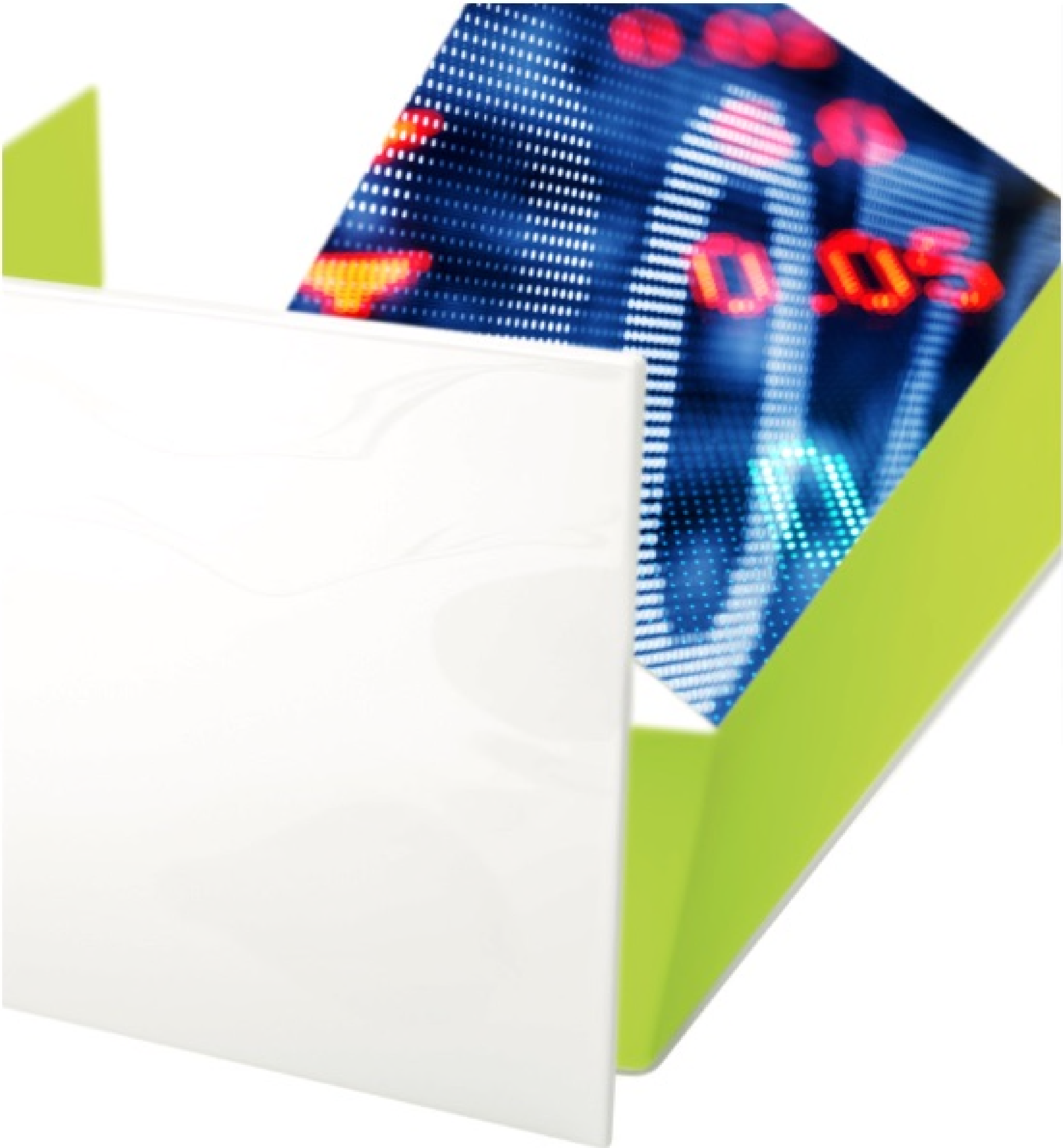

Luxembourg Specialized Investment Fund

Practical Guide

April 2023

Specialised investment funds (in short, SIFs) have attracted a large number of sponsors, large and small, since their regime has been introduced in 2007 (the **SIF Law**). It is a true success story and has become the second pillar of the Luxembourg fund industry besides UCITS.

Despite the implementation of the alternative investment fund manager directive (**AIFMD**), the SIF regime remains one of the most flexible European regulated regimes. A Bill has been tabled very recently to amend the SIF Law and aims at taking into account some practical aspects and flexibilities that are desired by the fund industry.

This guide sets out the salient features of SIFs. For any additional questions on SIFs, the persons mentioned at the end of this note can be contacted.

1. Restrictive Circle Of Investors

A SIF is reserved to well-informed investors in the sense of the SIF Law. These include institutional and professional investors as well as investors who invest at least €125,000 in a SIF. Under certain conditions, investors investing less than this amount can be considered as well-informed.

2. An Almost Unlimited Range Of Eligible Asset

The SIF regime has been designed to cater for all imaginable asset classes stretching from straight forward stocks and bonds, over real estate, non-directional and non-correlated assets and private equity (direct and indirect) to innovative special asset type funds like art funds as well as wine funds.

Islamic sponsors show a growing interest in SIFs for the launch of Sharia compliant investment funds, too.

As a SIF has by definition the aim of spreading investment risk, the assets of a SIF need to be risk diversified. As a general rule the Luxembourg supervisory authority (**CSSF**) requires that a SIF does not invest more than 30% of its assets or commitments in securities of the same nature issued by the same issuer.

3. Structural Freedom

3.1 Available Forms

A SIF can take the non-corporate form of a *fonds commun de placement* (FCP) as well as a vast array of corporate forms, amongst which the most popular is the public limited liability company (*société anonyme*).

Luxembourg introduced a new special limited partnership regime, the *société en commandite spéciale*. Modelled on the English LP and based on contractual freedom, it offers the highest possible level of flexibility.

3.2 Umbrella Structure

The SIF Law offers the possibility to create, within the same investment vehicle, different segregated compartments each with its own specific investment policy and without cross liability in between themselves.

Under certain conditions, one compartment can invest in another compartment of the same SIF.

In addition to dedicated sub-funds, different classes of shares can be created in order to serve different investors' needs.

4. Redemptions and Distributions

A SIF can be set up both as closed-ended or open-ended with a corresponding redemption policy.

Distributions, e.g. dividends, carried interests, etc. regardless of the legal form chosen, can be freely structured and performed, subject to the legally required minimum capital of €1,250,000.

5. Supervision by the CSSF and Regulatory Requirements

A SIF is subject to prior approval by and under permanent supervision of the Luxembourg supervisory authority (**CSSF**).

As a consequence, a SIF needs to comply with certain requirements e.g., providing for risk management and conflicts of interest policies, complying with certain requirements in relation to the delegation of certain tasks, audit of annual accounts by an approved statutory auditor and complying with transparency requirements.

A SIF's assets need to be entrusted to a Luxembourg based depositary which, depending on the nature of the SIF's assets, has either safe-keeping or supervisory duties.

6. AIFMD Considerations

If a SIF's assets under management exceed the thresholds set out in AIFMD (€100 million with use of a leverage or €500 million without any leverage), it will need to comply with its rules.

In essence, this means that the SIF will either have to appoint an external manager (AIFM) or become an internal AIFM itself. Luxembourg offers tailor made turnkey solutions in both cases.

7. Favourable Tax Features

A SIF is only subject to an annual subscription tax (*taxe d'abonnement*) at a rate of 0,01% on its total net assets. In certain cases, even this tax is not due e.g., microfinance or pension pooling funds.

A SIF is exempt from taxes on income and capital gains it receives and is not subject to Luxembourg income and wealth taxes.

Management services are rendered VAT free to a SIF.

For any further information, feel free to contact either one of the below.

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