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# Luxembourg Fund Services 2018

**Innovation creates  
template for solid  
post-Brexit growth**

**RAIF: Creative  
way of investing in  
tomorrow's world**

**Grand Duchy  
provides global  
distribution toolbox**



# In this issue...

## **03 Luxembourg deepens its alternative fund roots**

By James Williams

## **12 Luxembourg's innovation has created perfect marriage of opportunity**

Interview with Sean Murray, SANNE

## **15 RAIF: a creative vehicle for investing in tomorrow's world**

Interview with Timothe Fuchs & Enrico Mela, Fuchs Asset Management

## **17 Parallel structures - the Luxembourg solution**

By Anne-Gaëlle Delabye & Tara Kapur, Ogier

## **19 Luxembourg has the toolbox for global distribution**

Interview with Joelle Hauser & Kristof Meynaerts, Clifford Chance

## **22 Connecting the dots**

Interview with Aleksander Jakima, Circle Partners

## **24 Brexit as a digital catalyst**

By Kavitha Ramachandran, Maitland

## **27 Apex primed to support UK fund managers post-Brexit**

Interview with James Burke & Sonja Maria Hilkhuijsen, Apex Fund Services

## **29 Private equity exits critical in current environment**

Interview with Robert Kimmels, PraxisIFM

## **31 Added substance supports third party AIFM model**

Interview with Daniela Klasen-Martin, Crestbridge

## **33 Disclosure requirements for sustainable investments**

By Arne Bolch, GSK Luxembourg SA

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# Disclosure requirements for sustainable investments

By Arne Bolch

The 2016 Paris agreement on climate change as well as the United Nations 2030 Agenda for Sustainable Development and its Sustainable Development Goals may until recently not have been high on the agenda of asset management professionals. This may be about to change.

In the spirit of the agreement and the UN agenda, measures taken at European level have identified (or rather stated) a need for Europe's financial system to (i) contribute to sustainable and inclusive [economic] growth as well as to (ii) strengthen financial stability by incorporating environmental, social and governance ("ESG") factors into investment-decision making.

This is now going to have a very concrete impact on the asset management industry: The proposal of a new regulation published on 24th May 2018 by the European Commission (the "EC") concerning disclosure requirements relating to sustainable investments and sustainability risks.<sup>1</sup>

This proposed regulation shall be, amongst others, applicable to any fund regime existing within the EU, i.e. AIFMs and their AIFs, UCITS and their management companies as well as EuVECAs and EuSEFs. In addition to existing fund disclosure requirements, such as the UCITS prospectus, the article 23 disclosures for AIF as well as KIIDs and PRIIPs, the regulation establishes another disclosure regime aiming to reinforce investor protection by tackling a perceived lack of transparency on the side of financial market participants, i.e. funds and their managers, to disclose how sustainability factors are incorporated into their respective investment decision process and ultimately endeavours to reduce investors' costs related to the evaluation of the sustainability risks.

Under the disclosure regime, qualifying financial market participants, such as the aforementioned funds and their managers,



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would, amongst others<sup>2</sup>, be required to disclose to investors at a pre-contractual stage information concerning:

- (a) the procedure and conditions applied for integrating sustainability risks within the investment decision-making process of the relevant fund; as well as
- (b) the extent to which sustainability risks are expected to have a relevant impact on the returns of the fund; and
- (c) Information of how the remuneration policies applicable to the relevant fund or manager are consistent with the integration of sustainability risks and are in line, where relevant, with the sustainable investment target of the fund in question.

These disclosures shall then be achieved by establishing written policies on the integration of sustainability risks into the investment decision-making process as well as the attribution of a sustainability profile for every financial product or fund to be published on a website referring to that fund. Further, all the information of the websites must be kept up-to-date, and where any changes occur, the explanation of the change is also required. Lastly, the relevant information concerning the offered financial products must be provided in the periodical reports, i.e. the relevant funds' annual and semi-annual report, to the extent applicable.

While of course the regulation pursue a laudable cause that certainly any asset management firm or fund will be supportive of, the regulation endeavours to link relatively general and as of yet (within the regulation) largely undefined sustainability considerations with very concrete investment returns and the remuneration of asset management professionals. It is therefore advisable for any asset management firm to monitor the development of the regulation to ensure that the sustainability considerations are going to be implemented in workable form. ■

*1. Proposal for a regulation of the European Parliament and of the Council of 24 May 2018 on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341.*

*2. Please note that there are more detailed disclosure requirements envisaged, which are beyond the scope of this article, such as regarding funds pursuing sustainable investments and/or aiming at following an index or carbon emission reduction. Also, website disclosures are required by the regulation and marketing communications shall not defeat the purpose of the sustainability disclosures.*