

# Specialised Investment Fund (SIF) in Luxembourg

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The following text is an extract from LCG's brochure "Business Luxembourg Company Formation".

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*Your LCG Team*

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## I. Legal Structure of a Specialised Investment Fund (SIF) in Luxembourg

### 1. Concept

The Specialised Investment Fund (SIF) in Luxembourg is a type of investment fund which is regulated and which is not intended for the general public. In contrast to UCITS Funds (Undertaking of Collective Investment of Transferable Securities) which fall within the scope of application of the EU Directive and which invest in securities such as shares and bonds, the Specialised Investment Fund (SIF) offers greater flexibility.

### 2. Investment policy

A Specialised Investment Fund (SIF) in Luxembourg is permitted to invest in all types of assets including traditional and alternative investment strategies. These include, for example, securities or money market Funds; real estate; private investment capital; infrastructure; private equity and hedge Funds.

A Specialised Investment Fund (SIF) in Luxembourg must comply with the diversification principle when choosing its investments in order to protect the investors. A Specialised Investment Fund (SIF) in Luxembourg is subsequently not permitted to invest more than 30% of its assets in securities of the same type and from the same issuer. This includes the use of derivatives.

### 3. Investors

The Luxembourg investment vehicle which is the Specialised Investment Fund (SIF) is reserved for qualified investors”, namely institutional investors and professional investors (such as, yet not limited to, banks and insurers) as well as all investors investing at least 125,000 EUR. The latter are required to provide proof that they are, in fact, experienced investors. The said proof may take the form of confirmation from a bank or financial provider.

### 4. Formation

A Specialised Investment Fund (SIF) in Luxembourg is formed either in contractual form and consequently as an Investment Fund represented by a Managing Company (fonds commun de placement, FCP) or in the form of a company, namely as an Investment Company whose capital is variable (SICAV) or fixed (SICAR). If a SIF is formed in the form of the latter, it may be formed in the following legal forms:

the Public Limited Company (PLC., Corp./SA), Limited Liability Company (LLC., Ltd./SARL); Partnership Limited by Shares (SCA) or Co-operative in the form of the Public Limited Company (SCOSA).

Moreover, a SIF in Luxembourg may take the structure of a Holding Fund constituted by several sub-funds. The said sub-funds will each have their own specific investment strategy, investment manager and each of which will be independent of the others.

## **5. Minimum capital**

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Beginning from the date when a Specialised Investment Fund (SIF) in Luxembourg was approved by Luxembourg's Financial Market Authority (CSSF), the net assets of a SIF must amount to at least 1.25 million EUR within 12 months.

The minimum share capital required for the formation of a Specialised Investment Fund (SIF) is dependent upon the particular legal form chosen.

## **6. Registered office**

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The registered office and main place of central management and control of a Specialised Investment Fund (SIF) under its partnership agreement/articles of association must be located in Luxembourg.

If a Specialised Investment Fund (SIF) is formed as an Investment Fund (FCP) in Luxembourg, it shall be managed by a Management Company in Luxembourg.

## **7. Custodian**

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It is required that the assets of a Specialised Investment Fund (SIF) in Luxembourg be transferred to an independent custodian (financial institute) which is resident in Luxembourg. The latter will act exclusively in the interests of the investors and, within this framework, will ensure that the subscription price of shares in the company are received within the specified time. In the case of transactions involving the said assets, the custodian will ensure that the consideration therefor is transferred or paid and that the resulting proceeds are used in accordance with the partnership agreement/articles of association.

## **8. Organisation**

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How a Specialised Investment Fund (SIF) in Luxembourg is organised depends upon the particular legal form chosen.

The company management or the Management Company (in the case of an Investment Fund (FCP)) and the custodian of a Specialised Investment Fund (SIF) in Luxembourg must be suf-

ficiently qualified and it is required that they provide proof of their corresponding experience in the relevant field. Notwithstanding this, it is not a mandatory requirement for a Specialised Investment Fund (SIF) in Luxembourg to have a “sponsor/promoter”. Furthermore, the investment manager is not required obtain a licence from Luxembourg’s Financial Market Authority (CSSF).

## 9. Issuance and distribution policy

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The shares of a Specialised Investment Fund (SIF) in Luxembourg may be freely transferred to other qualified investors. The issuance of shares is simplified and subject to the provisions contained in the partnership agreement/articles of association.

Moreover, the requirements on the repayments and distribution of dividends may be freely regulated in the partnership agreement/articles of association and it is not required that reserves be created. Repayments and the distribution of dividends may be freely interpreted.

A Specialised Investment Fund (SIF) in Luxembourg may determine its method for the valuation of assets freely. Notwithstanding this, this should be noted in the partnership agreement/articles of association.

## 10. Supervision

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### 10.1. Licence

A Specialised Investment Fund (SIF) in Luxembourg is subject to the supervision of Luxembourg’s Financial Market Authority (CSSF) and requires a licence prior to commencing business. Notwithstanding this, a SIF may commence activity before such time if its application for the said licence was submitted within 1 month following its formation.

A SIF can be quoted on Luxembourg’s stock market directly following obtaining the said licence from Luxembourg’s CSSF.

### 10.2. Reports

The annual accounts of a Specialised Investment Fund (SIF) in Luxembourg require to be audited by an independent auditor and must be published no later than 6 months after the close of the year.

### 10.3. Minimum content of the sale prospectus

Moreover, a Specialised Investment Fund (SIF) in Luxembourg must prepare a sale prospectus containing all the information necessary to enable investors to carry out an informed evaluation of the investment policy and the risks of investing.

## II. Tax structure of a Specialised Investment Fund (SIF) in Luxembourg

### 1. Corporation tax

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A Specialised Investment Fund (SIF) in Luxembourg is exempt from corporate income tax.

Instead, a Specialised Investment Fund (SIF) in Luxembourg is liable to the so-called subscription tax (Tax d'abonnement) at a rate of 0.01% on its net assets. Notwithstanding this, a range of investments, include pension pooling and Holding Funds for Funds in Luxembourg, are exempt therefrom.

### 2. Tax exemptions

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A Specialised Investment Fund (SIF) in Luxembourg is not liable to the net wealth tax nor to withholding tax on the distribution of dividends to non-resident investors.

Furthermore, management services provided to a Specialised Investment Fund (SIF) by a Management Company in Luxembourg remain exempt from value-added tax (VAT). In contrast, other services may be liable to value-added tax (VAT) at a rate of 15%.

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