.

1.2. Exempt income

"Parent company and subsidiaries" regime

Dividends and gains received from a Luxembourg entity's subsidiaries may be exempt from CIT and municipal business tax (MBT) if the following conditions are met:

- The beneficiary holds or undertakes to hold, directly or indirectly, an interest qualifying for the regime for an uninterrupted period of 12 months;
- The interest does not fall below the 10% threshold or its acquisition price below €1.2 million (€6 million for capital gains) during that period; and
- The entity qualifies for the regime as listed in Article 166 of the Law on Income Tax (LITL).

Withholding tax on dividends

Dividends paid by Luxembourg entities may be exempt from withholding tax, subject to the following conditions:

- The beneficiary holds or undertakes to hold, directly or indirectly, an interest qualifying for the regime for an uninterrupted period of 12 months; and
- The interest does not fall below the 10% threshold or its acquisition price below €1.2 million during that period.

The LITL includes an anti-abuse clause to prevent artificial schemes.

This regime includes eligible parent companies under the EU Parent-Subsidiary Directive, as well as those based in a country with which Luxembourg has signed a double taxation treaty (DTT) and is fully liable for a tax equivalent to the CIT.

Income under a DTT

Several income categories are covered by DTTs, which should be referred to on a case-by-case basis depending on the type of income and the country in question. However, permanent entities or real estate assets are meant to capture taxation in the related country.

In 2014, the EU Parent-Subsidiary Directive was amended to include a provision for anti-hybrid loan mismatches and a common anti-abuse rule. This was to prevent the Directive's misuse and further harmonize its application across Member States. The Law of 18 December 2015 transposed these amendments, which apply to revenues allocated after 31 December 2015.

1.3. Non-deductible expenses

Certain expenses are not tax-deductible under the LITL, including:

- Distributed earnings;
- Gross director's fees;
- Penal and administrative fines;
- Donations made to non-recognized organizations;
- Expenses relating to exempt income;
- Non-deductible taxes, including CIT, MBT and net wealth tax (NWT); and
- Additional provisions for payments depicted in section 9.10 of the EU Anti-Tax Avoidance Directive (ATAD).

For further details:
Articles 12, 45 and 168 LITL

1.4. Other taxable base deductions

- Donations and gifts paid to organizations recognized by the LITL and subject to certain conditions.
- Losses that can be carried forward to future results for 17 years, but only for losses incurred as of 2017.

For further details:
Donations and gifts: Articles 109 and 112 LITL
Losses available for carry-forward: Article 114 LITL and LITL Circular No. 114/2 of 2 September 2010

1.5. Tax rate

Since 1 January 2020, if the taxable base is:

- Less than €175,000, the CIT rate is 15% (or 16.05% with the employment fund contribution tax included);
- Between €175,000 and €200,000, the CIT rate is €26,250 plus 31% of the revenue above €175,000; or
- Above €200,001, the CIT rate is 17% (or 18.9% with the employment fund contribution tax included).

The CIT rate has been decreased by 1% as from 1 January 2025, since in 11 December 2024, the Luxembourg Parliament passed draft law no. 8414.

For further details:
Articles 173 and 174 LITL and draft finance Bill no. 8414

1.6. CESOP

Since 1 January 2024, the EU's central electronic system of payment (CESOP) rules—detailed in Commission Implementing Regulation (EU) 2022/1504—have applied to EU payment service providers (PSPs). By imposing new record-keeping and reporting obligations, CESOP aims to combat VAT fraud in cross-border e-commerce transactions.

EU PSPs must report cross-border payments to CESOP when an EU or non-EU payee receives more than 25 cross-border payments during a quarter (the average online purchase is around €90 which, when multiplied by 25 transactions for each quarter, amounts to €10,000, a common tax obligation threshold).

All PSPs active in the EU need to comply with CESOP. Even small PSPs are obliged to report data, as the PSD2's Article 32 exemption does not waive the CESOP reporting obligation.

The following information needs to be provided in a standardized XML format:

- **Payee:** name, bank identification code (BIC), VAT number or tax identification number (TIN), account ID, address, and BIC of the payee PSP;
- **Transaction:** date/time, amount and currency;
- **Payer's location**; and
- **In case of refund:** the payment's Member State of origin or Member State of destination.

1.7. Tax relief

The LITL offers a range of tax credits that apply to the CIT base, such as investment tax relief (ITR).

Since 1 January 2024, the ITR regime has changed as follows:

- The global ITC has increased from 8% to 12%, regardless of the amount invested (excluding the €150,000 threshold) during the relevant financial year.
- The tax credit for additional investments has been abolished, replaced by a 18% tax credit for eligible investments and operational expenses in digital transformation or ecological and energy transition projects. A Ministry of Economy certificate is required to benefit from this new regime.
- Investments in software purchases may qualify for a 12% ITC. The credit does not apply to software created by the company, which could benefit from the intellectual property (IP) regime.
- Once a taxpayer requests the software purchase tax credit, the software's generated income is ineligible for the IP regime.
- The software purchase tax benefit may not exceed 10% of the tax due for the year of the software purchase.

The following investments are excluded from the global ITC:

- Assets ordinarily depreciated for less than three years;
- Assets acquired by a company's bulk transfer;
- Second-hand goods; and
- Certain motor vehicles.

However, second-hand goods are eligible for ITC of up to €250,000 when invested by the taxpayer to establish a first entity.

For further details:
Article 152 bis LITL as amended
Circular no. 152 bis LITL of 14 November 1994
Grand-Ducal regulation of 29 October 1987 draft Law (n°8276) now voted

2 Municipal Business Tax (MBT)

2.1 Taxable income

The MBT taxable base is calculated using a method similar to CIT. The base is 3% of the adjusted taxable operating profit. A rebate of €17,500 is provided for entities liable for CIT and of €40,000 for other taxpayers.

2.2. Tax rate

The MBT rate varies from one locality to another. The rate for the city of Luxembourg is 225%, i.e., a global rate of 6.75% (3% x 225).

For the city of Luxembourg, including CIT, MBT, and the employment fund tax, the effective rate is therefore 24.94%.

For further details:
Article 11 MBT Law
MBT Circular No. 37 of 15 September 2003
Decree of 21 November 2022 regarding 2023 rates

3 Net Wealth Tax (NWT)

3.1. Net Wealth Tax

The tax applies to the value of all goods, rights and assets making up the wealth as of 1 January of each year, minus any liabilities burdening such wealth.

Just like CIT and MBT, restatements must be made to determine the unitary value including the exemption of significant interests (special 'parent company and subsidiaries' regime).

Assets must generally be valued at the fair market value except for real estate located in Luxembourg, which is valued at a set-rate value based on 1941 prices.

Once the unitary value of the entity is determined, the applicable rate to be applied on the company's total net assets is:

- A rate of 0.5% on the total net assets up to €500 million.
- A rate of 0.05% on the total net assets as from €500 million and more.

All collective entities with their statutory seat or central administration in Luxembourg are liable to the minimum NWT, regardless of whether they are regulated. Luxembourg permanent establishments of foreign companies are beyond the scope of the minimum NWT on the basis that, in principle, foreign companies have their statutory seat or central administration outside of Luxembourg.

The amount of minimum NWT due by a Luxembourg collective entity depends on the composition of its balance sheet. For this purpose, Luxembourg collective entities are divided into two categories:

- Tax resident collective entities irrespective of being regulated or not, that have qualifying holding and financial assets (i.e., fixed financial assets, transferable securities and cash at bank) exceeding both 90% of their total gross assets, and the amount of €350,000 will be subject to a minimum NWT of €4,815 (including the unemployment fund surcharge)
- Tax resident entities other than those that hold mainly financial items (broadly speaking such as operating companies). Those are subject to a progressive minimum NWT depending on the total assets of their balance sheet. The tax ranges vary from:
  - €535 (for a total balance sheet up to €350,000) to
  - €32,100 (for a total balance sheet exceeding €30 million).

These amounts include the unemployment fund surcharge.

For further details:
NWT Law
Contributions Director Circular net wealth tax of 28 March 2014

3.2. Tax reduction

Luxembourg law allows an NWT reduction by creating a special reserve that equals five times the amount of the NWT due given fiscal year for which the reduction is requested and by keeping the said special reserve during the following five years. The amount of NWT that can be reduced is limited to the amount of CIT (including the contribution to the unemployment fund) before any tax credits, which is due for the preceding tax year.

The NWT reduction cannot exceed the difference between the net wealth computed based on the unitary value and the minimum net wealth after reduction.

Just like CIT and MBT, restatements must be made to determine the unitary value including the exemption of significant interests.

4 Obligations to declare—CIT, MBT, and NWT

4.1. Tax returns

Must be filed by 31 December following the fiscal year for CIT, MBT, and NWT.[21]

4.2. Payment of tax

Advance payments are to be paid on a quarterly basis:

- CIT: 10 March, 10 June, 10 September, and 10 December
- MBT and NWT: 10 February, 10 May, 10 August, and 10 November

4.3. Tax notices

Taxes assessed are payable within one month of notification by Luxembourg tax authorities.

Failure to pay or late payment: interest charge of 0.6% per month.

Failure to submit or late submission of tax return: 10% of tax due and a fine of up to €25,000.

21. As per the Law of 23 December 2022, related to the 2023 Budget Law.

5 Value added tax

5.1. Liability

A VAT-taxable person is anyone who performs in an independent and regular manner, operations connected with any economic activity, regardless of the aims or results of such activity and the place in which it is conducted. Therefore, PSF are generally considered as taxable persons, implying various VAT obligations.

5.2. VAT group

Persons established in Luxembourg can set up a VAT group, including a Luxembourg fixed establishment of foreign persons, legally independent but closely bound by economic, organizational and financial links.

The main features of a VAT group include:

- Supplies of goods and services between VAT group members are not subject to VAT.
- VAT group members are jointly liable for the VAT due by the VAT group.
- The VAT group must file consolidated VAT returns, including all member transactions with third parties.

5.3. VAT rate

The standard Luxembourg VAT rate is 17%, currently the lowest in the EU.

The VAT rates that apply to specific supplies of goods or services defined by the Luxembourg VAT Law of 12 December 1979 (the "VAT Law") are:

- A super-reduced VAT rate of 3%;
- A reduced VAT rate of 8%; and
- An intermediary VAT rate of 14%.

The standard, intermediary, and (super) reduced rates are respectively 17%, 14%, 8% and 3%.

The 14% rate, for example, applies to the custody and management of securities and the management of loans or guarantees by a person other than the entity granting them.

5.4. Exemptions

In principle, the supply of services (and goods) is taxable. As an exception and within the limits set by the Luxembourg VAT Law, certain transactions are VAT-exempt. These include the following services:

- Granting and negotiating loans, as well as managing loans by the granting person.
- Transactions concerning debts, including negotiation but excluding debt collection.
- Transactions, including negotiation but excluding managing and safekeeping shares, interest in companies or associations debentures and other securities.
- Managing the following vehicles:
  - Special investment funds within the meaning of the Law of 13 February 2007 relating to Specialised Investment Funds;
  - Undertakings for collective investment (UCIs) within the meaning of the Law of 17 December 2020 relating to UCI ;
  - Investment companies in risk capital (SICARs);
  - Pension savings associations (ASSEsPs) and pension savings companies with variable capital (SEPCAVs) subject to CSSF supervision;
  - Pension funds covered by the Law of 7 December 2015 on the Insurance Sector and subject to Commissariat aux Assurances (CAA) supervision;
  - Collective life insurance funds under CAA supervision;
  - Undertakings like those mentioned above that are established in other EU Member States and supervised by a body similar to the CSSF or the CAA;
  - Securitization vehicles covered by the Luxembourg Law of March 2004 on Securitization and similar vehicles performing securitization transactions within the meaning of Regulation 24/2009 of the ECB; and
  - AIFs as defined by the Law on Alternative Investment Fund Managers.
- Outsourced services if they meet the conditions defined by the Court of Justice of the European Union.

5.5.VAT deduction entitlement

A taxable person is entitled to deduct input VAT incurred on received supplies that directly relate to the taxable supplies provided.

However, VAT cannot be deducted on received supplies that directly relate to VAT-exempt supplies, such as the services listed in the previous section. However, if these services are rendered to non-EU beneficiaries or are linked to exported goods outside the EU, taxable persons can deduct input VAT.

If a received supply relates to both taxable supplies that are VAT deductible, and VAT-exempt supplies that are not VAT deductible, the input VAT can be partially deducted based on a predefined pro-rata coefficient.

Based on Circular No.765 issued by the Luxembourg VAT authorities, VAT payers should, for partial input VAT deduction, primarily use alternative VAT recovery methods based on appropriate objective allocations, such as the "direct allocation" method or special "pro-rata" method.

The general pro-rata rate that is calculated based on the turnover should be used as a residual method for deducting input VAT incurred on overhead expenses.

5.6. Place of taxation of supplies of services

Generally, services provided to other taxable persons established abroad are taxable where the recipient is established (business-to-business, or “B2B”). Recipients are then typically obliged to self-assess VAT based on their national VAT legislation, known as the “reverse-charge” mechanism.

Services provided to persons not qualifying as VAT taxable are, in principle, taxable where the provider is established (business to customer, or “B2C”).

5.7. VAT registration

While all taxable persons are required to register under the normal VAT regime in principle, this requirement is waived if their entire turnover is VAT exempt and they are not entitled to deduct the corresponding input VAT.

However, they must register under the simplified VAT regime instead if they:

- Perform services that are VAT exempt in Luxembourg but are taxable in the Member State where their VAT registered client(s) is (are) established, domiciled or resident;
- Receive a service from abroad that is taxable in Luxembourg under the reverse-charge mechanism; and
- Make intra-community acquisitions of goods (threshold of €10,000 per year).

5.8. VAT returns

A PSF registered under the normal regime is required to file VAT returns. The frequency depends on the sum of its annual sales, and the sum of its annual intra-community acquisitions of goods and services from EU foreign service providers subject to reverse-charge in Luxembourg.

Therefore, when the sum of a PSF’s annual sales or annual intra-community acquisitions of goods and services subject to reverse-charge in Luxembourg is:

- Less than €112,000, it must file a single annual return;
- Between €112,000 and €620,000, it must file quarterly returns and an annual return; and
- Above €620,000, it must file monthly returns and an annual return.

A PSF registered under the simplified regime is only required to file an annual VAT return.

5.9. EC Sales List

Any taxable person established in Luxembourg is required to file an EC Sales List when providing services to other taxable persons established in other EU Member States, which are liable to self-assess VAT in their Member States. Therefore, a PSF may also need to file an EC Sales List when it performs intra-community deliveries of goods.

5.10. eCDF

VAT returns and EC Sales Lists must be filed online using the eCDF platform of the Luxembourg Registration Duties, Estates and VAT Authority (AEDT).

6 Double taxation treaties

Luxembourg has a fabric of 89 DTTs. Some additional agreements are currently under negotiation or pending ratification by Luxembourg or the other nation.

These DTTs aim to tax taxpayers at a reduced rate, therefore encouraging investments in these countries.

Furthermore, double taxation may occur when certain income, such as dividends, interest and royalties, is subject to taxation in two or more countries. For example, one taxing jurisdiction may tax income at its source, while another jurisdiction taxes income based on the recipient's place of residence.

To avoid the double taxation of income, the tax treaties concluded between Luxembourg and other countries provide the possibility of tax reliefs.

Tax treaties can only restrict and never expand Luxembourg's power to tax. The right to impose a tax may be given to Luxembourg by a treaty is without consequences if the tax in question is not already anchored in domestic law.

Each concluded DTT explicitly mentions two methods to avoid double taxation: tax exemption or tax credit.

6.1. Tax exemption

The exemption method involves the residence country excluding foreign income from its tax base. The source country is then given the exclusive right to tax this income.

Generally, the comprehensive tax treaties signed by Luxembourg are based, as far as Luxembourg is concerned, on the principle of the exemption of income that is taxable in the other contracting state.

However, this is without prejudice to granting a tax credit for taxes deducted at source on income from capital investments abroad. One advantage of the exemption method is that proof of payment of the foreign tax is not required to reduce the amount of tax payable in the country of residence. This is because, in principle, the reduction is independent of the amount of tax paid abroad.

When exempting foreign income, Luxembourg generally employs the exemption with the progression method to ensure the rate is progressive. This adds the exempt income to the Luxembourg income to determine the global tax rate, which is then applied to the income taxable in Luxembourg. As a result, the rate of the income taxable in Luxembourg is based on taxpayers' total income, taking into account their ability to pay tax.

6.2. Tax credit

With this method, residents remain liable for tax on their global income in the country of residence. However, a credit for tax paid in the source country is given by the residence country against its domestic tax. This is generally up to the amount of domestic tax due in respect of the income concerned.

In the treaties concluded by Luxembourg, the credit method is generally used to avoid the double taxation of investment income.

For further details: http://www.impotsdirects.public.lu/conventions/index.html

7 Registration fees

Capital duty was abolished with effect from 1 January 2009 and was replaced by registration fees, which are explained in this section.

Pursuant to the Law of 19 December 2008, a fixed registration fee of €75 must be paid to incorporate a company.

In the event of a contribution of real estate or a contribution of moveable assets for payment, a proportional duty is payable in the manner set forth by Articles 4 and 5 of this Law:

- The pure and simple contribution
- of a real-estate asset is subject to the registration fee of 0.6% i.e., 0.5% registration fees increased by 2/10. This amount is increased by +0.5% in transcription fees.
- The contribution for payment of a real-estate asset is subject to the registration fee of 6% i.e., 5% registration fees increased by 2/10 + 1% transcription fees.

The contribution for payment of moveable assets is subject to the proportional duty as set by the taxation schedule of the Law of 7 August 1920 as amended and completed by subsequent laws.

8 Withholding tax

8.1. Dividends

15% of the gross dividend (exemption possible under the 'parent company and subsidiaries' regime and/or application of a reduced rate with countries having a tax treaty).

8.2. Interest

0% as a general rule (except payment to a natural person who is a resident in Luxembourg).

8.3. Royalties

0% as a general rule unless for specific activities.

8.4. Distribution of liquidation proceeds

0%

8.5. Directors' fees

The tax regime applicable to directors' fees is provided by Article 152 title 2 LITL. This regime provides that a withholding tax of 20% applies to the directors' fees gross amount and is creditable against the personal income tax due by the director. The withholding tax on directors' fees must be declared on paper or electronically and paid within eight days following the date of payment of the income.
The tax withheld is to be paid in a lump sum, without designation of the beneficiaries of the directors' fees.

The resident taxpayers must submit a tax return whenever their income includes directors' fees exceeding €1,500.

However, regarding non-resident taxpayers' taxation, the 20% withholding tax on gross directors' fees may be final if the director has no other Luxembourg-source professional income, and if the total gross directors' fees do not exceed €100,000 during the calendar year concerned.

Finally, whenever the directors' fees exceed €100,000, it is compulsory for the taxpayer to file a personal tax declaration after year- end.

As a result, this leads to the application of the progressive income tax rates (with a maximum of 45.78%) on the Luxembourg-source directors' fees, with a subsequent credit of the 20% withholding tax against the Luxembourg final income tax due.

Note that non-executive self-employed activities may also trigger at the level of the non-executive director social security, VAT, and bookkeeping requirements in Luxembourg.

For further details: Article 146 et seq. LITL

9 Specific tax aspects

9.1. Transfer pricing

The ultra-globalized transfer pricing environment (and the arm's length principle on which it is built) has rocketed to the top of the agenda of companies involved in intra-group transactions. These transactions not only encompass the supply of goods and services but increasingly also debt financing and the transfer and licensing of intangible assets.

The increasing volume of intra-group transactions (representing about two-thirds of the total trade volume) and the evolution of local regulations make transfer pricing planning and documentation a key risk management milestone for every company operating on a cross-border and intra-group basis.

Under the arm's length principle, intra-group transactions are based on the prices or profit that would have arisen if the transactions were carried out under comparable circumstances by independent parties. Based on this principle, tax authorities are, in many jurisdictions, allowed to adjust a company's taxable basis that would have deviated from market conditions. These adjustments can increase the taxable income or reduce the tax loss.

On 1 January 2015, Luxembourg formally applied the arm's length principle by introducing Article 56 of LITL.

Any taxpayers (including PSF) carrying out intra-group transactions must be able to deliver, upon request, the appropriate transfer pricing documentation demonstrating that the price or remuneration applied to the related party is at arm's length[22].

As with many other countries, Luxembourg's transfer pricing practice essentially relies on the Organisation for Economic Co-operation and Development's (OECD) Transfer Pricing Guideline.

In addition to the OECD Transfer Pricing Guidelines, the LITL's general provisions[23] allow Luxembourg tax authorities to raise taxes or adjust the taxable basis if taxpayers do not respect the arm's length principle. Foreign tax authorities are also endowed with similar enforcement powers.

Accordingly, since tax authorities are becoming more sophisticated and increasing their inquiries, both Luxembourg and foreign companies, including Luxembourg PSF, must ensure upfront compliance with transfer pricing aspects.

They must also constantly monitor their compliance to avoid tax authorities' potential adjustments of the taxable base and fulfill any transfer pricing documentation requests in due course.

Since mid-2020, Luxembourg tax authorities have ramped up their transfer pricing documentation requests for entities involved in intra-group financing activities. Scrutiny of transfer pricing aspects in financial transactions has also significantly intensified since Chapter X of the OECD Transfer Pricing Guidelines was published in 2020.

Tax audits are being conducted in this area with increasing regularity, and a wave of standard information requests regarding the tax return review process has hit several taxpayers. While most of these requests are not part of a formal tax audit, they may lead to an in-depth investigation of the taxpayer's transfer pricing position based on the information and documentation provided.

Besides these requests, tax authorities have initiated several formal audit procedures regarding intra-group financing entities.

Proactively performing transfer pricing analyses ensures a Luxembourg company's functions are duly remunerated and provides valuable comfort to taxpayers in the face of transfer pricing justification inquiries.

Furthermore, it should be noted that different exchange of information mechanisms—at both the EU and OECD levels—allow the communication of relevant information in different areas, including transfer pricing. Multinational groups with a consolidated turnover of €750 million or more fall under the CbCR's scope, and public CbCR obligations are required for fiscal years starting from 22 June 2024.

9.2. Global minimum tax (Pillar Two)

On 23 December 2023, Luxembourg transposed the Pillar Two taxation rules of EU Directive 2022/2523 into its domestic legislation. These rules aim to ensure a 15% global minimum level of taxation for multinational enterprise (MNE) groups and large-scale domestic groups in the EU with an annual consolidated revenue of at least €750 million.

The income inclusion rule (IIR) applies for fiscal years beginning on or after 31 December 2023 and the undertaxed profits rule (UTPR) applies for fiscal years beginning on or after 31 December 2024.

Luxembourg also opted to adopt a qualified domestic minimum top-up tax (QDMTT), which applies for fiscal years beginning on or after 31 December 2023.

22. Art. 56 LITL and para 171 (3) General Tax Law
23. Art. 56 and Art. 164 (3) LITL

9.3. FATCA

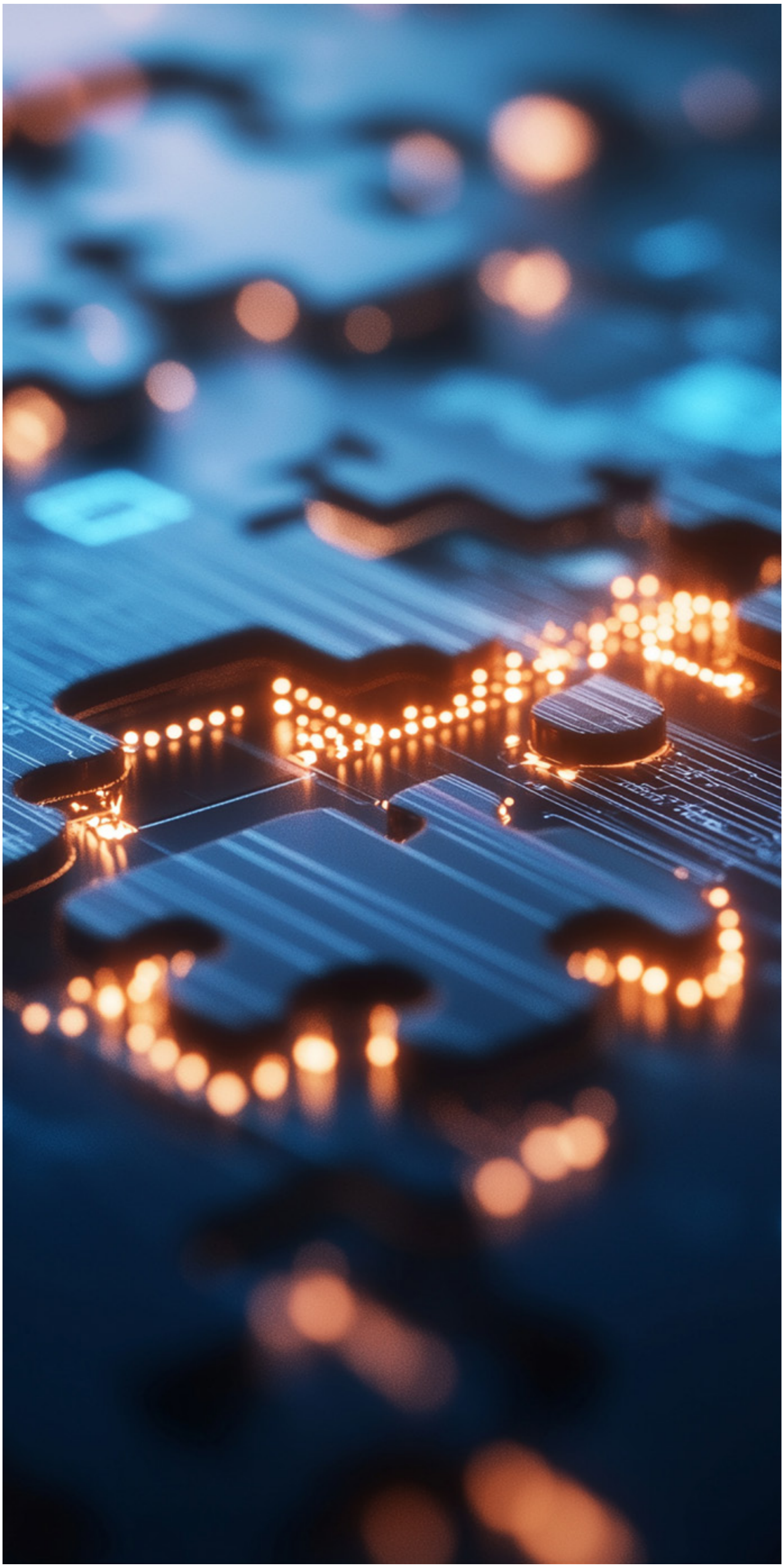
In March 2010, the US adopted new tax regulations within the Hiring Incentives to Restore Employment (HIRE Act) framework. This created a new chapter in the US Internal Revenue Code, the Foreign Account Tax Compliance Act (FATCA). FATCA aims to boost the global transparency of US account holders.

The US requires all foreign financial institutions (FFIs) to report annually to the Internal Revenue Service (IRS) on US persons and their assets. They must also report on certain types of entities and their controlling US persons holding directly or indirectly significant shares (i.e., shares representing at least 25% of the total value or total voting rights) within a passive non-financial foreign entity (passive NFFE).

FATCA's scope is much broader than the Qualified Intermediary (QI) regime already familiar to certain financial intermediaries (which has been updated to include FATCA requirements), as it concerns a considerable number of financial players and payments.

The FFI concept includes entities that:

- Accept deposits in the ordinary course of a banking or similar business;
- Hold "financial assets" for others as a "substantial portion" of their business;
- Are investment entities, defined as entities that primarily conduct as a business one or more of the following activities:
    i. Primarily trading in money market instruments, foreign currency, foreign exchange interest rate and index instruments, transferable securities or commodity futures;
    ii. Individual or collective portfolio management; and
    iii. Investing, administering or managing funds, money or financial assets on behalf of another person, where the



entities' gross income is primarily attributable to investing, reinvesting or trading and is managed by one of the above-mentioned entities (depositary, custodial institution, investment entity, etc.);

- Are certain insurance companies that issue or are obligated to make payments with respect to cash value insurance contracts or annuity contracts;
- Are holding companies or treasury centers that:
  i. Are part of an expanded affiliated group that includes a depository institution, custodian institution, insurance company or investment entity; or
  ii. Are formed in connection with or availed of by a collective investment vehicle, private equity fund, or similar investment vehicle established with an investment strategy of investing, reinvesting or trading in financial assets.

Through FATCA, the US imposes a 30% punitive withholding tax for all non-compliant financial institutions, in addition to the current US internal withholding tax and QI regime. This tax applies to direct US-source income, including fixed, determinable, annual or periodic (FDAP) income.

A participating FFI, alongside exchanging information with the IRS on US persons, may also need to apply a 30% withholding tax on certain payments to non-participating FFIs and recalcitrant account holders (accounts inadequately identified to determine the status as a US or non-US person).

However, FFIs in Model 1 Intergovernmental Agreement (IGA) jurisdictions need only apply the withholding tax on certain payments made to non-participating FFIs.

To avoid the 30% withholding tax, certain non-financial foreign entities (i.e., all passive NFFEs) must identify their substantial US owners and provide a certification regarding these owners to withholding agents.

On 17 January 2013, the IRS and US Treasury Department issued the final regulations setting out the IRS's interpretations of FATCA's identification, reporting and withholding obligations.

These regulations were updated on 20 February 2014.

On 14 December 2018, the US Treasury and the IRS issued Proposed Regulations that substantially reduced the burden under FATCA. Its provisions eliminated withholding on the payments of gross proceeds and deferring withholding on foreign pass-through payments. The final regulations published in the Federal Register on 2 January 2020 adopted selected provisions from the Proposed Regulations.

9.4. IGAs

In February 2012, a Joint Statement between the US and Germany, Spain, France, Italy and the UK announced a broader framework for international cooperation to ease privacy concerns. Since then, 113 countries have signed or negotiated bilateral IGAs with the US to implement FATCA in their jurisdictions.

FFIs' FATCA obligations vary depending on whether they are incorporated in a country that:

- Has not signed an IGA;
- Has signed a Model 1 IGA (automatic exchange of information); or
- Has signed a Model 2 IGA (automatic exchange of information with the IRS, completed with exchange upon demand).

On 28 March 2014, Luxembourg signed its Model 1 IGA with the US.

The intergovernmental agreement ("IGA"), its annexes and the "Memorandum of Understanding", all signed on March 28th 2014 between the US and Luxembourg as regards FATCA was voted by Parliament on July 1st 2015 and was promulgated as Luxembourg law of July 24th 2015.

On 31 July 2015, the Luxembourg tax authorities issued several FATCA circulars, including:

- ECHA 2, containing certain details of the IGA principles' application; and
- ECHA 3, focusing on the technical details of the FATCA reporting format.

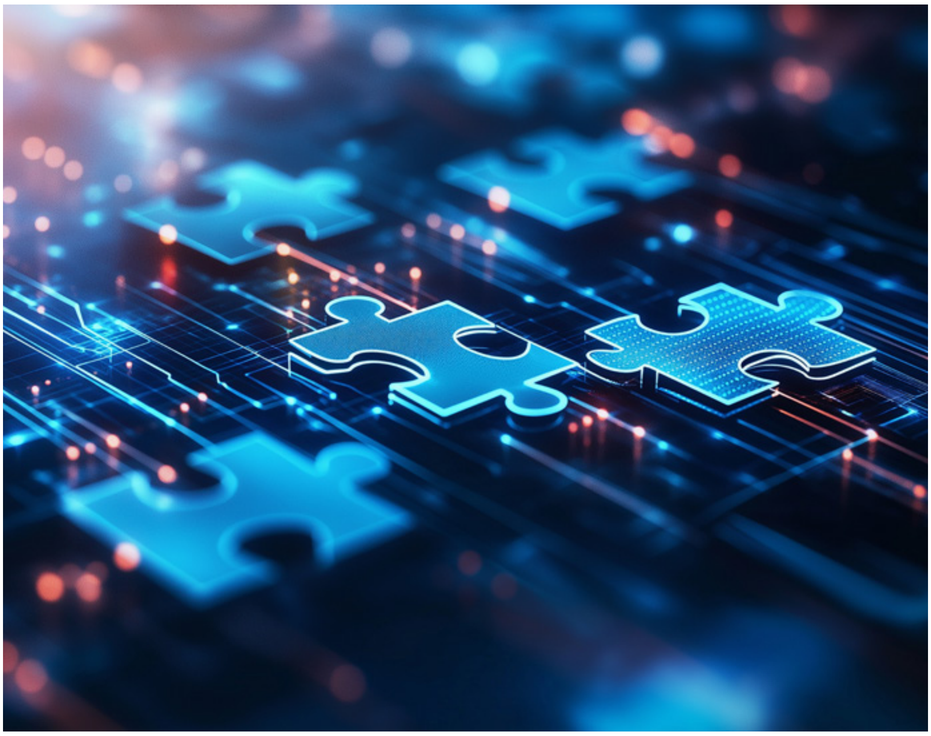
Meanwhile, the Luxembourg Banking Association (ABBL) and Fund Industry Association (ALFI) have also published guidelines and Q&A documents to implement FATCA.

Finally, on 18 June 2020, the Luxembourg Parliament passed Bill no. 7527 on the modification of the FATCA Law into Luxembourg domestic tax law. This introduced new explicit obligations for Luxembourg reporting financial institutions, such as maintaining a register of actions, and strengthened the Luxembourg tax authorities' prerogative to conduct audits of financial institutions.

Registration portal

Luxembourg financial institutions classified as Reporting Model 1 FFIs must be registered on the IRS portal.

The IRS will only assign Global Intermediary Identification Numbers (GIINs) once final registrations are submitted.



US forms
The IRS has released final forms to certify the US/non-US status and the classification for US tax purposes (i.e., classification chapter 3 for QI purposes and chapter 4 for FATCA purposes). The most significant forms are:

- W-8BEN and instructions – Certificate of Foreign Status for an effective Beneficial Owner for the purposes of declarations and withholding taxes for the United States (individuals).
- W-8BEN-E and instructions – Certificate of Foreign Status for an effective Beneficial Owner for the purposes of declarations and withholding taxes for the United States (entities).

The US forms allow non-US beneficiaries to confirm their status for the purposes of Internal Revenue Code (IRC) section 1441 and FATCA.

The IRS also published the following final forms:

- W-9 and instructions – Request for Taxpayer Identification Number for the purposes of tax and certification.
- W-8 IMY and instructions – Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for the purposes of declarations and withholding taxes for the United States.

The ABBL has also issued an entity self-certification form template for financial institutions wishing to elaborate their own self-certification form for FATCA purposes.

For further details:
Intergovernmental Agreement Model 1, signed between Luxembourg and the United States on 28 March 2014
FATCA Luxembourg implementation Law of 24 July 2015
Law of 18 June 2020 amending the FATCA and CRS legislation
Circulars ECHA 2 and ECHA 3 published by the Luxembourg tax authorities
FATCA temporary regulations and coordination regulations dated 20 February 2014

9.5. QI regime

In January 2001, following lengthy negotiations with the global financial services industry, the US tax authorities introduced the QI regime. These regulations enable financial intermediaries to streamline administrative withholding tax procedures regarding US source revenue collection.

More specifically, the QI regime decreases tax refund applications by applying reduced withholding rates, lightening the administrative workload while preserving banking secrecy for non-US investors.

Although intermediaries are required to reveal the identity of US beneficial owners, the identity of non-US clients receiving US income is not revealed. In return, the intermediary must follow a complex set of rules and procedures regarding beneficial owner documentation, withholding tax and reporting to the US tax authorities.

In Luxembourg, many banks and certain PSF have adopted this status, which allows them to both preserve the identity of non-US citizen account holders and benefit from the status against double taxation.

On 13 December 2022, the IRS issued the new Revenue Procedure 2022-43. This covers the 2023 QI Agreement, which contains significant changes compared to the 2017 version, and applies to QI agreements in effect on or after 1 January 2023. Many of the amendments relate to QI compliance obligations under section 1446(a) and (f). Other notable changes include the collection of US taxpayer identification numbers, guidance on disclosing QI requirements, and updates on the QI periodic certification.

For further details:
Revenue Procedure 2022-43

9.6. Automatic exchange of information—CRS-based reporting

The OECD's 2010 modified Convention on Mutual Administrative Assistance in Tax Matters implements tax cooperation to tackle tax evasion and avoidance. It was signed by more than 100 countries, including Luxembourg, and created more obligations regarding the automatic exchange of tax information between jurisdictions.

The common reporting standard (CRS), developed by the OECD in 2014, is the format by which CRS partner countries can exchange information about their tax residents.

The EU implemented the CRS through Directive 2014/107/EU (DAC2), which EU Member States had to transpose before the end of 2015. In Luxembourg, DAC2 was

transposed into national law through the Law of 18 December 2015 (the "CRS Law").

Under DAC2, Luxembourg Financial Institutions (FIs) must automatically and annually exchange relevant personal and financial information regarding any reportable account they maintain to the Luxembourg tax authorities, which will subsequently transmit this information to the relevant foreign tax authorities. These FIs include banks, funds, life insurers, and also certain holding companies and PSF.

Moreover, FIs should also closely monitor the Grand-Ducal regulation of 24 January 2020, which updates the reportable jurisdiction list for the purpose of CRS in Luxembourg.

On 18 June 2020, the Luxembourg Parliament passed Bill no. 7527 on the modification of the CRS Law into Luxembourg domestic tax law, introducing:

- New explicit requirements for Luxembourg reporting FIs, notably to keep a register of engaged actions for 10 years to ensure they are CRS compliant; and
- A nil report obligation in the absence of reportable accounts. If a nil report is absent in this specific case, a penalty of €10,000 should apply besides the existing €250,000 penalty.

The modification also strengthened the Luxembourg tax authorities' powers to conduct FI audits.

Finally, Luxembourg FIs must comply with the notification requirements as per the Law of 16 May 2023 transposing Council Directive (EU) 2021/514 (DAC7), and send an annual notification to individual reportable investors (including controlling persons).

For further details:
Law 23 July 2016 transposing Directive 2015/2060
OECD Convention on administrative cooperation in the field of taxation
Law of 18 June 2020 amending the FATCA and CRS legislation
Law of 16 May 2023 transposing Directive 2021/514 on DAC7
Handbook on automatic exchange of information on financial accounts
Directive 2014/107/EU of 9 December 2014 modifying Directive 2011/16/EU as regards mandatory exchange of information in the field of taxation.
Grand-Ducal regulation of 24 January 2020 https://ec.europa.eu/taxation_customs/individuals/personal-taxation/taxation-savings-income/repeal-savings- directive-line-with-international-eu-developments_en

9.7. Taxation of savings income

On 17 February 2017, the Luxembourg tax authorities issued Circular Relibi N°1 of 27 February 2017 regarding the so-called "Relibi Law", following the Luxembourg 2017 tax reform that modified the tax rate from 10% to 20%.

The Relibi Law introduced a final withholding tax regime for interest income from fixed-income investments, such as:

- Interest from savings accounts;
- Interest from current accounts and term accounts; and
- Interest on bonds.

The Relibi Law provides a 20% rate on interest paid by a paying agent (within the law's meaning) based in Luxembourg to beneficiaries resident in Luxembourg.

In principle, interest subject to this final withholding tax should not be declared in the beneficiary's personal tax return. However, there are certain exceptions where this withholding tax is not final, and the income should still be declared (notably if the income relates to a commercial, agricultural or forestry business, or a professional occupation).

The 20% flat-rate tax can also apply if the paying agent is based in the EEA or in a State that has signed an agreement with Luxembourg that includes measures equivalent to the Savings Directive's. Luxembourg-resident taxpayers wanting to opt for the 20% flat-rate tax must file a separate return no later than 31 March after the end of the calendar year in which the interest was received.

In addition, since 1 January 2009, interest paid by home-purchase savings plans has been exempt from tax. This applies to housing savings plans recognized in Luxembourg or any other EU Member State.

Income not subject to the 20% flat-rate withholding tax is taxable at progressive rates as referenced in the taxpayer's normal tax return (with a small exemption threshold).

For further details:
Contributions Director circular Flat-rate discharge payment (relib No.1) of 24 January 2006
Law of 23 December 2005
Law of 27 November 2014

9.8. Exchange of information upon request

Along with automatic and spontaneous, the exchange of information on demand is one of the three main methods of exchanging information.

An exchange of information on demand occurs when a jurisdiction requests information from another jurisdiction on a case-by-case basis. To fulfill this demand, the responding jurisdiction may ask the information holder, such as a bank or taxpayer, to provide information, which it sends back to the requesting jurisdiction.

The information exchange procedures and conditions are described in the agreements and protocols signed by Luxembourg, by the Law of 31 March 2010, as amended by the Law of 25 November 2014 (entered into force on 1 December 2014), which modified the procedure procedure with respect to exchange of information on request.

Since the Law of 1 March 2019 (Article 3) was published, it is now also possible to contest the "foreseeable relevance" of a Luxembourg tax authority's injunction decision directly before the Luxembourg Administrative Tribunal, following a specific and dedicated procedure.

9.9. EU directives relating to administrative cooperation in tax matters

Administrative cooperation allows tax and customs administrations to share relevant information to track and reduce tax evasion. The European Commission has launched several initiatives in the EU field of taxation:

- Directive 2011/16/EU (DAC1): generalized the exchange of information on demand and automatic exchange of information between EU Member States.
- Directive 2014/107/EU (DAC2): introduced automatic exchange of financial account information.
- Directive 2015/2376/EU (DAC3): on automatic exchange of tax rulings and advance pricing agreements.
- Directive 2016/881/EU (DAC4): on automatic exchange of CbCR.
- Directive 2016/2258/EU (DAC5): ensures tax authorities have access to beneficial ownership information collected pursuant to AML legislation.
- Directive 2018/822/EU (DAC6): on automatic exchange of reportable cross-border arrangements.
- Directive 2021/514/EU (DAC7): on automatic exchange of revenues generated by sellers on digital platforms.
- Directive 2023/2226/EU (DAC8): extends the exchange of information framework to the field of taxation and includes crypto-assets and e-money. This Directive will enter into force on 1 January 2026.[24]

DAC6, amending DAC1, requires taxpayers and intermediaries to declare certain cross-border transactions. It implements mandatory information disclosure on potentially aggressive cross-border tax planning schemes and extends the scope of automatic information exchange between tax authorities to include these schemes.

Under DAC6, tax planning devices of a potentially aggressive nature (i.e., having several characteristics and particularities, or hallmarks) with a cross-border dimension within the EU must be declared by intermediaries to their national tax administrations.

The hallmarks listed in Annex IV of DAC6 compile the characteristics and elements of operations that indicate an abusive practice.

There are both general and specific hallmarks. General hallmarks and some specific hallmarks can only be considered when they fulfill the "main benefit criterion." This criterion is met when the main advantage that a person can reasonably expect from a device (or a series of devices) is to obtain a tax benefit.

24. Council Directive (EU) 2023/2226 dated 17 October 2023

In Luxembourg, the law transposing DAC6 was voted on 25 March 2020 (the "DAC6 Law"). Since then, several guides and initiatives regarding DAC6 and its reporting have been made available, including a user guide to completing the manual form and an XSD scheme for an XML file format.

The first tax audits started in Q4 2021, with Luxembourg tax authorities sending letters to certain Luxembourg market players to monitor compliance with the DAC6 Law's requirements. While these market players may be considered as intermediaries under the DAC6 Law, they are protected by legal professional privilege; therefore, they are exempt from the reporting obligation.

In 2023, the Luxembourg Parliament adopted the Law of 16 May 2023[25] implementing DAC7 (the "DAC7 Law").

The DAC7 Law contains several provisions that complement and extend existing domestic rules on tax transparency and exchange of information. These include:

- Introduction of new rules on mandatory automatic exchange of information reported by digital platform operators;
- Introduction of automatic and mandatory exchange of information on persons residing in other Member States regarding their ownership of real estate assets (exchange to cover information on taxable periods from 1 January 2025);
- Introduction of a framework for conducting joint audits with other Member States;
- Clarification of the scope and mechanism of the exchange of information between tax authorities of different Member States via, inter alia, the definition of the "foreseeable relevance" concept, and clarification regarding requests on taxpayer groups who cannot be individually identified;
- Clarification of the data protection obligations imposed on Luxembourg reporting FIs by the CRS Law; and
- Introduction of data protection obligations for Luxembourg reporting intermediaries under the DAC6 Law.

9.10. System of exemption for intellectual property rights "IP Box"

The Law of 17 April 2018 added a new Article 50ter into LITL, which provides an exemption of 80% on the net income from eligible intellectual property (IP) assets.

It should be noted that, in line with the OECD recommendations of Action 5 of the Base Erosion and Profit Shifting (BEPS) program and those of the EU and its Code of Conduct, the net income of IP qualifying for the exemption must be adjusted by the amount of eligible expenditure, i.e., those necessary for the taxpayer's research and development activities.

Also, under this new regime, eligible IP assets are exempt from NWT.

This new regime's eligible assets are patents in the broadest sense, as well as copyrighted software. IP assets need to be built, developed and/or improved by taxpayers themselves directly or by a Luxembourg or EEA permanent establishment after 31 December 2007.

9.11. BEPS and ATAD

In July 2013, as directed by the G8 and the G20, the OECD launched extensive programs against international tax evasion and harmful tax competition, as part of the BEPS Action Plan.

These actions, which are recommendations with a varying normative force, were approved by the OECD and the G20 in October and November 2015. The measures are articulated around three central concerns: more coherence, more substance and more transparency in international tax.

Some of these measures have been implemented at the EU level through ATAD.

On 18 December 2018, the law implementing ATAD 1 entered into force (the "ATAD 1 Law"). A year later, Luxembourg's law implementing ATAD 2 came into force on 19 December 2019 (the "ATAD 2 Law").

ATAD 2 extended the scope of ATAD 1 to hybrid mismatches involving third countries (i.e., non-EU countries) and forms of hybrid mismatches not covered by ATAD 1.

Certain measures, such as the limit on the deductibility of interest and the rule on controlled foreign companies (CFCs), significantly impact certain Luxembourg companies.

Although all Member States have implemented ATAD 2, some of its provisions offer different transposition options. Therefore, not all Member States have necessarily adopted the same ATAD 1 and 2 provisions in their national legislation, as they are seen as a minimum standard.

The ATAD 2 Law contains the following main provisions:

a. The adoption of specific CFC rules;
b. The limitation of interest deductibility;
c. The Taxation at the exit;
d. The fight against hybrid arrangements; and
e. The introduction of a general anti-abuse rule (GAAR).

25. Law of 16 May 2023 implementing DAC7

To amplify the impact and effectiveness of the BEPS Action Plan, the OECD introduced certain measures through a Multilateral Agreement for the Implementation of the Tax Treaty Measures (MLI). The MLI aims to modify, through a single multi-party agreement, multiple bilateral tax treaties without further negotiations.

The law implementing MLI in Luxembourg was voted on 15 February 2019, and the ratification instrument was deposited on 9 April 2019 with the OECD. MLI entered into force in Luxembourg on 1 August 2019. The implementation of these provisions will keep pace with the other signatory States' transposition of the MLI's bilateral tax treaties.

The MLI's main aim is to quickly implement some of the BEPS Actions without waiting for bilateral negotiations on the existing DTTs.

The MLI also:

- Includes a declaration of intent against treaty shopping strategies;
- Introduces a GAAR based on the primary purpose of set-ups and transactions; and
- Proposes a reinforcement of the rules applicable during the sale of so-called property-dominated entities.

Finally, the convention also deals with the artificial avoidance of permanent establishments and mandatory arbitration.

Each signatory State must list the bilateral tax treaties it wishes to be affected by the provisions of the multilateral instrument.

For the MLI's provisions to become part of a bilateral convention, the two States must have designated the tax treaty that binds them as a "covered convention."

As the MLI contains mandatory and optional provisions, each Member State must notify the "specific" provisions of the multilateral instrument they want to see incorporated into these conventions.

The mandatory provisions qualified as "minimum standards," such as provisions on the misuse of conventions or dispute settlements, must be included in covered tax treaties (unless they have the same standards).

However, specific provisions, such as those relating to permanent establishment or hybrid arrangements, offer States some flexibility.

This process of identifying and notifying existing provisions is significant. In the event of a notification failure or if the notification differs from the partner State's, the provisions of the multilateral instrument, which do not concern minimum standards, are then inapplicable.

9.12. EU tax agenda

At the EU level, it is crucial to have a clear view of the tax policy agenda to understand future trends and take preemptive steps to anticipate and adapt to change.

This is particularly important as governments seek to align tax systems with today's business operating models, and tax administrations seek to raise revenue due to rising pressure on public finances. The pace of reform is accelerating, challenging businesses' tax governance structures to manage increasing tax risks.

The European Commission continues to focus on anti-avoidance measures, such as the ATAD 3 proposal on the misuse of shell entities.

However, certain measures aim to make the EU tax system more resilient and efficient.

These include the FASTER proposal for a new common EU-wide system for withholding tax on dividend or interest payments. A political agreement regarding this proposal was reached on 14 May 2024 and is expected to be implemented in 2030.

Another measure is the Business in Europe: Framework for Income Taxation (BEFIT) proposal, which replaces the Common Consolidated Corporate Tax Base proposal. These changes go beyond corporate taxation, featuring reforms of the EU VAT system and the development of environmental taxation impacting all economic sectors.

10 Personal tax

Cash compensation represents all forms of cash payments made to employees for their services, typically base salary plus bonuses and other cash incentives

If an individual works for a company in a non-executive capacity serving as a director on its board of directors (or equivalent), they are considered self-employed for Luxembourg tax purposes and will receive director's fees. This income is subject to a particular tax regime outlined in section 8 "Withholding tax".

Alternatively, if they work for a company and are involved in the company's day-to-day management or operations, they would be, in principle, considered as employees, and their income would be treated as employment income.

10.1. Employment income

As defined by Article 95 of the LITL, there are two forms of employment income: cash compensation and benefits in kind.

Cash compensation represents all forms of cash payments made to employees for their services, typically base salary plus discretionary bonuses and other cash incentives.

The tax base for benefits in kind is founded on the general income tax rule that all benefits and perquisites made available to employees and assessable under a given revenue category are considered income and, therefore, subject to individual tax.

Employment income is subject to tax at progressive rates ranging from zero to 42% and subject to monthly withholding taxes and social security, bringing the overall effective tax rates up to 45.78%., including the top 9% surcharge that covers the employment fund contribution.

10.2. Inpatriate tax regime

In 2011, to boost Luxembourg's attractiveness, the Luxembourg tax authorities introduced a favorable tax regime for highly skilled employees (also known as inpatriates) coming to Luxembourg.

These special treatment conditions were relaxed in May 2013 and the regime's scope was extended in January 2014. The new scope applied to expatriates who arrived in Luxembourg as of 1 January 2014.

The Luxembourg tax authorities define expatriates as employees who are part of an international group and temporarily seconded to Luxembourg, and employees directly recruited abroad by a company located in Luxembourg or established in another EU or EEA Member State.

If the regime's conditions are met, some of the employer's expatriation expenses are, in principle, taxable as benefits in kind, and the employee benefits from a total or partial tax exemption. These expenses include employees and their families' moving expenses, children's school fees, rent, travel to the origin country, the differential cost of living, and tax equalization.

While the tax exemption applies to the employee, employers may also benefit if they bear the tax as part of a tax equalization policy. Furthermore, the eligible costs are considered as operating expenses at the employer level.

The 2021 Budget Law modernized and provided legal provisions for the inpatriate tax regime. This included:

- Increasing the number of years that inpatriates could benefit from the regime from five to eight years;
- Increasing the minimum yearly base salary that applies from €50,000 to €100,000; and
- Introducing a new inpatriate premium exempt from individual tax.

The 2021 Budget Law also canceled certain conditions of the inpatriate tax regime.

This measure has applied since the 2021 tax year.

To this end, the Luxembourg tax authorities repealed the Circular N°95/2 of 27 January 2014 on the current tax impatriate regime, with effect from the 2021 on 14 December 2020. However, the previous tax regime would continue to apply to inpatriate workers who started their activity in Luxembourg from tax years 2016 through 2020—within the Circular's limits and conditions, and provided these employees do not benefit from the provisions of LITL Article 115, number 13b. This does not apply to inpatriate workers whose tax regime ended, for whatever reason, during the same period covering tax years 2016 through 2020.

As from 2022, the tax authorities decreased the minimum inpatriate remuneration from €100,000 to €75,000 per annum (annual base remuneration excluding benefits and bonuses).

After the approval of the Bill no. 8414 on the 11th of December 2024, the regime has been streamlined with a simple 50% exemption for remuneration up to €400,000, applying from 1 January 2025.

See also the **Abolition of the "stock option" regime** and the **profit-sharing bonus (*prime participative*)**.[26]

10.3. Withholding tax and formalities

An employer can withhold wage taxes and social security from an employee's remuneration each time they pay a salary to the employee.

To avoid penalties, timely payments are required.

Each year, employees should either receive or request a tax card from the Luxembourg tax authorities. They should provide this tax card to their employer to ensure the Luxembourg withholding tax is correctly collected and reported.

As of 1 January 2015, employees no longer need to return their tax cards to the tax administration. Instead, employers must archive these cards and provide them to the tax administration in case of a wage tax audit.

The 2021 Budget Law also modernized the tax card system, allowing cards to be managed electronically from 2022 and extending their validity for multiple years.

10.4. Tax administration

In Luxembourg, the tax year corresponds to the calendar year. All year N tax files must be submitted to the Luxembourg tax authorities before 31 December of year N+1.

Returns may not be required from employees who are taxed at source.

As from 1 January 2018, married couples in Luxembourg could opt for separate/individual taxation from the 2018 calendar year onwards. This is subject to certain filing requirements and notices.

10.5. Social security

Both the employee and the employer contributions apply to the employee's yearly gross remuneration (see Figure 1).

In addition, employees are subject to a 1.4% dependence contribution, which applies uncapped to their yearly gross remuneration and is not tax deductible.

Self-employed workers pay both the employer and employee contributions due on their annual net self-employment profits (Figure 2).

In addition, self-employed workers are subject to a 1.4% dependence contribution, which applies to their annual net self-employment profits—uncapped.

Figure 1: Employee

Coverage	Employee %	Employer %
Sickness	2.8/3.05	2.8/3.05
Pension	8.00	8.00
Accident	–	0.70
Mutual insurance	–	0.01 to 1.36
Health at work	–	0.14
Dependence	1.40	-
Total	**12.20/12.45**	**12.41 to 14.78**

Figure 2: Independent

Coverage	%
Sickness	6.10
Pension	16.00
Accident	0.70
Mutual insurance	0.01 to 1.36
Health at work	0.14
Dependence	1.40
Total	**24.35 to 25.70**

26. See our Pocket Tax Guide 2024 for more details (Luxembourg Individual Tax Guide 2024 | Deloitte Luxembourg | Tax)

11 ATAD 3: Unshell Directive Proposal

The EU Commission has proposed a directive to prevent the misuse of shell entities for tax purposes

The Unshell Directive proposal (the "Unshell Proposal", the "Proposal", or ATAD 3) is part of the EU's legislative framework designed to combat tax evasion and avoidance. The European Commission presented the Proposal's text on 22 December 2021.

The Proposal would introduce a "filtering" mechanism for all EU entities that are tax resident and engaging in economic activities, regardless of their legal form. These entities must meet criteria concerning their income, staff and premises to guarantee they possess an adequate level of "substance", including strong governance in the entity's country of residence.

Entities that fall short of this substance will be treated as potential "shell companies." Unless they can provide further evidence that proves the commercial and non-tax reasons for their existence, they will forfeit any tax benefits granted under bilateral tax agreements or EU directives. This approach aims to discourage these entities' exploitation for tax purposes.

While the European Parliament proposed a series of amendments on 17 January 2023, these amendments are not binding—the EU Council is the only legislator of European tax matters, while the European Parliament only has a consultative opinion.

While the European Council has not yet publicly debated the Unshell Proposal, Member States have been negotiating rewrites of the text over the past few months.

However, no updated draft is available at the time of writing. The adoption timeline is also unclear, as well as whether this proposal will finally lead to any applicable regulation.

This section summarizes the key features of the Unshell Proposal presented by the European Commission in 2021. These are still subject to changes, given the ongoing negotiations and rewrites by EU Member States.

11.1. The gateway test

The Unshell Proposal would introduce a filtering mechanism (cumulative conditions) to identify potential "shells", which is applied at the level of each entity. An entity would satisfy this gateway test if:

1. More than 75% of its revenue arises from "relevant income" (i.e., interest, royalties, dividends, leasing, property income, etc.).
2. More than 60% of the relevant income is earned or paid out through cross-border transactions, or more than 60% of the book value of the entity's fixed and moveable assets is located outside the EU Member State where the entity was resident for the past two tax years.

11.2. Carve out

The Proposal lists certain entities that would benefit from a carve-out and be exempted from reporting obligations. These include publicly listed companies, certain holding companies, certain regulated financial institutions like credit institutions, insurance companies, UCITS, AIFs, and regulated fund managers.

The holding company exemption would apply to entities:

i. Whose main activity consists of holding shares in operational companies resident in the same Member State as its beneficial owners; and

ii. That are resident in the same Member State as the entity's shareholders and/or ultimate parent entity.

11.3. Reporting obligation

If an entity is caught by the gateway test and none of the carve-out criteria apply, it would be obliged to report certain information in its annual tax returns regarding the following minimum substance indicators:

1. **Premises:** the undertaking should have its own premises or premises for its exclusive use in the EU Member State of residence. Shared office space by entities belonging to the same group would be allowed.
2. **Bank accounts:** the undertaking would have at least one active bank account in the EU through which the relevant income is received.
3. **Directors and employees:** at least one of the following two criteria should be satisfied:
   a. One or more of the entity's directors is tax resident in the same EU Member State where the undertaking is resident, or within a certain distance allowing the performance of their mandate, and are authorized and qualified to make decisions related to the entity's relevant income.
   b. Most of the full-time employees have their tax residence in the EU Member State where the undertaking is resident, or within a certain distance allowing the performance of their work, and are qualified to perform activities related to the generation of the entity's relevant income.

11.4. Rebuttal of presumption

If the undertaking fails to meet the minimum substance, it could challenge the presumption of being a shell entity through the rebuttal procedure.

It would need to provide additional information and documentation to the competent authority of its EU Member State of residence, notably to demonstrate the entity is in place for valid commercial reasons that reflect economic reality.

The competent authority would have a certain period to consider the rebuttal request (nine months, according to the 2021 Unshell Proposal) and would likely be considered as rejected if not notified within the set timeframe.

11.5. Tax consequences of being deemed a shell entity

If an entity is deemed to be a shell entity, some tax consequences are likely. The shell entity may be denied tax residency certificates or receive warnings from the EU Member States' tax administrations.

The shell entity should not have access to:

i. DTTs;

ii. The EU Parent-Subsidiaries Directive; and

iii. The EU Interests and Royalties Directive.

11.6. Exchange of information among EU Member States

The Unshell Proposal would also create automatic exchange of information obligations between EU Member States on presumed shell entities.

To this end, the Unshell Proposal would amend DAC1.

12 Pillar Two

12.1. Comprehensive overview and global impact

On 22 December 2023, the Luxembourg parliament approved Law no. 8396 (the "Pillar Two Law") to transpose EU Council Directive 2022/2523, established on 15 December 2022.

The Pillar Two Law sets a global minimum tax rate of 15% for MNE groups and large-scale domestic groups within the EU. It applies from the fiscal year starting on or after 31 December 2023 and affects various businesses, including commercial entities, banks, insurance companies and alternative structures.

Assessing and adopting the Pillar Two Law requires an understanding of taxation principles and consolidated financial statement requirements, reinforcing accounting's effect on taxation. It also highlights accountants' crucial role when working with tax specialists. Therefore, cultivating new tax accounting awareness and skills is critical to handle the new Pillar Two's accounting impacts.

12.2.Scoping: Understanding and applying consolidation requirements

Pillar Two's calculations are based on consolidated financial statements. In Luxembourg, these accounts usually guide tax payments and returns, which is not always the case in other jurisdictions.

The Pillar Two Law applies to constituent entities established in the Grand Duchy of Luxembourg, which are part of either a:

- MNE group, meaning at least one entity or permanent establishment is outside the ultimate parent entity's (UPE) jurisdiction; or
- Large-scale domestic group, meaning a group whose constituent entities are all located in Luxembourg and have an annual turnover of at least €750 million in the UPE's consolidated financial statements for at least two of the last four years.

Financial statements must comply with an acceptable accounting standard. To form a group, entities and other legal arrangements must be financially consolidated on a line-by-line basis. If a consolidation exemption applies under acceptable accounting standards, Pillar Two rules are generally not applied. For groups with complex ownership structures, such as private equity or investment funds, this can be a complicated issue.

In Luxembourg and more generally across the EU, national laws dictate if and when an EU undertaking must prepare consolidated accounts. International Financial Reporting Standards (IFRS Accounting Standards) (as endorsed by the EU) or Luxembourg Generally Accepted Accounting Principles (Lux GAAP) outline how these consolidated accounts should be prepared.

As a part of Pillar Two's scoping assessment and UPE identification, accountants clarify consolidation requirements and exemptions under Luxembourg's Accounting Law. They also help with applying critical definitions, such as "investment entity" and "control" under IFRS 10, or "private equity fund exemption" and "turnover" under the Accounting Law and the CNC. By leveraging their extensive IFRS and Lux GAAP knowledge, accountants help determine entities for line-by-line consolidation, which is crucial for the Pillar Two Law's calculation of turnover thresholds.

12.3. Top-up tax: Support with deferred taxes and identifying the right accounting framework

Pillar Two aims to ensure that the effective tax rate (ETR) is at least 15% in each jurisdiction where the MNE group operates. If the 15% minimum tax rate is not achieved in a jurisdiction, the top-up tax rule applies, which levies an additional tax via three new taxes:

- The IIR
- The UTPR
- The QDMTT

Therefore, each constituent entity may owe an additional amount of tax in Luxembourg.

To determine the top-up tax, first the ETR must be calculated for each jurisdiction, per fiscal year, as follows:

$$\text{ETR} = \frac{\text{Adjusted covered taxes of the constituent entities in the jurisdiction}}{\text{Net qualifying income of the constituent entities in the jurisdiction}}$$

Accountants and tax specialists work together to compute the adjusted covered taxes for each entity, following specific rules that determine the amount of taxes to be considered. They focus on deferred taxes, primarily to identify adjustments related to:

- Any deferred tax that arose on excluded items.
- The effect of a valuation allowance or accounting recognition adjustment for deferred tax assets that must be disregarded (these need to be considered for the total deferred tax adjustment amount, even if not recognized and booked).
- The unrecognized deferred tax assets and deferred tax liabilities reflected or disclosed in all the constituent entities' financial accounts in a jurisdiction for the transition year.

Based on amendments to the draft Pillar Two Law submitted by the Luxembourg government to the parliament on 13 November 2023 and adopted on 19 December 2024, to determine the QDMTT of Luxembourgish entities, their net qualifying income or loss must be calculated using a financial accounting standard applicable in Luxembourg for statutory filing purposes (Lux GAAP or IFRS).

If an MNE group's Luxembourg entities use different financial accounting standards, the Luxembourg QDMTT computation should be based on IFRS. If all use Lux GAAP, then the Luxembourg QDMTT is calculated under Lux GAAP.

Otherwise, or if the Luxembourg entities' fiscal years differ from the MNE group's consolidated financial statements, the Luxembourg QDMTT should be computed based on the consolidated financial statements' accounting standard.

12.4. Qualifying income: Tracing and applying specific accounting adjustments

The Pillar Two Law establishes the parameters for calculating the net qualifying income or loss for each constituent entity, a crucial step in determining the ETR. This data is expected to come primarily from the accounting department.

The calculation begins with the net income or loss used in the UPE's consolidated financial statements, excluding intra-group transactions. This is based on the UPE's accounting standard, unless the abovementioned exceptions apply.

To derive qualifying income or loss, mandatory and optional accounting adjustments are required, such as:

- Excluding equity gains or losses;
- Including revaluation method gains or losses;
- Adjusting errors from previous periods; and
- Incorporating changes in accounting principles.

The adjustments require data from individual subsidiaries across jurisdictions, often requiring support from accountants and reporting tools. These adjustments are made prior to those eliminating intra-group transactions.

Accountants play a pivotal role in helping tax specialists understand transitional adjustments from local GAAP to relevant GAAP under Pillar Two. Nuances related to GAAP adjustments, late adjustments, consolidation adjustments, purchase price adjustments, and centrally booked items will require detailed examination.

Pillar Two enforces the ecosystem between tax and accounting and other departments, including IT and legal, both during and after the Pillar Two transition. Entities should involve their accounting, tax and legal experts early in transaction structuring to grasp their income tax and Pillar Two implications.

12.5. Disclosure requirements

In May 2023, the International Accounting Standards Board (IASB) announced limited amendments to IAS 12 – "Income Taxes", offering temporary respite from accounting for deferred taxes linked to the implementation of Pillar Two model rules.

The IASB also introduced a disclosure requirement for entities under Pillar Two. It stipulates that these entities must disclose any known or reasonably estimated information aiding financial statement users in assessing their Pillar Two-related tax responsibilities during enacted or significantly enacted periods, even if not yet effective.

Under Lux GAAP, deferred tax disclosures are limited, mainly for consolidated financial statements and undertakings under Lux GAAP's fair value (FV) option regime. Management's discretion dictates Lux GAAP's disclosure of the company's tax environment under the true and fair value principle. Notably, in response to the IASB's guidance, the CNC released two Q&As at the beginning of 2024:

- Q&A 24/031, which addresses the Pillar Two Law's impact on Lux GAAP or Lux GAAP-FV annual and consolidated accounts, recommending IFRS-like disclosures.
- Q&A 24/032, which concerns the Pillar Two Law and the option to disclose deferred tax assets and liabilities in the 2023 annual account notes. Given the uncertainty of Article 53, paragraph 2 of the Pillar Two Law, disclosing these assets in the Luxembourg standalone account notes (including unrecognized deferred taxes related to unused tax losses) is strongly advised to mitigate validity debates of these tax attributes and deductibles for Pillar Two purposes.

The Luxembourg tax authorities issued a FAQ on 25 March 2024. It confirms that the relevant financial statements for disclosing Pillar Two deferred tax assets and liabilities could be the Luxembourg constituent entity's standalone annual accounts and/or the UPE's consolidated financial statements. If the latter method is chosen, it is crucial to ensure traceability to the Luxembourg entity.

These qualitative and quantitative requirements necessitate Luxembourg accountants to compile sophisticated tax accounting data, work jointly with tax specialists and set a up a robust data collection process across various jurisdictions, tax specialists and stakeholders to meet the potential financial reporting impacts.

12.6. Amendments and clarifications of Bill No. 8396

On 12 June 2024, Luxembourg introduced Bill No. 8396 (the "Bill"), amending the initial Pillar Two Law to incorporate the Organisation for Economic Co-operation and Development (OECD) 2023 July Administrative Guidance. This Bill was adopted on 19 December 2024.

The Bill's amendments provide additional guidance for navigating Pillar Two's complex taxation landscape. The main highlights are:

1. Investment fund structures

Investment funds and real estate investment vehicles (REIT-type entities) are considered excluded entities when they serve as the group's UPE.

Since most investment funds are not required to consolidate under Luxembourg law or IFRS 10, they do not technically qualify as a group's UPE. However, the Bill extends this exclusion to a special purpose vehicle (SPV) that is at least 95% owned (or 85% for equity investments) by an investment fund or a REIT-type entity that is not the UPE, provided certain conditions are met.

Implementing this guidance offers legal clarity to Luxembourg investment funds and their SPVs, affirming that SPVs will also be recognized as excluded entities if they meet these activity and ownership conditions.

2. CbCR safe harbor

The Bill provides clarifications on qualified financial statements, including situations when a constituent entity's financial statements may not qualify for the CbCR safe harbor, and restrictions on adjustments unless explicitly required by the Pillar Two Law. It also includes new anti-avoidance provisions requiring adjustments to profit and loss before income tax or income tax expense for groups involved in hybrid arbitrage arrangements, which apply to transactions made after 18 December 2023.

3. Deemed consolidation test

The Bill emphasizes that entities like investment funds, which are exempt from consolidation under applicable financial accounting standards, are not required to perform a deemed consolidation test and may benefit from a line-by-line consolidation exemption. This rule mainly addresses jurisdictions with no formal accounting standards or a different GAAP not considered acceptable.

4. QDMTT changes and clarifications
In line with the OECD 2023 July Administrative Guidance, the Bill introduces the following new rules relating to QDMTT:

- **Determination of functional currency to compute the QDMTT**
  The Bill's amendments provide guidance on the currency to be used for the QDMTT calculation. The euro can be used if all the constituent entities of the MNE group or the large-scale domestic group located in Luxembourg:
  - Determine their eligible profit or loss according to an eligible financial accounting standard; and
  - Use the euro as the functional accounting currency.

  If one or more entities use a different currency, either the euro or the UPE's consolidated financial statements' presentation currency should be used. This choice is valid for five years and renews automatically unless changed.
- **Exempting MNE groups from QDMTT during their initial international activity phase**
  QDMTT for the constituent entities located in Luxembourg should be deemed zero during the first five years of the MNE group's initial international activity phase. Large-scale domestic groups enjoy similar exclusions during their first five years, starting from the first day of the fiscal year when a large-scale domestic group falls within the Pillar Two Law's scope.
- **Foreign taxes for QDMTT**
  The Bill specifies that foreign taxes allocated under the IIR or UTPR to Luxembourg constituent entities should not be attributed for QDMTT purposes. Taxes from foreign transparent entities are now included in QDMTT calculations.
- **QDMTT safe harbor**
  The Bill's amendments align the Pillar Two Law's provisions with the OECD's July 2023 guidance.

12.7. Pillar Two implementation

As of October 2024, 25 EU Member States have completed the Pillar Two framework's legislative requirements, while seven States are currently drafting their transposition laws.

On 2 October 2024, the European Commission revealed it had taken infringement actions against Spain, Cyprus, Poland and Portugal for failing to integrate Pillar Two into their national laws. These nations have been referred to the Court of Justice of the European Union.

The global shift to implement Pillar Two minimum taxation rules represents a landmark transformation in corporate tax practices, designed to ensure fairness and equity. As countries finalize their legislative processes and adopt the intricate regulatory frameworks of the OECD and EU, MNEs must remain vigilant and proactive in their compliance efforts.

This transition aims to foster a more balanced international tax environment, reducing profit shifting and increasing global tax revenues while maintaining competitive equity across different jurisdictions. The unified effort marks a crucial step towards sustainable and fair global taxation practices.

PSF profile analysis and specific data

Licenses in detail

The following table schematically sets out the various categories, as well as the different PSF license types.

Investment firms

24-1
Reception and transmission of orders in relation to one or more financial instruments
€75,000 (€150,000)

24-2
Execution of orders on behalf of clients
€75,000 (€150,000)

24-3
Dealing own accounts
€750,000

24-4
Portfolio management
€75,000 (€150,000)

24-5
Investment advice
€75,000 (€150,000)[a]

24-6
Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis
€750,000

24-7
Placing of financial instruments without a firm commitment basis
€75,000 (€150,000)

24-8
Operation of an MTF[b] in Luxembourg
€150,000

24-9
Operation of an OTF[c] in Luxembourg
€150,000 (€750,000)[d]

Specialized PSF

25
Registrar agents
€125,000

26
Professional depositaries of financial instruments
€730,000

26-1
Professional depositaries of assets other than financial instruments
€500,000

27
Operators of a regulated market authorized in Luxembourg
€730,000

28-3
Debt recovery

28-4
Professionals performing lending operations
€730,000

28-5
Professionals performing securities lending
€730,000

28-6
Family Offices
€50,000

28-7
Mutual savings fund administrators
€125,000

28-9
Corporate domiciliation agents
€125,000

28-10
Professionals providing company incorporation and management services
€125,000

28-11
Central account keepers
–

Support PSF

29-1
Client communication agents
€50,000

29-2
Administrative agents of the financial sector
€125,000

29-3
IT systems and communication networks operators of the financial sector
€125,000

29-5
Dematerialization service providers of the financial sector
€50,000

29-6
Conservation service providers of the financial sector
€125,000

Credit Servicers

28-12
€75,000 (€150,000)

Data Reporting Service Providers

29-12
Approved publication arrangements
€125,000

29-13
Consolidated tape providers
-

29-14
Approved reporting mechanism
-

a) Conditional on the production of evidence of a subscribed and fully paid-up share capital of no less than €75,000, where the investment firm is not permitted to hold client money or securities belonging to its clients.
Conditional on the production of evidence of a subscribed and fully paid-up share capital of no less than €150,000, where the investment firm is permitted to hold client money or securities belonging to its clients.

b) MTF: Multilateral Trading Facility

c) OTF: Organised Trading Facility

d) €750,000, where this firm engages in dealing on own account or is permitted to do so.

1 Investment firms

Article 24-1 Reception and transmission of orders in relation to one or more financial instruments
Article 24-2 Execution of orders on behalf of clients
Article 24-3 Dealing on own account
Article 24-4 Portfolio management
Article 24-5 Investment advice
Article 24-6 Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis
Article 24-7 Placing of financial instruments without a firm commitment basis
Article 24-8 Operation of an MTF
Article 24-9 Operation of an OTF

1.1. Specific information

Although this information is specified in the first chapter of this report, it is interesting here to consolidate the points specific to the investment firm status compared to the other categories of PSF.

Investment firms are indeed subject to more extensive licensing conditions and to additional obligations:

1. Participation in the Investor Compensation Scheme Luxembourg (Article 22-1 of the LFS).
2. The organizational requirements set forth by Article 37-1 of the LFS.
3. The compliance function.
4. The risk management function.
5. Prudential ratios.
6. Minimum equity amounts higher than other PSF statuses according to the license type.
7. Issuance of an analytical LFR.

1.2. Fast-reference sheets and additional data per status

Reception and transmission of orders in relation to one or more financial instruments	
Definition	**Reception and transmission of orders in relation to one or more financial instruments** means the receiving or transmitting orders in relation to one or more financial instruments, without holding funds or financial instruments of the clients.
Legal reference	Article 24-1 of the LFS
Minimum capital	€75,000 where the investment firm is not permitted to hold client money or securities belonging to its clients; otherwise €150,000
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Main applicable CSSF regulations (Reg.) and circulars	03/113 (long form), 07/290 (prudential ratios), 07/301 (ICAAP), 07/307 (MiFID), 09/403 (liquidity), 10/437 (remuneration), 11/506 (stress tests), Reg. 12-02 (AML), 13/554 (IT), Reg. 16-07 and 17/671 (complaints), Reg. 15-01, 15-02 and 18-03 (CRR/ CRD IV / FINREP), 18/697, 18/698 and 20/750 (ICT and security risk management), 20/758 (governance), 21/784 (Periodic prudential), 22/806 (outsourcing arrangements), 24/853 as amended by 25/870 (revised LFR)
Status-specific CSSF circular	93/102 (brokers)

Execution of orders on behalf of clients	
Definition	**Execution of orders on behalf of clients** means acting to conclude agreements to buy or sell one or more financial instruments on behalf of clients and includes the conclusion of agreements to sell financial instruments issued by an investment firm or a credit institution at the moment of their issuance.
Legal reference	Article 24-2 of the LFS
License granted automatically	Reception and transmission of orders in relation to one or more financial instruments (Article 24-1) and Investment Advice (Article 24-5)
Minimum capital	€75,000 where the investment firm is not permitted to hold client money or securities belonging to its clients; otherwise €150,000
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Main applicable CSSF regulations (Reg.) and circulars	03/113 (long form), 07/290 (prudential ratios), 07/301 (ICAAP), 07/307 (MiFID), 09/403 (liquidity), 10/437 (remuneration), 11/506 (stress tests), Reg. 12-02 (AML), 13/554 (IT), Reg. 16-07 and 17/671 (complaints), Regs 15-01, 15-02 and 18-03 (CRR/CRD IV / FINREP), 18/697 18/698 and 20/750 (ICT and security risk management), 20/758 (governance) 21/784 (Periodic prudential), 22/806 (outsourcing arrangements), 24/853 as amended by 25/870 (revised LFR)
Status-specific CSSF circular	93/102 (commission agents)

Dealing on own account	
Definition	**Dealing on own account** means trading against proprietary capital resulting in the conclusion of transactions in one or more financial instruments.
Legal reference	Article 24-3 of the LFS
License granted automatically	Reception and transmission of orders in relation to one or more financial instruments (Article 24-1), execution of orders on behalf of clients (Article 24-2), portfolio management (Article 24-4) and investment advice (Article 24-5)
Minimum capital	€750,000
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	03/113 (long form), 07/290 (prudential ratios), 07/301 (ICAAP), 07/307 (MiFID), 09/403 (liquidity), 10/437 (remuneration), 11/506 (stress tests), Reg. 12-02 (AML), 13/554 (IT), Reg. 16-07 and 17/671 (complaints), Regs 15-01, 15-02 and 18-03 (CRR/ CRD IV/ FINREP), 18/697, 18/698 and 20/750 (ICT and security risk management), 20/758 (governance), 21/784 (Periodic prudential), 22/806 (outsourcing arrangements) , 24/853 as amended by 25/870 (revised LFR)

Additional information

Trading for one's own account is an investment activity within the meaning of the MiFID. However, this activity is subject to the MiFID provisions only when it is carried on together with another investment service or activity. On the contrary, persons managing their own assets without providing any investment service or activity other than trading for one's own account do not fall within the scope of the LFS, unless they are market makers.

Portfolio management	
Definition	**Portfolio management** means managing portfolios in accordance with mandates given by clients on a discretionary client-by-client basis where such portfolios include one or more financial instruments.
Legal reference	Article 24-4 of the LFS
License granted automatically	Reception and transmission of orders in relation to one or more financial instruments (Article 24-1), Execution of orders on behalf of clients (Article 24-2) and Investment Advice (Article 24-5)
Minimum capital	€75,000 where the investment firm is not permitted to hold client money or securities belonging to its clients; otherwise €150,000
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Main applicable CSSF regulations (Reg.) and circulars	03/113 (long form), 07/290 (prudential ratios), 07/301 (ICAAP), 07/307 (MiFID), 09/403 (liquidity), 10/437 (remuneration), 11/506 (stress tests), Reg. 12-02 (AML), 13/554 (IT), Reg. 16-07 and 17/671 (complaints), Regs 15-01, 15-02 and 18-03 (CRR/ CRD IV / FINREP), 18/697, 18/698 and 20/750 (ICT and security risk management), 20/758 (governance) 21/784 (Periodic prudential), 22/806 (outsourcing arrangements) , 24/853 as amended by 25/870 (revised LFR)
Status-specific CSSF circular	91/78 (segregation of assets)

Additional information

Asset management involves specific notions and requirements which should be explained in detail:

- Private portfolio managers manage their clients' assets, under a mandate, i.e., they act on behalf and for the account of the client.
- Private portfolio managers may not receive or keep assets belonging to their clients in deposit. These client assets must be deposited with an authorized custodian supervised by official authorities and do not form part of the collective assets of the PSF in the event of liquidation. Private portfolio managers must enter their clients' assets in accounts separate from those relating to their own assets.
- Discretionary asset management implies that private portfolio managers make decisions as to the investment of their clients' assets.
- As part of its business, the manager must enter into a management agreement with the client. This written management agreement must specify all the accounts and other assets belonging to the client to which it relates. Under no circumstances may the private portfolio manager dispose in its own favor of clients' assets. In addition, the management agreement must highlight the objective of the portfolio management, the nature of authorized transactions, the information to be disclosed to the account holder, and the manager's method of payment, the term of the agreement and the termination procedure.
- Private portfolio managers may incidentally grant their clients Lombard loans, provided that this activity is covered by their license.

Investment advice	
Definition	**Investment advice** means the provision of 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.
Legal reference	Article 24-5 of the LFS
Minimum capital	€75,000 where the investment firm is not permitted to hold client money or securities belonging to its clients; otherwise €150,000
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Main applicable CSSF regulations (Reg.) and circulars	03/113 (long form), 07/290 (prudential ratios), 07/301 (ICAAP), 07/307 (MiFID), 09/403 (liquidity), 10/437 (remuneration), 11/506 (stress tests), Reg. 12-02 (AML), 13/554 (IT), Reg. 16-07 and 17/671 (complaints), Regs 15-01, 15-02 and 18-03 (CRR/ CRD IV / FINREP), 18/697, 18/698 and 20/750 (ICT and security risk management), 20/758 (governance) 21/784 (Periodic prudential), 22/806 (outsourcing arrangements) , 24/853 as amended by 25/870 (revised LFR)

Additional information

The Law of 21 December 2012 provides a change in scope, including the activity of adviser of undertakings for collective investment referred to in the modified Law of 17 December 2010 or of specialized investment funds referred to in the modified Law of 13 February 2007. Nevertheless, if they do not provide personalized recommendations to clients who are investors, and if they are not subject to the provisions governing the provision of investment services arising from the legislation relating to markets in financial instruments, these entities, which only give advice inside the group of undertakings for collective investment and specialized investment funds to which they belong, do not need an authorization pursuant to the LFS.

The notion of personal recommendations covers two key points:

1. The recommendation concerns dedicated transactions on financial instruments (purchase, sale, subscriptions, swap, etc.) or rights relating to such financial instruments.
2. The personal nature of the recommendation. The recommendation is thus intended for a given person, whether investor or investor agent, according to the specific situation of the investor in question.

The activity of Investment advisers is limited to providing personal recommendations and does not include the implementation of such advice.

As specified in Article 24 of the LFS, the following are not covered:

- A business of merely providing information.
- General recommendations about financial instruments that are disclosed via distribution channels or intended for the public.
- The disclosure of information published in the press.
- The simple explanation of the risks and advantages of one or more given financial instruments.
- The production of performance rating tables of financial instruments compared to published reference indicators.

Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis	
Definition	Underwriters of financial instruments are professionals whose business is to **underwrite financial instruments and/or place financial instruments on a firm commitment basis.**
Legal reference	Article 24-6 of the LFS
Minimum capital	€750,000
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	03/113 (long form), 07/290 (prudential ratios), 07/301 (ICAAP), 07/307 (MiFID), 09/403 (liquidity), 10/437 (remuneration), 11/506 (stress tests), Reg. 12-02 (AML), 13/554 (IT), Reg. 16-07 and 17/671 (complaints), Regs 15-01, 15-02 and 18-03 (CRR/ CRD IV / FINREP), 18/697, 18/698 and 20/750 (ICT and security risk management), 20/758 (governance) 21/784 (Periodic prudential), 22/806 (outsourcing arrangements), 24/853 as amended by 25/870 (revised LFR)

Placing of financial instruments without a firm commitment basis	
Definition	This activity comprises the **placing of financial instruments without a firm commitment basis.**
Legal reference	Article 24-7 of the LFS
License granted automatically	None
Minimum capital	€75,000 where the investment firm is not permitted to hold client money or securities belonging to its clients; otherwise €150,000
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Main applicable CSSF regulations (Reg.) and circulars	03/113 (long form), 07/290 (prudential ratios), 07/301 (ICAAP), 07/307 (MiFID), 09/403 (liquidity), 10/437 (remuneration), 11/506 (stress tests), 11/506 (stress tests), Reg. 12-02 (AML), 13/554 (IT), Reg. 16-07 and 17/671 (complaints), Regs 15-01, 15-02 and 18-03 (CRR/CRD IV / FINREP), 18/697, 18/698 and 20/750 (ICT and security risk management), 20/758 (governance) 21/784 (Periodic prudential), 22/806 (outsourcing arrangements), 24/853 as amended by 25/870 (revised LFR)

Operation of an MTF in Luxembourg

Definition	An **MTF** or **multilateral trading facility** refers to a multilateral system, which brings together multiple third-party buying and selling interests in financial instruments – in the system and in accordance with non-discretionary rules – in a way that results in a contract.
Legal reference	Article 24-8 of the LFS
License granted automatically	None
Minimum capital	€150,000
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	03/113 (long form), 07/290 (prudential ratios), 07/301 (ICAAP), 07/307 (MiFID), 09/403 (liquidity), 10/437 (remuneration), 11/506 (stress tests), Reg. 12-02 (AML), 13/554 (IT), Reg. 16-07 and 17/671 (complaints), Regs 15-01, 15-02 and 18-03 (CRR/CRD IV / FINREP), 18/697, 18/698 and 20/750 (ICT and security risk management), 20/758 (governance), 21/784 (Periodic prudential), 22/806 (outsourcing arrangements), 24/853 as amended by 25/870 (revised LFR)

Additional information

Difference between a regulated market and an MTF.

Regulated markets differ from multilateral trading systems (MTF) due to the fact that the admission of an instrument for trading on a regulated market, triggers the application of a number of related provisions as follows:

- Provisions relating to the publication of a prospectus in the event of offering securities to the public or in order to admit securities for Trading;
- Provisions relating to the harmonization of transparency requirements concerning the information about issuers whose securities are admitted for trading on a regulated market; and
- Provisions (prohibitions and obligations) relating to market abuse.

These requirements are designed to provide investors with a high standard of protection harmonized at European level.

Operating an MTF is an investment activity within the meaning of MiFID and MTFs are operated by a market operator within the meaning of MiFID, a credit institution, or an investment firm. **Credit institutions are authorized to operate a MTF in Luxembourg under their banking license and require no separate license for this investment activity.**

Operation of an OTF in Luxembourg	
Definition	An **OTF** or **organized trading facility** refers to a multilateral system, which is not a regulated market or an MTF and in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances, or derivatives are able to interact in the system in a way that results in a contract.
Legal reference	Article 24-9 of the LFS
License granted automatically	None
Minimum capital	€150,000 or €750,000 where this firm engages in dealing on own account or is permitted to do so.
Authorization procedure	The license is subject to obtaining a written authorization from the CSSF which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	03/113 (long form), 07/290 (prudential ratios), 07/301 (ICAAP), 07/307 (MiFID), 09/403 (liquidity), 10/437 (remuneration), 11/506 (stress tests), Reg. 12-02 (AML), 13/554 (IT), Reg. 16-07 and 17/671 (complaints), Regs 15-01, 15-02 and 18-03 (CRR/ CRD IV / FINREP), 18/697, 18/698 and 20/750 (ICT and security risk management), 20/758 (governance), 21/784 (Periodic prudential), 22/806 (outsourcing arrangements), 24/853 as amended by 25/870 (revised LFR)

2 Specialized PSF

Article 25	Registrar agents
Article 26	Professional depositaries of financial instruments
Article 26-1	Professional depositaries of assets other than financial instruments
Article 27	Operators of a regulated market authorized in Luxembourg
Article 28-3	Debt recovery
Article 28-4	Professionals performing lending operations
Article 28-5	Professionals performing securities lending
Article 28-6	Family Offices
Article 28-7	Mutual savings fund administrators
Article 28-9	Corporate domiciliation agents
Article 28-10	Professionals providing company incorporation and management services
Article 28-11	Central account keepers

2.1. Specific information

The Law of 28 April 2011 clarified and amended the definition of specialized PSF and takes into account the actual changes to the various categories of PSF.

2.2. Fast-reference sheets and additional data per status

Registrar agents	
Definition	**Registrar agents** shall be professionals engaged in the business of keeping a register of one or more financial instruments. The keeping of a register comprises the receipt and execution of orders concerning such financial instruments, for which they are the necessary accessory.
Legal reference	Article 25 of the LFS
License granted automatically	Client communication agents (Article 29-1) and Financial sector administrative agents (Article 29-2)
Minimum capital	€125,000
Authorized form	Legal person
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 10/437 (remuneration), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints), 18/698 and 20/750 (ICT and security risk management)

Additional information

Activity as registrar particularly relates to the field of UCIs, SIFs and venture capital companies (SICAR) for which these agents perform central administrative office tasks. Registrars may ipso jure work as Financial sector administrative agents – including in particular the calculation of the net asset value (NAV) – and Client communication agents.

This activity consists in recording on a register of shareholders or security/unit holders all subscription, redemption and conversion orders sent to the registrar in connection with the shares, securities or units of an issuer. The registrar also proceeds with the issue and cancellation of personal registration certificates concerning shares, securities and units for which the agent performs this activity.

Registrars may not be engaged in investment advice or in the distribution of shares, securities or units for which they perform this business, their activity being strictly limited to carrying out administrative tasks involved in receiving and processing orders related to shares, securities or units on behalf of the issuer.

Registrars do not benefit from the European passport; a specific license is required for this activity.

Professional depositaries of financial instruments	
Definition	**Professional depositaries of financial instruments** are professionals who engage in the receipt into custody of financial instruments exclusively from the professionals of the financial sector, and who are entrusted with the safekeeping and administration thereof, including custodianship and related services, and with the task of facilitating their circulation.
Legal reference	Article 26 of the LFS
License granted automatically	None
Minimum capital	€730,000
Authorized form	Legal person
Authorization procedure	The license is subject to obtaining a written authorization from the CSSF which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 10/437 (remuneration), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management), 22/806 (outsourcing arrangements)

Professional depositaries of assets other than financial instruments

Definition	**Professional depositaries of assets other than financial instruments** are professionals whose activity consists in acting as depositary for: • Specialized investment funds within the meaning of the modified Law of 13 February 2007; • SICARs within the meaning of the modified Law of 15 June 2004; • Alternative investment funds within the meaning of Directive 2011/61/EU, which have no redemption rights that can be exercised during five years as from the date of the initial investments and which, pursuant to their main investment policy, generally do not invest in assets which shall be held in custody pursuant to Article 19(8) of the Law of 12 July 2013 on alternative investment fund managers or which generally invest in issuers or non-listed companies in order to potentially acquire control thereof in accordance with Article 24 of the Law of 12 July 2013 on alternative investment fund managers; and • Professional depositaries of assets other than financial instruments may, through delegation, also ensure the safekeeping of assets other than liquidities of financial instruments the custody of which may be ensured, where this mission is delegated to them by a single depositary of an alternative investment fund within the meaning of Directive 2011/61/EU.
Legal reference	Article 26-1 of the LFS
License granted automatically	None
Minimum capital	€500,000
Authorized form	Legal person
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 10/437 (remuneration), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management), 22/806 (outsourcing arrangements)

Additional information

This classification of "professional depositaries of assets other than financial instruments" has been created in the context of the AIFM Directive.

PSF actors such as fiduciary companies, family offices or domiciliary agents have their stake to act as a depositary for the "not-in-bank" assets, especially for private equity and real estate. This new demand represents a real opportunity to diversify and expand their service offering along the asset servicing value chain and could also represent an additional advantage for a PSF to increase its client retention by proposing a "one-stop-shop" offering.

More specifically, this possibility to deposit "not-in-bank" assets with a PSF will be mainly applicable to the Luxembourg SIF and SICAR schemes, as structures falling under part II of the modified Law of 17 December 2010 relating to undertakings for collective investment can also be distributed to retail investors, triggering more stringent requirements for the depositary.

An important difference is made between safekeeping duties on financial or "in- bank" assets and monitoring duties on other or "not-in-bank" assets. In case of loss of financial assets in custody (i.e., safekeeping), the depositary has the obligation to return an identical type or the corresponding amount of the assets whereas for other assets not held under custody, the monitoring duties mainly consist in verifying the ownership of these assets. This difference is a key factor for PSF entities that consider entering this new market segment of the depositary activity.

Operators of a regulated market authorised in Luxembourg	
Definition	**Operators of a regulated market in Luxembourg** shall be those persons managing or operating a regulated market in Luxembourg authorized in Luxembourg apart from investment firms operating an MTF or an OTF in Luxembourg.
Legal reference	Article 27 of the LFS
License granted automatically	None
Minimum capital	€730,000
Authorized form	Legal person
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 10/437 (remuneration), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management), 22/806 (outsourcing arrangements)

Debt recovery	
Definition	The business of **collecting third parties' debts**, to the extent that it is not the legal preserve of bailiffs (*huissiers de justice*), may be authorized only with the express approval of the Minister of Justice. The application is examined by the CSSF, which makes sure that the documentation and its opinion are forwarded to the Ministry of Justice.
Legal reference	Article 28-3 of the LFS
License granted automatically	None
Minimum capital	No minimum capital other than the one defined by the Law on commercial companies of 1915, as applicable
Authorized form	Not specified (by default, natural or legal person)
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance and the Ministry of Justice which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 10/437 (remuneration), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management), 22/806 (outsourcing arrangements)

Additional information

All services consisting in contacting defaulting debtors (whether by telephone, text message, email, post or in person) in order to recover claims on behalf of third parties fall within the scope of Article 28-3.

A license under Article 28-3 of the LFS is required even if the agent providing the debt collection service is not authorized to collect the funds or have them credited to its account. However, debt collection by the assignor or by a third party for the account of a securitization organization does not fall within the scope of Article 28-3 of the LFS.

Professionals performing lending operations

Definition	**Professionals performing lending operations** are professionals engaging in the business of granting loans to the public for their own account. The CSSF states that, within the meaning of Article 28-4, "public" means clients other than professional clients within the meaning of annex III section A (1) and (2) of the LFS. The following, in particular, shall be regarded as lending operations for the purposes of this Article: a. Financial leasing operations involving the leasing of moveable or immoveable property specifically purchased with a view to such leasing by the professional, who remains the owner thereof, where the contract reserves unto the lessee the right to acquire, either during the course of or at the end of the term of the lease, ownership of all or any part of the property leased in return for payment of a sum specified in the contract; and b. Ractoring operations, either with or without recourse, whereby the professional purchases commercial debts and proceeds to collect them for his own account "when he makes the funds available to the transferor before maturity or before payment of the transferred debts.". This Article shall not apply to persons engaging in the granting of consumer credit, including financial leasing operations as defined in paragraph (a) above, where that activity is incidental to the pursuit of any activity covered by the Law of 2 September 2011 regulating the access to the professions of craftsman, traders, industrialists and certain liberal professions. This Article shall not apply to persons engaging in securitization operations.
Legal reference	Article 28-4 of the LFS
License granted automatically	None
Minimum capital	€730,000
Authorized form	Legal person
Authorization procedure	The license is subject to obtaining a written authorization from the CSSF which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 10/437 (remuneration), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management), 22/806 (outsourcing arrangements)

Status-specific CSSF circulars	12/538 (lending), chapter 3 of part III (except sub-chapter 3.4) and paragraph 12 of chapter 2 of part III of 20/759 (counterparty risk and credit risk), 12/552 (central administration, internal governance and risk management)

Additional information
This status covers professionals extending loans to clients for their own account, but which are not authorized to use public savings for refinancing purposes. These professionals are refinanced exclusively inside their group or in the interbank market.

Article 28-4 of the LFS exclusively governs the granting of loans to the public. This excludes professionals exclusively granting loans to companies belonging to the same group. A lending activity carried on for a limited circle of natural or legal persons is not a public lending activity, provided the target persons are clearly identifiable by meeting pre-defined criteria.

Article 28-4 of the LFS deals with granting loans of any kind to the public, including mortgage loans and, subject to point (3) of Article 28-4, consumer credits, no matter whether the credits granted are secured by collateral or pledges or otherwise.

This status does not cover activities reserved solely for mortgage banks. In particular, the professionals in question must not issue debt instruments, referred to as mortgage bonds, and based on the rights in rem in immoveable property or charges on real property securing the mortgage loans.

This status does not govern professionals engaged in securitization operations either.

The LFS specifies that financial leasing operations and factoring operations are lending operations within the meaning of its Article 28-4. However, this list is not limitative and other activities may be considered as lending operations. For instance, the CSSF considers that issuing guarantees also constitutes a lending operation within the scope of Article 28-4, when this activity is carried on in a professional capacity and when the professional in question does not use public savings for refinancing purposes.

Professionals performing securities lending	
Definition	**Professionals performing securities lending** are professionals engaging in the business of lending or borrowing securities for their own account.
Legal reference	Article 28-5 of the LFS
License granted automatically	None
Minimum capital	€730,000
Authorized form	Legal person
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 10/437 (remuneration), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management), 22/806 (outsourcing arrangements)

Additional information

The professionals in question are authorized to act for their own account as lender or borrower of shares, units, warrants, debt instruments, bonds, bills of exchange, deposit certificates, savings bonds, promissory notes and other securities of any nature and any options and rights on or to them, issued or secured by companies located in Luxembourg or abroad.

A company established in Luxembourg which occasionally engages in securities lending operations for its own account to improve the quality of the borrower's ratios or balance sheet, when such operations are not its main company object, does not thereby fall within the scope of Article 28-5.

Professional intermediaries engaged in securities lending for the account of third parties either come under the status of agency broker (if they act in their own name) or of broker when their role consists in finding the securities requested and putting the parties in contact.

Family Offices	
Definition	Those persons carrying out the activity of **Family Office** within the meaning of the Law of 21 December 2012 relating to the Family Office activity and not registered in one of the other regulated professions listed under Article 2 of the above- mentioned law are Family Offices and regarded as carrying on a business activity in the financial sector. Family Office activity within the meaning of the Law of 21 December 2012 consists in providing, as a professional, patrimony advice or services to physical persons, families or patrimony entities belonging to physical persons or families or founded by them or from which they are beneficiaries.
Legal reference	Article 28-6 of the LFS
License granted automatically	None
Minimum capital	€50,000
Authorized form	Legal person
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 10/437 (remuneration), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management), 22/806 (outsourcing arrangements)

Additional information

The main purpose for regulating family office activity is for Luxembourg to strengthen the attractiveness and integrity of its financial market at European and world level. The purpose of regulating such activity is also to professionalize the role of the family office and its image, which is in no way incompatible with the independence and discretion it is required to exercise.

Such regulation meets a market need. It also allows Luxembourg to position itself on the world Family Office stage, while being a complementary activity to its private banking.

Mutual savings fund administrators	
Definition	**Mutual savings fund administrators** are professionals, whether natural or legal persons, engaged in the business of administering one or more collective savings schemes (*fonds communs d'épargne*). 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 favorable financial conditions.
Legal reference	Article 28-7 of the LFS
License granted automatically	None
Minimum capital	€125,000
Authorized form	Natural or legal person
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2), 22/806 (outsourcing arrangements)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 10/437 (remuneration), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management)

Additional information

Administrators of collective savings schemes being PSF and collective savings schemes (*fonds communs d'épargne*) being undivided pools without legal personality may not as such become members of the Luxembourg deposit guarantee system. They do not therefore pay any contribution to this system and do not benefit from the deposit guarantee.

Corporate domiciliation agents	
Definition	**Corporate domiciliation** agents acting as PFS are natural or legal persons who agree to the establishment at their address by one or more companies of a seat and who provide services of any kind connected with that activity.
Legal reference	Article 28-9 of the LFS
License granted automatically	Professionals providing company incorporation and management services (Art. 28-10)
Minimum capital	€125,000
Authorized form	Natural or legal person
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 10/437 (remuneration), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management), 22/806 (outsourcing arrangements)
Status-specific CSSF circulars	01/28, 01/29, 01/47 and 02/65 (domiciliation)

Additional information
CSSF Circular 02/65 gives details about the definition of "registered office" while emphasizing that this notion must be interpreted in a broad sense. It should be noted that a "registered office" exists, within the meaning of the modified Law of 31 May 1999 on corporate domiciliation, when the company is provided with an address in Luxembourg by a third party for use by it in dealings with other third parties.

If not all the criteria of a true lease (i.e., long-term lease with a lessor and a tenant ensuring exclusive enjoyment of private premises with a separate entrance, such that the tenant can be engaged in a real business on the premises in question) are met, the activity does constitute a domiciliation business within the meaning of Article 1 of the modified Law of 31 May 1999 on corporate domiciliation.

Professionals providing company incorporation and management services

Definition	**Professionals providing company incorporation and management services** are natural and legal persons engaging in the provision of services relating to the formation or management of one or more companies.
Legal reference	Article 28-10 of the LFS
License granted automatically	None
Minimum capital	€125,000
Authorized form	Natural or legal person
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 10/437 (remuneration), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management), 22/806 (outsourcing arrangements)

Additional information

Corporate domiciliation agents as referred to in Article 28-9 of the LFS and the notaries and registered members of other regulated professions listed in Article 1, paragraph (1) of the modified Law of 31 May 1999 governing the domiciliation of companies shall be automatically authorized to act, in addition, as professionals providing company incorporation and management services. Except for the former, such persons shall not be subject to prior approval by the minister responsible for the CSSF or to prudential supervision by the CSSF.

As regards the qualification of a professional engaged in company incorporation and management services, the CSSF has specified that the relationship between the professional and the client is material. The assumption is that the business in question is performed repeatedly or that the service provider is paid for the services provided.

Services related to company incorporation consist in performing for the account of the client any steps required to incorporate the type of company desired. The services as intermediary provided to a client to prepare a company incorporation deed (whether organized and existing under the laws of Luxembourg or not) and of representing a client when incorporating the company are included. As regards company management services, Article 28-10 covers entities providing third-party companies with administrators, directors or managers.

Central account keepers	
Definition	**Central account keepers** are persons whose activity is to keep issuing accounts for dematerialized securities.
Legal reference	Article 28-11 of the LFS
License granted automatically	None
Minimum capital	None
Authorized form	Legal person
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 10/437 (remuneration), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management), 22/806 (outsourcing arrangements)

3 Support PSF

Article 29-1 Client communication agents

Article 29-2 Administrative agents of the financial sector

Article 29-3 IT systems and communication network operators of the financial sector

Article 29-4 (Repealed by the Law of 21 July 2021)

Article 29-5 Dematerialization service providers of the financial sector

Article 29-6 Conservation service providers of the financial sector

3.1. Specific information

Support PSF encompass the financial sector professionals holding only a license under Articles 29-1 to 29-6 of the LFS. The term "support" was defined by the market in agreement with the CSSF.

Support PSF do not receive deposits from the public and mainly act as subcontractors of operational functions for the account of other financial sector professionals. These support PSF are engaged in an activity which, in principle, is not part of the financial sector, but they provide a service for an entity governed by the modified LFS Law. They are therefore subject to a license.

CSSF Circular 08/350 of 22 April 2008 as amended by CSSF Circular 13/568 is the first circular specific to support PSF. It covers the following four points:

1. Qualification of the activities carried on by OSIPs (operators of primary computer systems) and OSISs (operators of communications networks and secondary computer systems)
2. Terms of supervision of support PSF
3. Prudential rules and rules of conduct
4. Transitional provision

CSSF Circular 06/240, as amended by CSSF Circular 13/568, deals with the administrative and accounting organization; IT subcontracting and details about the services subject to a support PSF license, Articles 29-1, 29-2 and 29-3 of the LFS; and changes to the terms of IT subcontracting of branches abroad.

The Law of 25 July 2015 on electronic archiving broadens the license for all support PSF. These licenses are also required when activities arising from these categories are carried out for payment institutions and electronic money institutions.

The Law of 23 July 2016 also extends it to administrative agents when activities are provided for RAIFs.

In January 2024, CSSF Circular 24/850 was published, which included practical rules concerning:

1. The DR and the SAQ to be submitted annually by support PSF; and
2. The engagement of *réviseurs d'entreprises agréés* of support PSF, and the annual management letter and separate report.

3.2. Fast-reference sheets and additional data per status

Client communication agents	
Definition	**Client communication agents** are professionals engaged in the business of providing one or more of the following services on behalf of Luxembourg and non-Luxembourg credit institutions, PSF, payment institutions, electronic money institutions, UCIs, SIFs, venture capital investment companies, authorized securitization organizations, pension funds, insurance undertakings and reinsurance undertakings: • The production of confidential documents in hard- copy or electronic format for the personal use of clients of credit institutions, PSF, payment institutions, electronic money institutions, insurance or reinsurance undertakings, investors in UCIs, SIFs, venture capital investment companies, authorized securitization organizations 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; and • 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.
Legal reference	Article 29-1 of the LFS
License granted automatically	None
Minimum capital	€50,000
Authorized form	Legal person
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. 1.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 08/350 (supervision), 08/364 (reporting), 12/544 (supervision), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management), 22/806 (outsourcing arrangements), 24/850 (revised LFR)
Status-specific CSSF circular	04/146 (late trading/market timing)

Administrative agents of the financial sector	
Definition	**Administrative agents of the financial sector** are professionals who engage in the provision, on behalf of credit institutions, PSF, payment institutions, electronic money institutions, UCIs, pension funds, SIFs, SICARs, authorized securitization undertakings, RAIFs, insurance undertakings or reinsurance undertakings established under Luxembourg law or foreign law, pursuant to a sub-contract of administration services forming an integral part of the business activities of the originator.
Legal reference	Article 29-2 of the LFS
License granted automatically	Client communication agents (Article 29-1)
Minimum capital	€125,000
Authorized form	Legal person
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 08/350 (supervision), 08/364 (reporting), 12/544 (supervision), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management), 22/806 (outsourcing arrangements), 24/850 (LOR & Separate Report)

Additional information

Article 29-2 of the LFS governs the professionals providing purely administrative services (back-office services), on a subcontracting basis, for the account of financial professionals, whether from Luxembourg or abroad.

The field of action of administrative agents of the financial sector encompasses the following functions, inter alia:

- Administrating investor portfolios;
- Posting transactions in client accounts;
- Valuing client assets;
- Opening new accounts in the books;
- Accounting audit of inflows and outflows;
- Reconciliations;
- Calculating the net asset value of UCI units; and
- Defining computer application settings.

Therefore, administrative agents may actively partake in the professional process of their client. This status does not cover technical services that are not likely to impact the principal's professional activity.

IT systems and communication network operators of the financial sector	
Definition	**IT systems and communication network operators** of the financial sector are professionals who are responsible for the operation of IT systems and communication networks that are part of the IT and communication systems belonging to: credit institutions, PSF, payment institutions, electronic money institutions, UCIs, pension funds, SIFs, SICARs, authorized securitization undertakings, RAIFs, insurance undertakings, or reinsurance undertakings established under Luxembourg or foreign law.
Legal reference	Article 29-3 of the LFS
Minimum capital	€125,000
Authorized form	Legal person
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 08/350 (supervision), 08/364 (reporting), 12/544 (supervision), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management), 22/806 (outsourcing arrangements), 24/850 (LOR & Separate Report)

Dematerialization service providers of the financial sector

Definition	**Dematerialization service providers of the financial sector** are dematerialization service providers within the meaning of the Law of 25 July 2015 on e-archiving in charge of the dematerialization of documents on behalf of credit institutions, PSF, payment institutions, electronic money institutions, UCIs, SIFs, SICARs, pension funds, authorized securitization undertakings, insurance undertakings or reinsurance undertakings, governed by Luxembourg law or by foreign law.
Legal reference	Article 29-5 of the LFS
License granted automatically	None
Minimum capital	€50,000
Authorized form	Legal person
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 08/350 (supervision), 08/364 (reporting), 12/544 (supervision), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management), 22/806 (outsourcing arrangements) , 24/850 (LOR & Separate Report)

Additional information
CSSF and ILNAS collaborate for the purposes of the performance of their respective duties of supervision of dematerialization service providers of the financial sector.

Conservation service providers of the financial sector

Definition	**Conservation service providers of the financial sector** are conservation service providers within the meaning of the Law of 25 July 2015 on e-archiving in charge of the conservation of electronic documents on behalf of credit institutions, PSF, payment institutions, electronic money institutions, UCIs, SIFs, SICARs, pension funds, authorized securitization undertakings, insurance undertakings or reinsurance undertakings, governed by Luxembourg law or by foreign law.
Legal reference	Article 29-6 of the LFS
License granted automatically	None
Minimum capital	€125,000
Authorized form	Legal person
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 08/350 (supervision), 08/364 (reporting), 12/544 (supervision), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management), 22/806 (outsourcing arrangements) , 24/850 (LOR & Separate Report)

Additional information
The activities consisting solely in basic data storage and that do not consist in the conservation of a recognized legal copy or a digital original ensuring its integrity according to the Law of 25 July 2015 on e-archiving do not fall under this present Article.

CSSF and ILNAS collaborate for the purposes of the performance of their respective duties of supervision of conservation service providers of the financial sector.

4 Credit servicers

4.1. Specific information

The NPL Law transposes, amongst others, Directive (EU) 2021/2167 of the European Parliament and of the Council of 24 November 2021 on credit servicers and credit purchasers and amending Directives 2008/48/EC and 2014/17/EU (the "NPL Directive") into Luxembourg law.

In accordance with Article 1(1a-2) of the NPL Law, credit servicers may perform one or more of the following activities:

1. Collecting or recovering from the borrower any payments due related to a creditor's rights under a non-performing credit agreement or to the non-performing credit agreement itself;
2. Renegotiating with the borrower any terms and conditions related to a creditor's rights under a non-performing credit agreement, or of the non-performing credit agreement itself, in line with the instructions given by the credit purchaser, where the credit servicer is not a credit intermediary as defined in Article 3, point (f) of Directive 2008/48/EC or in Article 4, point (5) of Directive 2014/17/EU;
3. Administering any complaints relating to a creditor's rights under a non-performing credit agreement or to the non-performing credit agreement itself; and
4. Informing the borrower of any changes in interest rates or charges or of any payments due related to a creditor's rights under a non-performing credit agreement or to the non-performing credit agreement itself.

No person may have the credit servicer activity as a regular occupation or business without CSSF authorization in accordance with Article 28-14 of the LFS.

Approved publication arrangements	
Legal reference	Article 28-14 of the LFS
License granted automatically	None
Minimum capital	€75,000 where the applicant is not authorized to receive and hold borrowers' funds to transfer them to credit purchasers €150,000 where the applicant is authorized to receive and hold funds from borrowers to transfer them to credit purchasers
Authorized form	Legal person
Authorization procedure	Authorization shall be granted upon written application and following CSSF investigation to establish whether the LFS's requirements are fulfilled. The authorizations shall be granted for an unlimited period of time. Where authorizations are granted, the credit servicer may immediately start to carry on business.
Professional indemnity insurance	€0

5 Data Reporting Service Providers (DRSP)

The authorization of an investment firm shall specify the investment services or activities listed in Section A of Annex II that it is authorized to provide. In addition, the authorization may cover one or more ancillary services set out in Section C of Annex II “and one or more services“ of an APA, an ARM or a CTP within the meaning of point (35) of Article 2(1) of Regulation (EU) No 600/2014, pursuant to Article 27b(2) of that regulation. The authorization as investment firm may not be granted where only ancillary services are provided.

Approved publication arrangements

Definition	Approved publication arrangements (APAs) are professionals whose activity consists in providing the service of publishing trade reports on behalf of credit institutions or investment firms.
Legal reference	Article 29-12 of the LFS
License granted automatically	None
Minimum capital	€125,000
Authorized form	Legal person
Authorization procedure	The license is subject to obtaining written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2)
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 08/350 (supervision), 08/364 (reporting), 12/544 (supervision), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management)

Additional information

APAs shall have adequate policies and arrangements in place to make public the information required under Articles 20 and 21 of Regulation (EU) No 600/2014 as close to real time as is technically possible, on a reasonable commercial basis. The information shall be made available free of charge 15 minutes after the APA has published it. The APA shall be able to disseminate such information efficiently and consistently in a way that ensures fast access to the information, on a non-discriminatory basis and in a format that facilitates the consolidation of the information with similar data from other sources.

The information made public by an APA shall include, at least, the following details:

1. The identifier of the financial instrument;
2. The price at which the transaction was concluded;
3. The volume of the transaction;
4. The time of the transaction;
5. The time the transaction was reported;
6. The price notation of the transaction;
7. The code for the trading venue the transaction was executed on, or where the transaction was executed via a systematic internalizer the code "SI" or otherwise the code "OTC"; and
8. If applicable, an indicator that the transaction was subject to specific conditions.

APAs shall operate and maintain effective administrative arrangements designed to prevent conflicts of interest with their clients. In particular, an APA that is also a market operator, credit institution or investment firm shall treat all information collected in a non-discriminatory fashion and shall operate and maintain appropriate arrangements to separate different business functions.

Furthermore, APAs shall have sound security mechanisms in place designed to guarantee the security of the means of transfer of information, minimize the risk of data corruption and unauthorized access and to prevent information leakage before publication. APAs shall maintain adequate resources and have back-up facilities in place in order to offer and maintain their services at all times.

APAs shall have systems in place that can effectively check trade reports for completeness, identify omissions and obvious errors and request re-transmission of any such erroneous reports.

Consolidated tape providers (CTP)	
Definition	Consolidated tape providers (CTPs) are professionals whose activity consists in providing the service of collecting trade reports for financial instruments from regulated markets, MTFs, OTFs, and APAs and consolidating them into a continuous electronic live data stream providing price and volume data per financial instrument.
Legal reference	Article 29-13 of the LFS
Minimum capital	None
Authorized form	Legal person
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2).
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 08/350 (supervision), 08/364 (reporting), 12/544 (supervision), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management)

Additional information

The CTP shall have adequate policies and arrangements in place to collect the information made public in accordance with Articles 6 and 20 of Regulation (EU) No 600/2014, consolidate it into a continuous electronic data stream and make the following information available to the public as close to real time as is technically possible, on a reasonable commercial basis including, at least, the following details:

1. The identifier of the financial instrument;
2. The price at which the transaction was concluded;
3. The volume of the transaction;
4. The time of the transaction;
5. The time the transaction was reported;
6. The price notation of the transaction;
7. The code for the trading venue the transaction was executed on, or where the transaction was executed via a systematic internalizer the code "SI" or otherwise the code "OTC";
8. Where applicable, the fact that a computer algorithm within the credit institutions or investment firm was responsible for the investment decision and the execution of the transaction;
9. If applicable, an indicator that the transaction was subject to specific conditions; and
10. If the obligation to make public the information referred to in Article 3 (1) of Regulation (EU) No 600/2014 was waived in accordance with letter (a) or (b) of Article 4 (1) of that regulation, an indication which of those waivers the transaction was subject to.

The information shall be made available free of charge 15 minutes after the CTP has published it. The CTP shall be able to disseminate such information efficiently and consistently in a way that ensures fast access to the information, on a non-discriminatory basis and in formats that are easily accessible and usable for market participants.

Approved reporting mechanisms

Definition	Approved reporting mechanisms (ARMs) are professionals whose activity consists in providing the service of reporting details of transactions to competent authorities or to ESMA on behalf of credit institutions or investment firms.
Legal reference	Article 29-14 of the LFS
License granted automatically	None
Authorized form	Legal person
Authorization procedure	The license is subject to obtaining a written authorization from the Ministry of Finance which handles the license documentation filed to obtain the desired status, including the necessary basic information (cf. I.2).
Professional indemnity insurance	€0
Main applicable CSSF regulations (Reg.) and circulars	95/120 (central administration), 96/126 (organization), 98/143 (internal control), 17/656, 06/240 and 13/554 (IT), 08/350 (supervision), 08/364 (reporting), 12/544 (supervision), Reg. 12-02 (AML), Reg. 16-07 and 17/671 (complaints) and 20/750 (ICT and security risk management)

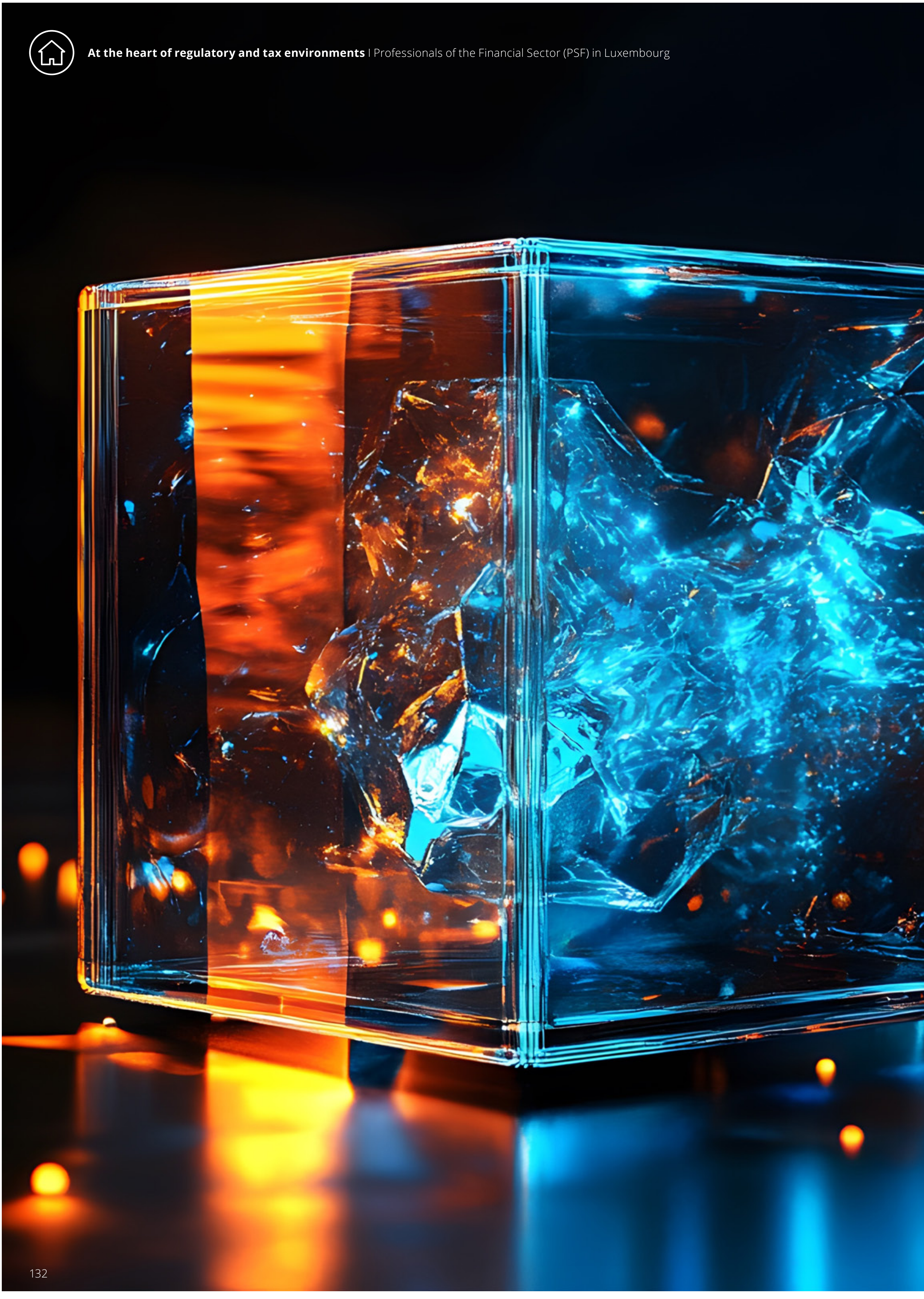
Additional information

ARMs shall have adequate policies and arrangements in place to report the information required under Article 26 of Regulation (EU) No 600/2014 as quickly as possible, and no later than the close of the working day following the day upon which the transaction took place. Such information shall be reported in accordance with the requirements laid down in Article 26 of Regulation (EU) No 600/2014.

ARMs shall operate and maintain effective administrative arrangements designed to prevent conflicts of interest with their clients. In particular, an ARM that is also a market operator, credit institution or investment firm shall treat all information collected in a non-discriminatory fashion and shall operate and maintain appropriate arrangements to separate different business functions.

ARMs shall have sound security mechanisms in place designed to guarantee the security and authentication of the means of transfer of information, minimize the risk of data corruption and unauthorized access and to prevent information leakage, maintaining the confidentiality of the data at all times. ARMs shall maintain adequate resources and have back-up facilities in place in order to offer and maintain their services at all times.

ARMs shall have systems in place that can effectively check transaction reports for completeness, identify omissions and obvious errors caused by the credit institution or the investment firm and where such error or omission occurs, communicate details of the error or omission to the credit institution or investment firm and request re-transmission of any such erroneous reports. ARMs shall have systems in place to enable them to detect errors or omissions caused by themselves and to enable ARMs to correct and transmit, or re-transmit as the case may be, correct and complete transaction reports to the competent authority.



Appendices

1 Summary of main regulations and circulars applicable to PSF

(as at 30 November 2024)

CIRCULAR/REGULATION	TOPIC			
		Investment firms	Specialized PSF	Support PSF
Organization and internal control				
91/78	Segregation of assets for private portfolio managers	X (1)		
93/95 and 11/515	License requirements	X	X	X
93/102	Activities of brokers or commission agents	X (2)		
95/120 (as amended by 22/806)	**Central administration**		X	X
96/126 (as amended by 22/806)	**Administrative and accounting organization**		X	X
98/143 (as amended by 22/806)	**Internal control**		X	X
04/146	Protection of undertakings for collective investment and their investors against Late Trading and Market Timing practices	X (3)	X (3)	X (3)
04/155 (as amended by 22/806)	Compliance function		X	X
12/538	Lending in foreign currencies	X	X (4)	
Regs G-D of 25 July 2015	Dematerialization and conservation of documents/electronic archiving			X (3)
15/631	Dormant or inactive accounts	X	X	X
17/651	Credit agreements for consumers relating to residential immovable property	X	X	X
17/669	Prudential assessment of acquisitions and increases in holdings in the financial sector	X	X	X
17/671 as amended by 18/698 and 19/718	Out-of-court resolution of complaints	X	X	X
Reg. 20-04	Measures for a high common level of security of network and information systems		X	
20/743:19/716	Provision in Luxembourg of investment services or performance of investment activities and ancillary services in accordance with Article 32-1 of the LFS	X		

CIRCULAR/REGULATION	TOPIC			
		Investment firms	Specialized PSF	Support PSF
20/750 (as amended by 22/828)	**Information and communication technology (ICT) and security risk management**	X	X	X
20/758 (as amended by 21/785 and 22/806)	**Central administration, internal governance and risk management**	X	X (5)	
22/827, updating 07/325 and 13/568 and 21/765	Branches in Luxembourg or activities exercised in Luxembourg by way of free provision of services; branches in another Member State or activities exercised in another Member State by way of free provision of services	X (3)		
21/769 as amended by 22/804	Governance and security requirements for supervised entities to perform tasks or activities through **telework**	X	X	X
22/806 repealing 17/656 and 17/654	**Outsourcing arrangements**	X	X	X
Remuneration				
10/437 sector	Remuneration policies in the financial	X	X	X
Fight against money laundering and terrorist financing				
11/528	Abolition of the transmission to the CSSF of suspicious transaction reports	X	X	X
11/529	Risk analysis regarding the fight against money laundering and terrorist financing	X	X	X
17/650 as amended by 20/744 offences	**Application extended to primary tax**	X	X	X
Reg. 12-02 as amended by CSSF regulation N°20-05 and Circulars 10/495, 15/609	**Fight against money laundering and terrorist financing**	X	X	X
19/732 as amended by 24/861	Prevention of money laundering and terrorist financing: clarifications on the identification and verification of the identity of the ultimate beneficial owner(s)	X	X	X
20/740	AML/CFT implications during the COVID-19 pandemic	X	X	X
21/782 as amended by 23/841 and 23/843	Adoption of the revised guidelines, by EBA, on money laundering and terrorist financing risk factors	X	X	

CIRCULAR/REGULATION	TOPIC			
		Investment firms	Specialized PSF	Support PSF
MiFID				
19/723	ESMA Guidelines on the application of the definitions of commodity derivatives in Sections C6 and C7 of Annex I of MiFID II	X		
21/779	Adoption of the Guidelines of the European Securities and Market Authority ("ESMA") on certain aspects of the MiFID II compliance function requirements (ESMA35-36-1952)	X		
21/783	Application of the Guidelines of the European Securities and Market Authority on the MiFID II/MiFIR obligations on market data	X		
07/307 as amended by CSSF Circulars 13/560, 13/568 and 14/585	As amended by CSSF Circulars 13/560, 13/568 and 14/585	X		

CIRCULAR/REGULATION	TOPIC			
		Investment firms	Specialized PSF	Support PSF
Prudential ratios				
06/260 **07/290 as amended by 10/451, 10/483, 10/497 and 13/568** **07/301 as amended by 08/338, 09/403, 10/494** **11/501** **11/505** **12/535** **13/572**	Capital adequacy ratios / large exposures; assessment process	X		
Reg. 14-01, 15-01 and 15-02 and 13/575, 14/582, 14/583, 15/606, 15/618, 15/620, 15/622, 20/756 and 21/784 as well as Regulation (EU) No 575/2013, ad hoc Commission Delegated Regulations (EU) and ad hoc Commission Implementing Regulations (EU)	Supervisory reporting requirements (IFD/IFR/ FINREP)	X (3)		
09/403	Sound liquidity risk management	X		
11/506 as amended by 20/753	Principles of a sound stress testing program	X		
16/02	Scope of deposit guarantee and investor compensation	X		
17/03, 17/649	Adoption of the guidelines issued by the European Banking Authority (EBA) on the methods of providing information in summarized or collective form for the purposes of the Banking Recovery and Resolution Directive (BRRD)	X		
Reporting				
05/187 completed by 10/433 and 21/770, 19/709	Financial information to be submitted to the CSSF on a periodic basis	X	X	X
08/334 and 08/344	Encryption specifications for reporting firms to the CSSF	X	X	X
08/364	Financial information to be submitted to the CSSF on a quarterly basis by the support PSF			X
08/369	Prudential reporting	X	X	X
10/457	Electronic transmission to the CSSF of the long form report and of the management letter	X		
11/503	Transmission and publication of financial information and relating deadlines	X	X	X
11/504	Frauds and incidents due to external computer attacks	X	X	X
13/577	Table "Responsible persons for certain functions and activities"	X		

CIRCULAR/REGULATION	TOPIC			
		Investment firms	Specialized PSF	Support PSF
Domiciliation				
01/28, 01/29, 01/47 and 02/65	Domiciliation		X (6)	
Supervision				
00/22	Supervision of investment firms on a consolidated basis	X (3)		
08/350 as amended by 13/568	Prudential supervisory procedures for support PSF			X
12/544 updated by 19/727	Optimization of the supervision exercised on the support PSF by a risk-based approach			X
15/629 as amended by 16/641	Supplementary supervision to be applied to financial conglomerates and definition of structure coefficients to be observed by the regulated entities belonging to these financial conglomerates	X		
19/716 as amended by 20/743	Provision in Luxembourg of investment services or performance of investment activities and ancillary services in accordance with Article 32-1 of the LFS	X		
External audit				
03/113 as amended by 10/486, 21/768 and 24/85	Practical rules concerning the mission of external auditors of investment firms	X		

(1) Applicable only to private portfolio management (Article 24-4).

(2) Applicable only to Reception and transmission of orders in relation to one or more financial instruments (Article 24-1) and Execution of orders on behalf of clients (Article 24-2).

(3) Depending on the activity of the PSF.

(4) Applicable only to professionals performing lending operations (Article 28-4).

(5) Applicable only to professionals performing lending operations (Article 28-4) and only chapter 3 of part III of the circular (except sub-chapter 3.4) and paragraph 12 of chapter 2 of part III of the circular applicable.

(6) Applicable only to PSF providing domiciliation activities.

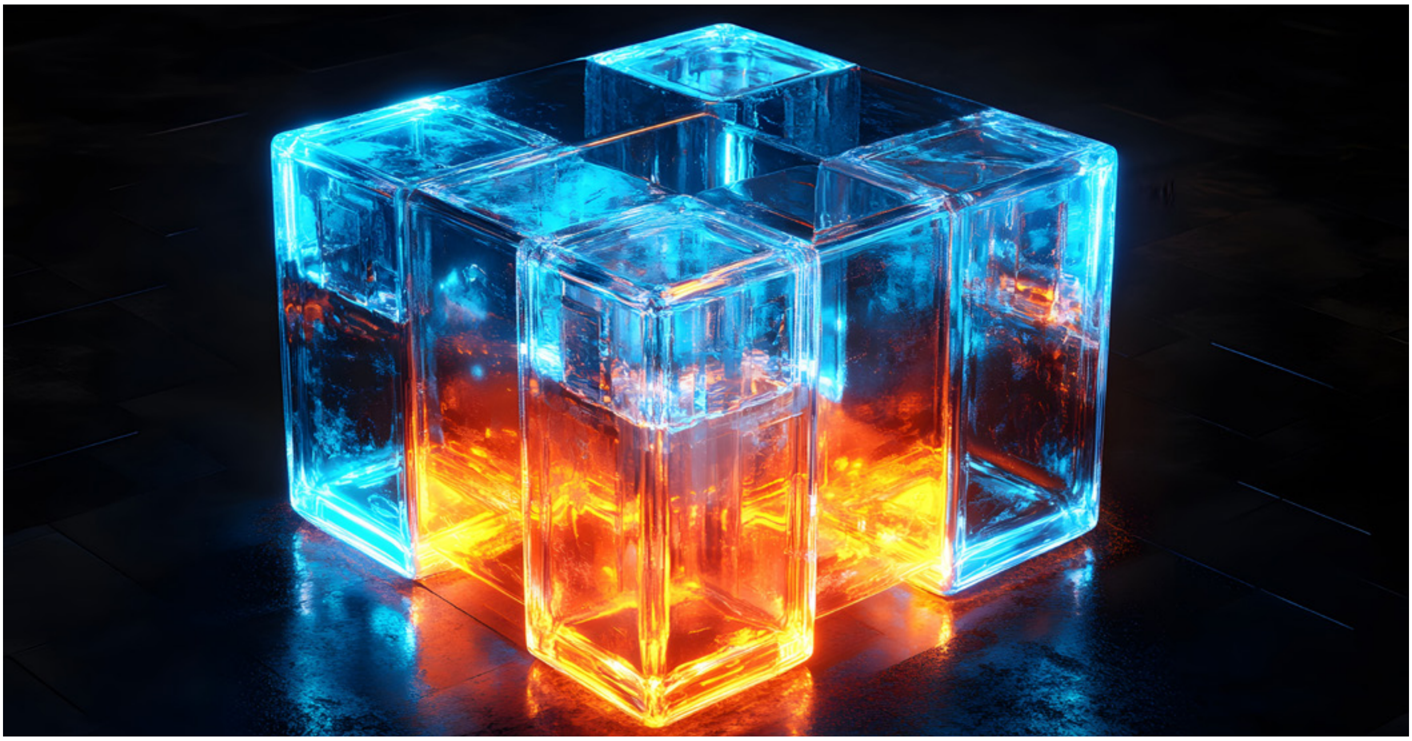
2 PSF in a nutshell

Investment firms

PSF activities	Article	Minimum capital or capital base €	Definition of the services
Reception and transmission of orders in relation to one or more financial instruments	24-1	€75,000 where the investment firm is not permitted to hold client money or securities belonging to its clients; otherwise €150,000	**Reception and transmission of orders in relation to one or more financial instruments** means the receiving or transmitting orders in relation to one or more financial instruments, without holding funds or financial instruments of the clients.
Execution of orders on behalf of clients	24-2	€75,000 where the investment firm is not permitted to hold client money or securities belonging to its clients; otherwise €150,000	**Execution of orders** on behalf of clients means acting to conclude agreements to buy or sell one or more financial instruments on behalf of clients and includes the conclusion of agreements to sell financial instruments issued by an investment firm or a credit institution at the moment of their issuance.
Dealing on own account	24-3	€750,000	Dealing on own account means trading against proprietary capital resulting in the conclusion of transactions in one or more financial instruments.
Portfolio Management	24-4	€75,000 where the investment firm is not permitted to hold client money or securities belonging to its clients; otherwise €150,000	**Portfolio management** means managing portfolios in accordance with mandates given by clients on a discretionary client-by-client basis where such portfolios include one or more financial instruments.
Investment advice	24-5	€75,000 where the investment firm is not permitted to hold client money or securities belonging to its clients; otherwise €150,000	**Investment advice** means the provision of 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.
Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis	24-6	€750,000	Underwriters of financial instruments are professionals whose business is to **underwrite financial instruments and/or place financial instruments on a firm commitment basis**.

Investment firms

PSF activities	Article	Minimum capital or capital base €	Definition of the services
Placing of financial instruments without a firm commitment basis	24-7	€75,000 where the investment firm is not permitted to hold client money or securities belonging to its clients; otherwise €150,000	This activity comprises the placing of financial instruments **without** a firm commitment basis.
Operation of an MTF	24-8	€150,000	**MTF** or **multilateral trading facility** shall mean a multilateral system, which brings together multiple third-party buying and selling interests in financial instruments – in the system and in accordance with nondiscretionary rules – in a way that results in a contract.
Operation of an OTF	24-9	€150,000 or €750,000 where this firm engages in dealing on own account or is permitted to do so	**OTF** or **organised trading facility** shall mean a multilateral system which is not a regulated market or an MTF and in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract.



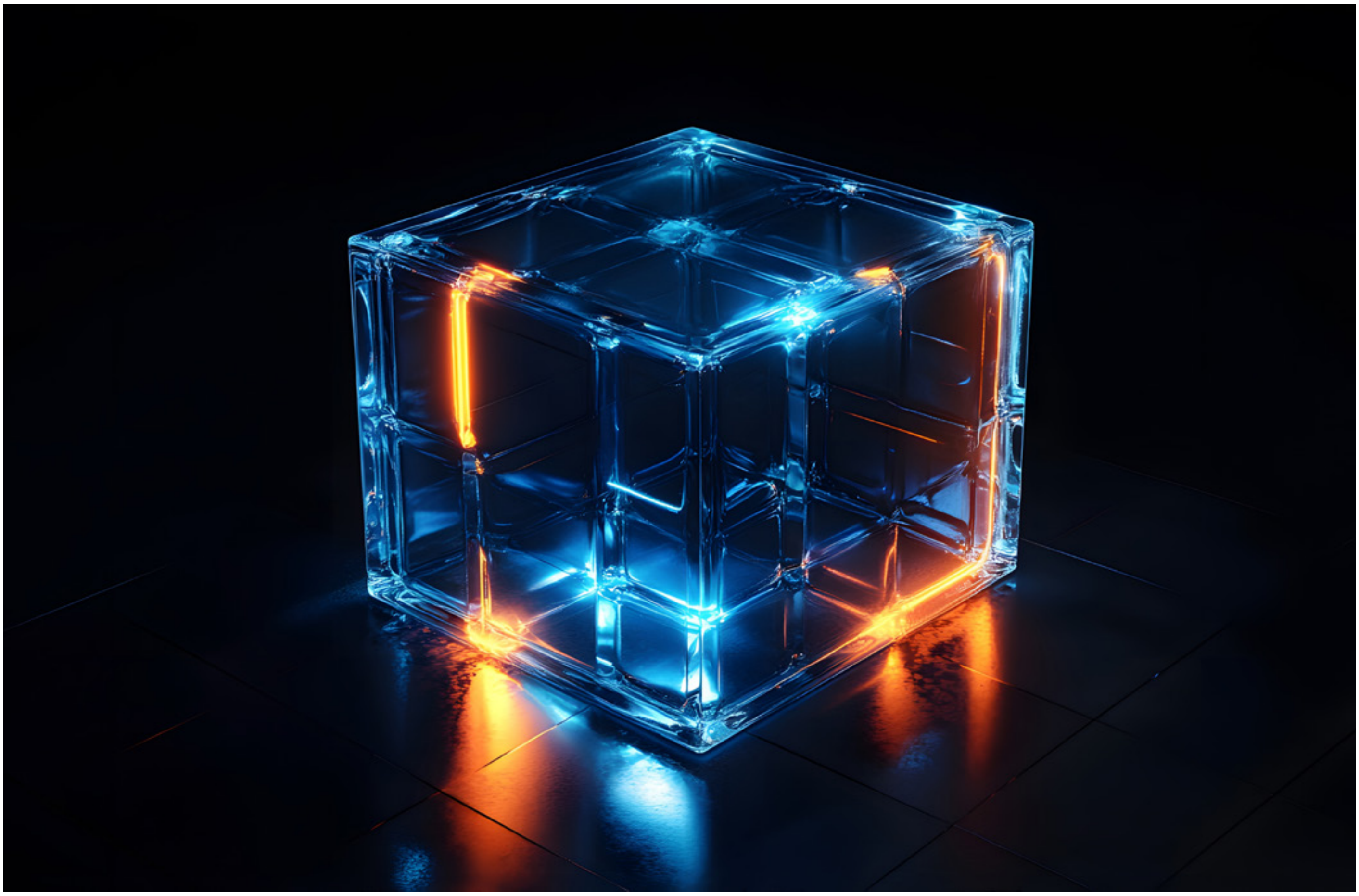
Specialized PSF

PSF activities	Article	Minimum capital or capital base €	Definition of the services
Registrar agents	25	€125,000	Registrar agents are professionals whose business is to maintain the register of one or more financial instruments. The maintaining of the register includes the reception and execution of orders relating to such financial instruments, of which they are the necessary accessory.
Professional depositaries of financial instruments	26	€730,000	Professional depositaries of financial instruments are professionals who engage in the receipt into custody of financial instruments exclusively from the professionals of the financial sector, and who are entrusted with the safekeeping and administration thereof, including custodianship and related services, and with the task of facilitating their circulation.
Professional depositaries of assets other than financial instruments	26-1	€500,000	"Professional depositaries of assets other than financial instruments are professionals whose activity consists in acting as depositary for: – specialized investment funds within the meaning of the law of 13 February 2007, as amended, – investment companies in risk capital within the meaning of the law of 15 June 2004, as amended, – alternative investment funds within the meaning of Directive 2011/61/EU, which have no redemption rights that can be exercised during five years as from the date of the initial investments and which, pursuant to their main investment policy, generally do not invest in assets which shall be held in custody pursuant to Article 19(8) of the law of 12 July 2013 on alternative investment fund managers or which generally invest in issuers or non-listed companies in order to potentially acquire control thereof in accordance with Article 24 of the law of 12 July 2013 on alternative investment fund managers."
Operators of a regulated market authorized in Luxembourg	27	€730,000	Operators of a regulated market in Luxembourg are persons who manage and/or operate the business of a regulated market authorized in Luxembourg, excluding investment firms operating an MTF or an OTF in Luxembourg.
Debt recovery	28-3	-	The recovery of debts owed to third parties, to the extent that it is not reserved by law to certificated bailiffs, shall be authorized only with the assent of the Minister for Justice.
Professionals performing lending operations	28-4	€730,000	"Professionals performing lending operations are professionals engaging in the business of granting loans to the public for their own account. The following, in particular, shall be regarded as lending operations for the purposes of this article: (a) financial leasing operations involving the leasing of moveable or immoveable property specifically purchased with a view to such leasing by the professional, who remains the owner thereof, where the contract reserves unto the lessee the right to acquire, either during the course of or at the end of the term of the lease, ownership of all or any part of the property leased in return for payment of a sum specified in the contract;

PSF activities	Article	Minimum capital or capital base €	Definition of the services
Professionals performing lending operations (continued)	28-4	€730,000	(b) factoring operations, either with or without recourse, whereby the professional purchases commercial debts and proceeds to collect them for his own account "when he makes the funds available to the transferor before maturity or before payment of the transferred debts". This article shall not apply to persons engaging in the granting of consumer credit, including financial leasing operations as defined in paragraph (a) above, where that activity is incidental to the pursuit of any activity covered by the law of 2 September 2011 regulating the access to the professions of craftsmen, salesmen, industrials as well as to some liberal professions, as amended. This article shall not apply to persons engaging in securitization operations."
Professionals performing securities lending	28-5	€730,000	Professionals performing securities lending are professionals engaging in the business of lending or borrowing securities for their own account.
Family Offices	28-6	€50,000	Those persons carrying out the activity of Family Office within the meaning of the law of 21 December 2012 relating to the Family Office activity and not registered in one of the other regulated professions listed under Article 2 of the above-mentioned law are Family Offices and regarded as carrying on a business activity in the financial sector.
Mutual savings fund administrators	28-7	€125,000	"Mutual savings fund administrators are natural or legal persons engaging in the administration of one or more mutual savings funds. No person other than a mutual savings fund administrator may carry on, even in an incidental capacity, the business of administering mutual savings funds. For the purposes of this article, “mutual savings fund” means any undivided fund of cash deposits administered for the account of joint savers numbering not less than 20 persons with a view to securing more favourable financial terms."
Corporate domiciliation agents	28-9	€125,000	Corporate domiciliation agents referred to as other professionals of the financial sector in the list of paragraphs 1 of Article 1 of the law of 31 May 1999 governing the domiciliation of companies and referred to in this Article, are natural or legal persons who agree to the establishment at their address by one or more companies of a seat and who provide services of any kind connected with that activity. This Article does not refer to the other persons listed in the above-mentioned list.
Professionals providing company incorporation and management services	28-10	€125,000	Professionals providing company incorporation and management services are natural and legal persons engaging in the provision of services relating to the formation or management of one or more companies.
Central account keepers	28-11	-	Central account keepers are persons whose activity is to keep issuing accounts for dematerialized securities.

Support PSF

PSF activities	Article	Minimum capital or capital base €	Activity covered by the status
Client communication agents	29-1	€50,000	"Client communication agents are professionals engaging in the provision, on behalf of credit institutions, PSF, payment institutions, electronic money institutions, insurance undertakings, reinsurance undertakings, pension funds, UCIs, SIFs, investment companies in risk capital (*sociétés d'investissement en capital à risque*) and authorized securitization undertakings established under Luxembourg law or foreign law, of one or more of the following services: – the production, in tangible form or in the form of electronic data, of confidential documents intended for the personal attention of clients of credit institutions, PSF, payment institutions, electronic money institutions, insurance undertakings, reinsurance undertakings, contributors, members or beneficiaries of pension funds and investors in UCIs, SIFs, investment companies in risk capital and authorized securitization undertakings; – the maintenance or destruction of documents referred to in the previous indent; – the communication to persons referred to in the first indent of documents or information relating to their assets and to the services offered by the professional in question; – the management of mail giving access to confidential data by persons referred to in the first indent; – the consolidation, pursuant to an express mandate given by the persons referred to in the first indent of positions which the latter hold with diverse financial professionals."
Administrative agents of the financial sector	29-2	€125,000	Administrative agents of the financial sector are professionals who engage in the provision, on behalf of credit institutions, PSF, payment institutions, electronic money institutions, UCIs, pension funds, SIFs, investment companies in risk capital, authorized securitization undertakings, reserved alternative investment funds, insurance undertakings or reinsurance undertakings established under Luxembourg law or foreign law, pursuant to a sub-contract, of administration services forming an integral part of the business activities of the originator.
IT systems and communication networks operators of the financial sector	29-3	€125,000	IT systems and communication networks operators of the financial sector are professionals who are responsible for the operation of IT systems and communication networks that are part of the IT and communication systems belonging to credit institutions, PSF, payment institutions, electronic money institutions, UCIs, pension funds, SIFs, investment companies in risk capital, authorized securitization undertakings, reserved alternative investment funds, insurance undertakings or reinsurance undertakings established under Luxembourg law or foreign law. The activity of IT systems and communication networks operator of the financial sector includes IT processing or transfer of data stored in the IT systems. The IT systems and communication networks in question may either belong to the credit institution, PSF, payment institution, electronic money institution, UCI, pension fund, SIF, investment company in risk capital, authorized securitization undertaking, reserved alternative investment fund, insurance undertaking or reinsurance undertaking established under Luxembourg law or foreign law, or be provided to them by the operator.



PSF activities	Article	Minimum capital or capital base €	Activity covered by the status
Dematerialization service providers of the financial sector	29-5	€50,000	Dematerialization service providers of the financial sector are dematerialization or conservation service providers within the meaning of the law of 25 July 2015 on e-archiving in charge of the dematerialization of documents on behalf of credit institutions, PSF, payment institutions, electronic money institutions, UCIs, SIFs, investment companies in risk capital (SICARs), pension funds, authorized securitization undertakings, insurance undertakings or reinsurance undertakings, governed by Luxembourg law or by foreign law.
Conservation service providers of the financial sector	29-6	€125,000	Conservation service providers of the financial sector are dematerialization or conservation service providers within the meaning of the law of 25 July 2015 on e-archiving in charge of the conservation of electronic documents on behalf of credit institutions, PSF, payment institutions, electronic money institutions, UCIs, SIFs, investment companies in risk capital (SICARs), pension funds, authorized securitization undertakings, insurance undertakings or reinsurance undertakings, governed by Luxembourg law or by foreign law.

3 Glossary

AIFM	Alternative Investment Fund Manager
AR	Analytical Report
CI	Credit Institution
CIT	Corporate Income Tax *Impôt sur le Revenu des Collectivités (IRC)*
CSSF	*Commission de Surveillance du Secteur Financier*
DR	Descriptive Report
EC	European Commission
EEA	European Economic Area
FATCA	Foreign Account Tax Compliance Act
FFI	Foreign Financial Institution
PSF	Financial Sector Professional
ICAAP	Internal Capital Adequacy Assessment Process
ILNAS	*Institut Luxembourgeois de la Normalisation, de l'Accréditation, de la Sécurité et qualité des produits et services*
IRS	Internal Revenue Service
KYC	Know Your Customer
Law	Modified law relating to the financial sector of 5 April 1993
LITL	*Loi de l'Impôt sur le Revenu:* law on income tax
MBT	Municipal Business Tax: *Impôt Commercial Communal (ICC)*
MiFID	Markets in Financial Instruments Directive
MTF	Multilateral Trading Facility
NFFE	Non-Financial Foreign Entity
NWT	Net Wealth Tax: *Impôt sur la fortune (IF)*
OECD	Organization for Economic Co-operation and Development
PSDC	*Prestataire de Services de Dématérialisation ou de Conservation:* dematerialization and conservation service provider
RAR	Risk Assessment Report
UCI	Undertaking for Collective Investment
SICAR	*Société d'investissement à Capital Risque*: venture capital investment company
VAT	Value Added Tax

References

Modified Law relating to the financial sector of 5 April 1993
CSSF regulations and circulars CSSF annual reports
CSSF statistics on PSF
Questions/answers relating to the PSF licenses and statuses granted by the CSSF
Professionals of the Financial Sector (PSF) in Luxembourg - Overview and outlook of a sector adapting to the change

4 Organizations representing PSF

Expanding representation across professional associations
PSF are subject to the supervisory authority of the CSSF. Holding the PSF status is subject to a license granted by the Minister of Finance, in consideration of the opinion given by the CSSF. The conditions for granting such a license include in particular initial capitalization, credit standing, the competence of the management and adequate governance, relying on a central administrative office based in Luxembourg.

The professional associations set out below are the most representative in terms of defending the interests of PSF:

Finance & Technology Luxembourg (FTL)
This association, formed in 2007, currently combines over 50 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, create synergy between players with a view to securing Luxembourg projects with an international dimension. It also proactively handles current topics related directly to support PSF and FinTech companies.
Tel.: +352 43 53 66-1
www.financeandtechnology.lu

Association Luxembourgeoise des Family Office (LAFO)
This Luxembourg professional association has about fifty members and is specialized in Family Offices. The Family Officer serves as a service provider for 'families and asset entities', i.e. it coordinates, controls and supervizes all professionals involved in the provision of services to its clients (asset management, attorneys, tax advisers, banks, trustees, notaries, etc.).
Tel.: +352 621 135 933
www.lafo.lu

Luxembourg Alternative Administrators Association (L3A)
Created in 2004, the purpose of this association is to promote the Luxembourg trust industry and the representation of the professional interests of its members.
It organizes seminars and other meetings and develops initiatives on a central level, which would be too costly or difficult for individual members. It safeguards the promotion of the commercial interests of trust companies and defend their interests with the authorities, in particular by participating in commissions and working groups.
It has contacts with authorities, other professional organizations, professional chambers and other corporate institutions.
Tel.: +352 621 33 98 98
Email: contact@l3a.lu
www.l3a.lu

Luxembourg Capital Markets Association (LuxCMA)
LuxCMA, constituted on 1 March 2019, is as a not-for-profit association (a.s.b.l.). LuxCMA has established four Working Groups and three Task-Forces. The main goal of the association is to bring all players in the primary capital markets around the table and materialize their common interests. In particular, LuxCMA will focus on facilitating the access to a wide network of capital market professionals; exchanging views about the future of the industry; sharing best practices with peers; sharing the latest information concerning legal and regulatory developments; setting market standards and providing input for capital markets sector proposals in cooperation with other industry associations, thereby influencing future policy- making.
Tel.: +352 47 79 36-1
www.luxcma.com.

Association des Banques Et Banquiers, Luxembourg (ABBL)
The ABBL was constituted in 1939. The ABBL represents the majority of financial institutions, regulated financial intermediaries, and other professionals established in Luxembourg, as well as lawyers, consultants, and auditors working in or for the financial sector.
The ABBL is providing its members with guidance and knowledge to operate in the financial market and under its regulatory environment. Furthermore, the ABBL provides a platform to discuss key industry issues and to define common best practice standards.
Tel.: +352 46 36 60-1
www.abbl.lu

ABBL investment firms working group
To provide a suitable platform to address the needs of independent asset managers, the ABBL has launched a new working group dedicated to the community of investment firms that are PSF regulated entities supervised by the CSSF.
Tel.: +352 46 36 60-1
www.abbl.lu

Association Luxembourgeoise des Fonds d'Investissement (ALFI)
The ALFI was established in 1988 and represents Luxembourg asset management and investment funds. The objective of the ALFI is to; "Lead industry efforts to make Luxembourg the most attractive international investment fund center".
Tel.: +352 22 30 26-1
www.alfi.lu

Luxembourg Private Equity and Venture Capital Association (LPEA)
The LPEA was constituted in 2010 and represents the interests of the Luxembourg private equity and venture capital industry. The LPEA provides its members with analysis and industry trends, forums to exchange experiences, and offers of trainings and workshops.
Tel.: +352 28 68 19 602
www.lpea.lu

Other useful addresses

Administration des contributions directes
Tel.: +352 40 800-1
www.impotsdirects.public.lu

Administration de l'enregistrement et des domaines
Tel.: +352 44 905-1
www.aed.public.lu

Association Luxembourgeoise des Compliance Officers (ALCO)
Tel.: +352 28 99 25 00
www.alco.lu

Cellule de Renseignement Financier (CRF)
Tel.: +352 47 59 81-447

Chambre de Commerce du Grand-Duché de Luxembourg
Tel.: +352 42 39 39-1
www.cc.lu

Commission de Surveillance du Secteur Financier (CSSF)
Tel.: +352 26 251-1
www.cssf.lu

Fédération de l'IML - Information Lifecycle Management, du Stockage et de l'Archivage (FedISA)
www.fedisa.lu

Fédération des professionnels du secteur financier Luxembourg (PROFIL)
Tel.: +352 27 20 37-1
www.profil-luxembourg.lu

Fedil
Tel.: +352 43 53 66-1
www.fedil.lu

Foundation LHoFT (Luxembourg House of Financial Technology)
www.lhoft.com

House of Training
Tel.: +352 46 50 16-1
www.houseoftraining.lu

Institut des Auditeurs Internes Luxembourg (IIA Luxembourg)
Tel.: +352 26 27 09 04
www.theiia.org/sites/luxembourg

Institut Luxembourgeois des Administrateurs (ILA)
Tel.: +352 26 00 21 488
www.ila.lu

Institut des Réviseurs d'Entreprises (IRE)
Tel.: +352 29 11 39-1
www.ire.lu

ISACA
www.isaca.org

Luxembourg for Finance (LFF)
Tel.: +352 27 20 21-1
www.luxembourgforfinance.com

Système d'indemnisation des investisseurs Luxembourg (SIIL)

The International Facility Management Association (IFMA)
Tel. : +1 713 623 4362
www.ifma.org

5 Deloitte's proposed services

Click here to access our wide range of services, or scan the below QR code

Over many years, Deloitte has developed its competencies and services to support and advise all types of PSF over the various stages of their development, providing the following services before incorporation and throughout their existence and growth.

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