Fact Sheet

CF Fund Services

LUXEMBOURG'S RESERVED INVESTMENT FUND

A New Innovative Fund Regime

Overview

The reserved alternative investment fund (**RAIF** - or *FIAR* in French) has been created by the law of July 23, 2016 relating to reserved alternative investment funds (the **Law**).

The Law provides for a new flexible, tailor-made and cost-efficient investment vehicle, largely based on the specialized investment funds (**SIF**) and investment companies in risk capital (**SICAR**) regimes, the main difference being that the RAIF is not subject to the approval and supervision of the Luxembourg supervisory authority (**CSSF**).

Reserved for the structuring of alternative investment funds (**AIFs**) that appoint a duly authorized alternative investment funds manager (**AIFM**), the RAIF offers the possibility to have multiple compartments, a variable capital and a competitive tax treatment.

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SOPHISTICATED INVESTORS

Investments in a RAIF is limited to “well-informed” investors (as defined in the SIF and SICAR laws), i.e. institutional investors, professional investors or any other investors who invest at least EUR 125,000 and qualify themselves as well-informed investors.

INVESTMENTS

The Law does not contain any restriction in terms of eligible assets. A RAIF is therefore authorized to invest in any type of assets (e.g. private equity or real estate) and follows any type of investment strategy. Alike the SIFs, RAIFs are however subject to the principle of risk-spreading, unless they invest in risk capital only (alike the SICARs).

LEGAL FORM, INCORPORATEION & CAPITAL REQUIREMENTS

A RAIF is allowed to adopt (i) a contractual form (fonds commun de placement – FCP, managed by a management company) or (ii) a corporate form (investment company with variable (SICAV) or fixed (SICAF) capital), in which case all corporate forms currently available to SIF/SICAR-AIFs are also available to RAIFs: public limited liability company (SA), private limited liability company (S.à r.l.), partnership limited by shares (SCA), common or special limited partnership (SCS/SCSp) or cooperative company set up as a public limited liability company (SCSA).

In addition to the minimum share capital requirements upon incorporation, which depends on the legal form chosen, the minimum capitalization of a RAIF is EUR 1,250,000 minimum. This amount needs to be reached within a 12-months period from launch. Within 10 days of its incorporation, the RAIF needs to be registered on a specific list held by the Luxembourg Register of Commerce and Companies. RAIFs are authorized to be set up as single funds or as umbrella funds with multiple compartments linked to a specific investment policy and separated from the investment portfolios relating to other compartments.

SUPERVISION & GOVERNANCE REQUIREMENTS

As mentioned above, the RAIF is not subject to the authorization and ongoing supervision by the CSSF, which speeds up the fund set-up process. This also means that any subsequent changes to the fund’s constitutive documents, offering or other documents do not need to be notified to the CSSF.

The RAIF, being an AIF, shall be managed by an authorized AIFM established in Luxembourg, in the EU or outside the EU subject to the AIFM Directive. Such AIFM shall be itself supervised by the competent local supervisory authority, ensuring an indirect supervision of the RAIF. The AIFM shall guarantee that the RAIF complies with the AIFM Directive requirements (the so-called “AIFMD product rules”).

As the RAIFs are managed by an external authorized AIFM, RAIFs benefit from the European passport advantages granted by the AIFM Directive for marketing to professional investors in the EU. Moreover, the RAIF must appoint a Luxembourg-based depositary and a Luxembourg authorized registered auditor (réviseur d’entreprises agréé). Finally, the central administration and the registered office of the RAIF shall be in Luxembourg.

TAX REGIME

In principle, the SIF tax regime applies to RAIFs: they are exempt from corporate income tax, municipal business tax, withholding tax on distributions and net wealth tax, but are subject to a 0.01% subscription tax on their net asset value. They are not eligible for the double tax treaties, subject to a few exceptions. However, if investing in risk capital only, the SICAR tax regime shall apply: RAIFs are fully subject to corporate income tax and municipal business tax, with the wide exclusion from taxable profits of income related to risk capital securities (dividends, capital gains…). They are exempt from the subscription tax and net wealth tax (except for the flat minimum net wealth tax applicable as from 2016). If subject to SICAR tax regime, they are in principle able to benefit from relevant double tax treaty provisions.

FOR FURTHER INFORMATION, FEEL FREE TO CONTACT OUR EXPERTS:

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