



Investment Funds in Luxembourg

2024

1. Why M&S Law?

Comprehensive and competent advice requires a high level of specialised knowledge and experience. Thanks to the combination of professionals from different international backgrounds backgrounds, we are able to put together put together customised teams. This enables us to fulfil the the needs of our clients in a professional, linguistic and linguistic and cultural aspects and generate solutions that work internationally from Luxembourg. work internationally.

2. Our investment fund practice

You benefit from an experienced and well-connected Investment Fund team. Our Investment Fund lawyers support you throughout the entire lifecycle of your regulated or unregulated investment vehicle. We guide you from our initial personal contact and exchange of ideas, leading you through the entire 'Fund Toolbox,' encompassing a broad range of investment vehicles under Luxembourg's Capital Investment and Corporate Law. As an initial guide, you'll find an up-to-date overview of Luxembourg's capital investment forms attached. Based on your investment horizon, strategy, investor circle, and other specifications, we advise and recommend the most suitable structure from contractual, corporate, regulatory, and tax perspectives. Subsequently, we create the necessary legal documentation (prospectus, investment guidelines, articles of association, service contracts, subscription agreement, etc.) and manage the actual formation of the Investment Fund and any associated special purpose entities (GP, SPVs, LPs) after coordination and finalization of all documents. We also provide legal support for the ongoing fund management of the Corporate Secretariat (Board resolutions, organization of board and shareholder meetings, Corporate Actions) and handle the launch of new sub-funds under Umbrella Funds, as well as the reorganization of the fund (merger, demerger, relocation up to liquidation).

3. Our experts in fund law



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Luxembourg Investment Funds

Legal Forms, Supervisory Regimes & Regulatory Status

	Regulated				Unregulated			
	UCITS	UCI	SIF	SICAR	RAIF	SPF	Securitization	Regular Personal & Capital Companies
Designation	Undertakings for Collective Investment in Transferable Securities	Other Organisms for Collective Investments	Specialized Investment Funds	Investment Companies for Risk Capital	Reserved Alternative Investment Funds	Private Family Wealth Management Companies	Commonly referred to as "SeCu"	Commonly referred to as "LuxCo" or, depending on the legal form, "SA (AG), Sàrl (GmbH), SCA (KGaA) or SNC (OHG) and SCS/ SCSp (KG)
Legal Source	UCITS Law of Dec 17, 2010 (Part I)	UCI Law of Dec 17, 2010 (Part II)	SIF Law of Feb 13, 2007	SICAR Law of June 15, 2004	RAIF Law of July 23, 2016	SPF Law of May 11, 2007	Securitization Law of March 22, 2004	Commercial Companies Law of 10 August 1915
CSSF – Financial Supervision	Yes	Yes	Yes (light-touch)	Yes (light-touch)	No	No	No, except regular public issues (at least 4 per year) (Note: Issues for (i) Professional investors, (ii) Minimum investments of 100,000 Euro and (iii) Private placements do not qualify as public issues)	No
Investor Categories	Open to all types of Investors	Open to all types of investors	Open only for Knowledgeable Investors [1]	Open only for Knowledgeable Investors [1]	Open only for Qualified Investors [1]	Open only for (i) Private investors (ii) Family Offices (iii) Financial intermediaries on behalf of private investors and/or Family Offices	Open for all types of investors	Open for all types of investors
Permitted Capital Investments	Transferable securities	Open for all investments	Open for all investments	Risk Capital Investments	Open for all investments	Investments in financial instruments - No commercial activities, no real estate Investments -Passive investments (without active control or management)	Securitization of any risks from claims, assets, liabilities, etc.	Open for all investments
Minimum Diversification	Yes	Yes	Yes	No	Yes	No	No	No
Legal Forms	SA (AG) Special Assets (FCP)	SA (AG), SCA (KgaA), Sàrl (GmbH), SCopSA (Cooperative als AG), SCS / SCSp (KG) Special Assets (FCP)	SA (AG), SCA (KGaA), Sàrl (LLC), SCopSA (Cooperative as AG), SCS / SCSp (LP) Special Assets (FCP)	SA (AG), SCA (KgaA), Sàrl (GmbH), ScoopSA (Cooperative as AG), SCS / SCSp (KG)	SA (AG), SCA (KGaA), Sàrl (GmbH), SCopSA (Cooperative als AG), SCS / SCSp (KG) Special Assets (FCP)	SA (AG), SCA (KGaA), Sàrl (GmbH), ScoopSA (Coopertaive as AG)	SA (AG), SCA (KGaA), Sàrl (GmbH), SCopSA (Cooperative as AG), SNC (OHG), SCS/SCSp (KG) Securitization Funds	SA (AG), SCA (KGaA), Sàrl (GmbH), SCopSA (Cooperative as AG), SNC (OHG) SCS / SCSp (KG)

Sub-funds (Umbrella)	Yes	Yes	Yes	Yes	Yes	No	Yes	No
Necessary Financial Service Providers	- Custodian (Bank) - Fund Administration (Accounting, Register management) - WP (FCP:) CCA	- Custodian (Bank) - Fund Administration (Accounting, Register management) - WP (FCP:) CCA	- Custodian (Bank) - Fund Administration (Accounting, Register management) - WP (FCP:) CCA	- Custodian (Bank or Special- PSF) - Fund Administration (Accounting, Register management) - WP	- Custodian (Credit institution or Special-PSF) - Fund Administration (ACCG, Register management) - WP (FCP:) KVG	Generally none (subject to qualification as AIFM)	- Custodian (only with CSSF supervision) - Fund Administration (ACCG, Register management) - WP (Securitization Funds:) KVG	Generally none (subject to qualification as AIFM)
Equity Requirements (i) at Foundation (ii) after Set-up	(i) 30,000 Euros (SA) (ii) 1,250,000 Euros (within 12 months at the latest)	(i) €30,000 (SA, SCA, SCopSA) 12,000 Euros (Sàrl) None (SCS / SCSp) (ii) 1,250,000 Euros (within 12 months at the latest)	(i) €30,000 (SA, SCA, SCopSA) 12,000 Euros (Sàrl) None (SCS / SCSp) (ii) 1,250,000 Euros (within 12 months at the latest)	(i) 30,000 (SA, SCA, SCopSA) 12,000 Euros (Sàrl) None (SCS / SCSp) (ii) 1,000,000 Euros (within 24 months at the latest)	(i) €30,000 (SA, SCA, SCopSA) 12,000 Euro (Sàrl) None (SCS / SCSp) (ii) 1,250,000 Euro (within 24 months at the latest)	(i) €30,000 (SA, SCA, SCopSA) 12,000 Euro (Sàrl) (ii) None	(i) €30,000 (SA, SCA, SCopSA) 12,000 Euro (Sàrl) None (SCS/SCSp and Securitization Funds) (ii) None	(i) €30,000 (SA, SCA, SCopSA) 12,000 Euro (Sàrl) None (SCS / SCSp) (ii) None
EU Pass	Yes	Yes / No [3]	Yes / No [3]	Yes / No [3]	Yes	Generally: No <i>[except for AIFM qualification / Opt-In or according to EU Prospectus Regulation]</i>	Generally: No <i>[except for AIFM qualification / Opt-In or according to EU Prospectus Regulation]</i>	Generally: No <i>[except for AIFM qualification / Opt-In or according to EU Prospectus Regulation]</i>
Qualification as AIF	No	Yes	Usually: Yes [4]	Usually: Yes [4]	Yes	Generally: No [5]	Generally: No [5]	Generally: No [5]
Exemption from AIFM Full Authorization (= registered small AIFM)	Not applicable	Yes [3]	Yes [3]	Yes [3]	No	Not applicable	Yes [3]	Yes [3]
Appointment of external approved AIFM	Not applicable	Required for / in AIFs that (i) do not manage themselves and (ii) whose AuM exceed the threshold of €500 million (unleveraged, without redemption rights) or €100 million.	Required for / in AIFs that (i) do not manage themselves and (ii) whose AuM exceed the relevant threshold	Required for / in AIFs that (i) do not manage themselves and (ii) whose AuM exceed the relevant threshold	Always required	Always required	Required for / in AIFs that (i) do not manage themselves and (ii) whose AuM exceed the relevant threshold	Required for / in AIFs that (i) do not manage themselves and (ii) whose AuM exceed the relevant threshold

[1] Knowledgeable investors are institutional investors, professional investors, as well as investors who have confirmed in writing that they meet the status of “knowledgeable investor” and who either (i) invest at least 100,000 Euros or (ii) have been assessed by a credit institution, an investment firm, an AIFM, or a management company that certifies their expertise, experience, and knowledge in the appropriate evaluation of a fund investment.

[2] Dependent on AIFM status

[3] Prerequisite: Fund assets (Assets under Management, “AuM”) below the relevant threshold of (i) €500 million - if unleveraged and without redemption rights within the first five years after initial investments - or for all other cases (ii) €100 million.

[4] Excluding SIF / SICAR, which collect capital from a number of investors to invest it according to a defined investment strategy for the benefit of these investors and which are not operationally active companies outside the financial sector.

[5] Excluding SPF / SeCus and LuxCos, which collect capital from a number of investors to invest it according to a defined investment strategy for the benefit of these investors and which are not operationally active companies outside the financial sector. SeCus remain exempt according to the explicit exemption provision of the AIFM Directive if they meet certain requirements (True sale, securitization of credit risks, etc.); in general, SeCus that refinance through bond issues remain exempt.

Luxembourg Investment Funds

Tax Aspects

	Regulated				Unregulated				
	UCITS	UCI	SIF	SICAR	RAIF	SPF	Securitization	LuxCos - Partnerships [6]	LuxCos - Corporations [7]
Tax Burden (Income & Business Tax)	None	None	None	<p>24.94% p.a. (Luxembourg City)</p> <p>Tax exemption for income from equity investments under the participation exemption</p> <p>Tax transparency for SCS / SCSp (taxation at the level of investors)</p>	None	None	<p>24.94% p.a. (Luxembourg City),</p> <p>less refinancing costs (interest, capital commitments, etc.)</p> <p>Tax transparency for SCS / SCSp and securitization funds (taxation at the level of investors)</p>		<p>24.94% p.a. (Luxembourg City)</p>
Corporate Tax	None	None	None	<p>18.19% [= 17% plus solidarity surcharge of 7%]</p> <p>Tax exemption for income from equity investments under the participation exemption</p> <p>Tax transparency for SCS / SCSp (taxation at the level of investors)</p>	None	None	<p>18.19% [= 17% plus solidarity surcharge of 7%]</p> <p>less refinancing costs (interest, capital commitments, etc.)</p> <p>Tax transparency for SCS / SCSp and securitization funds (taxation at the level of investors)</p>	None	<p>18.19% [= 17% plus solidarity surcharge of 7%]</p>
Business Tax	None	None	None	<p>6.75% p.a. (Luxembourg City) [According to municipal multipliers range from 6.75% to 10.5%]</p> <p>Tax exemption for income from equity investments under the participation exemption</p> <p>Tax transparency for SCS / SCSp (taxation at the level of investors)</p>	None	None	<p>6.75% p.a. (Luxembourg City) [According to municipal multipliers range from 6.75% to 10.5%]</p> <p>less refinancing costs (interest, capital commitments, etc.)</p> <p>Tax transparency for SCS / SCSp and securitization funds (taxation at the level of investors)</p>	<p>Typically: None except:</p> <p>(i) Commercial activities - or -</p> <p>(ii) Commercial character by GP in the form of an SA, SCA, Sàrl or SCoopSA with a 5%+ stake in SCS / SCSp</p>	<p>6.75% p.a. (Luxembourg City) [According to municipal multipliers range from 6.75% to 10.5%]</p>
Wealth Tax	None	None	None	<p>Minimum wealth tax from EUR 535 to EUR 32,100 p.a.,</p> <p>depending on balance sheet values and assets under management</p> <p>Tax transparency for SCS / SCSp (taxation at the level of investors)</p>	None	None	<p>Minimum wealth tax from EUR 535 to EUR 32,100 p.a.,</p> <p>depending on balance sheet values and assets under management</p> <p>Tax transparency for SCS / SCSp and securitization funds (taxation at the level of investors)</p>	None	<p>0.5% p.a. (for assets up to EUR 500 million, 0.05% p.a. for higher assets)</p> <p>Minimum wealth tax from EUR 535 to EUR 32,100 p.a., depending on balance sheet values and assets under management</p>

Subscription Tax (Taxe d'abonnement)	Subscription tax of 0.05% p.a. on AuM (subject to reduced rate of 0.01% for certain assets)	Subscription tax of 0.05% p.a. on AuM (subject to reduced rate of 0.01% for certain assets)	Subscription tax of 0.01% p.a. on AuM (subject to exceptions)	None	Subscription tax of 0.01% p.a. on AuM (subject to exceptions) For RAIF-SICAR see under SICAR	Subscription tax of 0.25% p.a. on (i) equity and (ii) borrowed capital exceeding eight times the equity	None	None	None
Real Estate Levy	None	20% [8]	20% [8]	None	20% [8] [Exempt for RAIF-SICAR]	None	None	None	None [8]
Capital Gains Tax [9]	None [9]	None [9]	None [9]	None [9]	None [9]	None [9]	None [9]	None [9]	15% (subject to participation exemption)

[6] SNC (Société en nom collectif, similar to Open Trading Company-OTC) and SCS / SCSp (Société en commandite simple / spéciale, similar to Limited Partnership-LP)

[7] SA (Société anonyme, similar to Public Limited Company-PLC), SCA (Société en commandite par actions, similar to Partnership Limited by Shares-PLS), Sàrl (Société à responsabilité limitée, similar to Limited Liability Company-LLC) and SCoopSA (Société cooperative as a public company, similar to Cooperative in PLC form)

[8] Companies in the form of an SA, SCA, Sàrl or SCoopSA, which invest directly or through transparent companies (partnerships) in Luxembourg real estate

[9] Withholding tax on dividend distributions (Note: Royalties for board mandates (Directorship Fees) are also subject to withholding tax, 20% of the gross royalties are to be withheld, declared and paid to the tax administration)

As at 12/2024



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