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Law of 15 June 2004 relating to the investment company in risk capital ("SICAR")

consolidated version as of 28 July 2023

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The expression "consolidated version as of 28 July 2023" includes amendments introduced by the law of 21 July 2023, published in *Mémorial* A No. 442 of 24 July 2023.

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Law of 15 June 2004 relating to the investment company in risk capital ("SICAR")

PART I - GENERAL PROVISIONS APPLICABLE TO INVESTMENT COMPANIES IN RISK CAPITAL

Chapter 1: General provisions

Art. 1 (1) For the purpose of this Law, an investment company in risk capital[1], in abbreviation "SICAR", shall be any company:

- that has adopted the legal form of a common limited partnership[2], a special limited partnership[3], a partnership limited by shares[4], a cooperative in the form of a public limited company[5], a limited company[6] or a public limited company[7] governed by Luxembourg law, and

- whose object is to invest its assets in securities representing risk capital in order to ensure for its investors the benefit of the result of the management of its assets in consideration for the risk which they incur, and

- the securities or partnership interests of which are reserved to well-informed investors as defined in Article 2 of this Law, and

- the articles of incorporation or the partnership agreement of which provide that it is subject to the provisions of this Law.

(2) Investment in risk capital means the direct or indirect contribution of assets to entities in view of their launch, development or listing on a stock exchange.

(3) The registered office and the head office of a Luxembourg SICAR must be situated in Luxembourg.

Art. 2 Within the meaning of this Law, a well-informed investor shall be an institutional investor, a professional investor within the meaning of Annex II of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (hereinafter “Directive 2014/65/EU”), or any other investor who meets the following conditions:

1) he has confirmed in writing that he adheres to the status of well-informed investor and

2) he invests a minimum of 100,000 euros in the company, or

3) he has been subject to an assessment made by a credit institution within the meaning of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential

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[1] *société d'investissement en capital à risque*
[2] *société en commandite simple*
[3] *société en commandite spéciale*
[4] *société en commandite par actions*
[5] *société coopérative organisée sous forme de société anonyme*
[6] *société à responsabilité limitée*
[7] *société anonyme*

requirements for credit institutions and amending Regulation (EU) No. 648/2012, by an investment firm within the meaning of Directive 2014/65/EU, by a management company within the meaning of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) or by an authorised alternative investment fund manager within the meaning of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No. 1060/2009 and (EU) No. 1095/2010 (hereinafter "Directive 2011/61/EU"), certifying his expertise, his experience and his knowledge in adequately appraising the investment made in the SICAR.

The conditions set forth in this Article do not apply to directors[8] and other persons taking part in the management of the SICAR.

SICARs must have the necessary means to ensure compliance with the conditions laid down in sub-paragraph 1.

Art. 2*bis* The provisions of this Part shall apply to all SICARs, unless the specific provisions contained in Part II of this Law applicable to SICARs managed by an AIFM authorised under Chapter 2 of the Law of 12 July 2013 relating to alternative investment fund managers or under Chapter II of Directive 2011/61/EU derogate therefrom.

Art. 3 (1) SICARs shall be subject to the general provisions applicable to commercial companies, insofar as this Law does not derogate therefrom.

When the articles of incorporation or the partnership agreement of a SICAR and any amendment thereto are recorded in a notarial deed, the latter is drawn up in French, German or English as the appearing parties may decide. By derogation from the provisions of the Decree of 24 Prairial, year XI, where this deed is in English, the requirement to attach a translation in an official language to this deed, when it is filed with the registration authorities, does not apply. This requirement does not apply either to all other deeds which must be recorded in notarial form, such as notarial deeds recording the minutes of meetings of shareholders or partners of a SICAR or of a merger proposal concerning a SICAR.

The place and the practical arrangements of a SICAR for providing the annual accounts as well as the report of the approved statutory auditor, the management report and, where applicable, the comments made by the supervisory board as well as any other information to be made available to investors are determined in the articles of incorporation or the partnership agreement of the SICAR or, failing this, in the convening notice to the annual general meeting. Each investor may request that these documents are sent to him.

The convening notices to general meetings of investors of a SICAR may provide that the quorum at the general meeting shall be determined according to the securities or partnership interests issued at midnight (Luxembourg time) on the fifth day prior to the general meeting (referred to as "Record Date"). The rights of investors to attend a general meeting and to exercise the voting right attaching to their securities or partnership interests are determined in accordance with the securities or partnership interests held by each investor at the Record Date.

[8] *dirigeants*

(2) SICARs may include multiple compartments, each compartment corresponding to a distinct part of the SICAR's assets and liabilities.

The constitutional documents of the SICAR must expressly provide for that possibility and the applicable operational rules. The prospectus must describe the investment policy of each compartment.

(3) The securities or partnership interests of SICARs with multiple compartments may be of different value with or without indication of a par value.

(4) The rights of investors and of creditors concerning a compartment or which have arisen in connection with the creation, operation or liquidation of a compartment are limited to the assets of that compartment unless a clause included in the constitutional documents provides otherwise.

(5) The assets of a compartment are exclusively available to satisfy the rights of investors in relation to that compartment and the rights of creditors whose claims have arisen in connection with the creation, the operation or the liquidation of that compartment unless a clause included in the constitutional documents provides otherwise.

For the purpose of the relations between investors, each compartment will be deemed to be a separate entity, unless a clause included in the constitutional documents provides differently.

(6) Each compartment of a SICAR may be separately liquidated without such separate liquidation resulting in the liquidation of another compartment. Only the liquidation of the last remaining compartment of a SICAR will result in the liquidation of the company as referred to in paragraph (1) of Article 21 of this Law. In this case, as from the event giving rise to the liquidation of the SICAR, and under penalty of nullity, the issue of securities or partnership interests shall be prohibited except for the purposes of the liquidation.

(7) The authorisation of a compartment of a SICAR and the maintenance of this authorisation are subject to the condition that all provisions of the laws, regulations and articles of association relating to its organisation and operation are complied with. The withdrawal of authorisation of a compartment does not give rise to the withdrawal of the SICAR from the list provided for in Article 13, paragraph (1).

Art. 4 (1) The subscribed capital of the SICAR, increased, where applicable, by the share premiums or the value of the amount constituting partnership interests, shall not be less than one million euros. This minimum must be reached within a period of twenty-four months following the authorisation of the company. A Grand-Ducal Regulation may increase this minimum amount up to a maximum of two million euros.

(2) Partnerships limited by shares, limited companies, public limited companies and cooperatives in the form of a public limited company covered by this Law may foresee in their articles of incorporation that the share capital amount is always equal to the total net assets. In such case, variations in the capital shall be effected *ipso jure* and without compliance with measures regarding publication and entry in the register of commerce and companies.

(…)[9]

[9] Repealed by the Law of 12 July 2013.

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Art. 5 (1) The SICAR can issue new securities or partnership interests in accordance with the conditions and procedures set forth in the articles of incorporation or the partnership agreement.

(2) The share capital of a partnership limited by shares, a public limited company, a limited company and a cooperative in the form of a public limited company, subject to this Law, must be entirely subscribed, and at least 5% of each share must be paid-up in cash or by means of a contribution other than cash.

(3) The valuation of the assets of the company is based on the fair value. Such value must be determined in accordance with the rules set forth in the articles of incorporation or the partnership agreement.

(4) The issue and repurchase of securities or partnership interests shall be prohibited:

a) during any period in which the SICAR does not have a depositary;

b) where the depositary is put into liquidation or declared bankrupt or seeks an arrangement with creditors, a suspension of payment or a controlled management or is the subject of similar proceedings.

(5) Where the interests of the investors so require, redemptions may be suspended by the CSSF if the provisions of the laws, regulations or articles of association concerning the activity and operation of the SICAR are not observed.

Art. 6 (1) SICARs shall not be obliged to create a legal reserve.

(2) Repayments and distribution of dividends to investors are not subject to any restrictions other than those set forth in the articles of incorporation or the partnership agreement.

(3) SICARs are not subject to any rules in respect of payment of interim dividends other than those set forth in their articles of incorporation or the partnership agreement.

Art. 7 For companies falling within the scope of this Law, the denomination or the firm name of the company whether or not followed by the words "common limited partnership", "special limited partnership", "partnership limited by shares", "limited company", "public limited company" or "cooperative in the form of a public limited company" shall be supplemented by the words "investment company in risk capital", in abbreviated form: "SICAR".

Art. 7*bis* (1) SICARs must be structured and organised in such a way so as to minimise the risk of investors' interests being prejudiced by conflicts of interest between the SICAR and, as the case may be, any person contributing to the activities of the SICAR or any person linked directly or indirectly to the SICAR. In case of potential conflicts of interest, the SICAR shall ensure that the interests of investors are safeguarded.

(2) The implementing measures of paragraph (1) are laid down by way of regulation to be adopted by the CSSF.

Chapter 2: The depositary

Art. 8 (1) The assets of a SICAR must be entrusted to a depositary for safe-keeping.

(2) The depositary must either have its registered office in Luxembourg or be established there if its registered office is located abroad.

(3) Without prejudice to the provision laid down in the second sub-paragraph of this paragraph, the depositary must be a credit institution or an investment firm within the meaning of the amended Law of 5 April 1993 on the financial sector. An investment firm shall only be eligible as depositary to the extent that this investment firm also fulfils the conditions referred to in Article 19 (3) of the Law of 12 July 2013 relating to alternative investment fund managers.

For SICARs which have no redemption rights exercisable during a period of five years from the date of the initial investments and that, in accordance with their core investment policy, generally do not invest in assets that must be held in custody in accordance with paragraph (8), point a) of Article 19 of the Law of 12 July 2013 relating to alternative investment fund managers or generally invest in issuers or non-listed companies in order to potentially acquire control over such companies in accordance with Article 24 of the aforementioned law, the depositary may also be an entity governed by Luxembourg law that has the status of a professional depositary of assets other than financial instruments within the meaning of Article 26-1 of the amended Law of 5 April 1993 on the financial sector.

(4) The depositary's liability shall not be affected by the fact that it has entrusted to a third party all or some of the assets in its safe-keeping.

Art. 9 (1) In carrying out its duties, the depositary must act independently and solely in the interest of the investors.

(2) The depositary shall be liable in accordance with Luxembourg law to the company and to investors for any loss suffered by them as a result of its failure to perform its obligations or its improper performance thereof.

(3) The liability to investors shall be invoked through the SICAR. Should the company fail to act despite a written notice to that effect from an investor within a period of three months following receipt of such a notice, the investor may directly invoke the liability of the depositary.

Art. 10 The duties of the depositary regarding the SICAR shall cease, respectively:

a) in the case of voluntary withdrawal of the depositary or of its removal by the company under the conditions provided for in the contract appointing the depositary. The contract must provide for a notice period allowing for the replacement of the depositary. If a new depositary has not been appointed by the end of the notice period, the CSSF shall remove the SICAR from the list provided for in Article 13, paragraph (1). The institution which most recently acted as depositary shall take all necessary steps for the good preservation of the interests of the investors, including an obligation to keep open or to open any accounts necessary for the safekeeping of the various assets of the SICAR until completion of the liquidation operations of the SICAR;

b) where the SICAR or the depositary has been declared bankrupt, has entered into a composition with creditors, has obtained a suspension of payment, has been put under court-controlled management or has been the subject of similar proceedings or has been put into liquidation;

c) where the supervisory authority withdraws its authorisation of the SICAR or the depositary;

d) in all other cases provided for in the articles of incorporation or partnership agreement.

Chapter 3: Authorisation and supervision

Art. 11 (1) The authority which is to carry out the supervision of SICARs is the *Commission de Surveillance du Secteur Financier*, hereafter the "CSSF".

(2) The CSSF carries out its duties exclusively in the public interest.

(3) The CSSF ensures that SICARs and their directors[10] comply with the applicable legal and contractual rules.

Art. 12 (1) SICARs subject to this Law must, in order to carry out their activities, be authorised in advance by the CSSF.

(2) A SICAR shall be authorised only if the CSSF has approved its constitutional documents and the choice of the depositary.

(3) The directors of the SICAR and of the depositary must be of sufficiently good repute and have sufficient experience for performing their functions. "Directors" shall mean, in the case of partnerships limited by shares, common limited partnerships and special limited partnerships, the managers whether or not they are general partners, in the case of public limited companies and cooperatives in the form of a public limited company, the members of the board of directors or the management board, and in the case of limited companies, the managers. The appointment of the directors and of any person succeeding them is subject to the approval of the CSSF.

(3*bis*) In addition to the conditions of paragraphs (2) and (3), the authorisation pursuant to paragraph (1) is subject to the communication to the CSSF of the identity of the persons responsible for managing the investment portfolio. These persons must be of sufficiently good repute and have sufficient experience in relation to the type of SICAR.

The appointment of the persons referred to in sub-paragraph 1 and of any person succeeding them in office is subject to the approval of the CSSF.

(4) The replacement of the depositary or of a director and the amendment of the constitutional documents of the SICAR are subject to the approval by the CSSF.

(5) The authorisation is subject to justifying that the head office of the SICAR is situated in Luxembourg.

(6) The granting of the authorisation pursuant to paragraph (1) implies that SICARs are obliged to notify the CSSF spontaneously in writing and in a complete, coherent and comprehensible manner of any change regarding the substantial information on which the CSSF relied to examine the application for authorisation as well as of any change in respect of the directors referred to in paragraph (3) and the persons in charge of the management of the investment portfolio referred to in paragraph (3*bis)*.

[10] *dirigeants*

Art. 12*bis* SICAVs subject to this Law are authorised to delegate to third parties, for the purpose of the more efficient conduct of their business, the exercise on their behalf of one or more of their functions, provided the following conditions are complied with:

a) the CSSF is informed in an appropriate manner;

b) the mandate does not prevent the effectiveness of supervision over the SICAR; and in particular, it does not prevent the SICAR from acting, or the SICAR from being managed, in the best interests of the investors;

c) where the delegation concerns investment portfolio management, the mandate may be given only to natural or legal persons who are authorised or registered for the purpose of investment portfolio management and subject to prudential supervision. Where the mandate is given to a natural or legal person from a third country subject to prudential supervision, cooperation between the CSSF and the supervisory authority of that country must be ensured;

d) where the conditions under point c) are not fulfilled, the delegation may only become effective if the CSSF approves the choice of the natural or legal person to whom functions will be delegated. In this case, these persons must be of sufficiently good repute and have sufficient experience in relation to the type of SICAR concerned;

e) the directors of the SICAR are able to demonstrate that the natural or legal person to whom functions will be delegated is qualified and capable of exercising the functions in question and that sufficient diligence has been carried out in view of their selection;

f) measures exist which enable the directors of the SICAR to monitor the delegated activity effectively at any time;

g) the mandate does not prevent the directors of the SICAR from giving instructions at any time to the natural or legal person to whom functions have been delegated or from withdrawing the mandate with immediate effect in order to protect the interest of the investors;

h) no mandate with regard to the core function of investment management is given to the depositary;

i) the SICAR's prospectus lists the delegated functions.

Art. 13 (1) Authorised SICARs shall be entered by the CSSF on a list. This entry shall be tantamount to authorisation and shall be notified by the CSSF to the SICAR concerned. Applications for entry must be filed with the CSSF within the month following the constitution or formation of the SICAR. The said list and any amendments made thereto shall be published in the *Mémorial*[11] by the CSSF.

(2) The entering and the maintaining on the list referred to in paragraph (1) shall be subject to observance of all legislative, regulatory or contractual provisions relating to the organisation and operation of the SICARs.

[11] The *Mémorial B, Recueil Administratif et Economique* is the part of the Luxembourg official gazette in which certain administrative publications are made.

(3) (…)[12]

Art. 14 The fact that a SICAR has been entered on the list referred to in Article 13(1) shall not, under any circumstances, be described in any way whatsoever as a positive assessment made by the CSSF of the expedience, or of the economic, financial or legal structure, of an investment in the SICAR, of the quality of the securities or partnership interests or of the solvency of the SICAR.

Art. 15 (1) Any person who works or who has worked for the CSSF, as well as the approved statutory auditors[13] or experts instructed by the CSSF, shall be bound by the obligation of professional secrecy provided for by Article 16 of the amended Law of 23 December 1998 creating a commission for the supervision of the financial sector. Such secrecy implies that no confidential information which they may receive in the course of their professional duties may be divulged to any person or authority whatsoever, save in summary or aggregate form such that SICARs and depositaries cannot be individually identified, without prejudice to cases covered by criminal law.

(2) Paragraph (1) shall not prevent the CSSF from exchanging information with the supervisory authorities of the other Member States of the European Union within the limits provided by this Law.

The CSSF shall closely cooperate with the supervisory authorities of other Member States of the European Union for the purpose of the fulfilment of their duty of supervision of SICARs and other investment companies in risk capital and shall communicate for that sole purpose all required information.

The supervisory authorities of countries other than Member States of the European Union which are party to the Agreement on the European Economic Area are assimilated to the supervisory authorities of the Member States of the European Union within the limits provided by that Agreement and the instruments relating thereto.

(3) Paragraph (1) shall not prevent the CSSF from exchanging information with:

- authorities of third countries with public responsibilities for the supervision of investment companies in risk capital;

- the other authorities, bodies and persons referred to in paragraph (5), with the exception of central credit registers, when they are established in third countries;

- the authorities of third countries referred to in paragraph (6).

The communication of information by the CSSF authorised by this paragraph is subject to the following conditions:

- the transmitted information must be required for the purpose of performing the supervisory duty of the recipient authorities, bodies and persons;

- information received shall be subject to the professional secrecy of the recipient authorities, bodies or persons and the professional secrecy of such authorities, bodies or persons must offer guarantees at least equivalent to the professional secrecy of the CSSF;

[12] Repealed by the Law of 10 July 2005.
[13] *réviseurs d’entreprises agréés*

- the authorities, bodies or persons which receive information from the CSSF may only use such information for the purposes for which it has been communicated to them and must be able to ensure that no other use can be made therewith;

- the authorities, bodies or persons which receive information from the CSSF grant the same right of information to the CSSF;

- the CSSF may only disclose information received from EU authorities responsible for the prudential supervision of investment companies in risk capital with the express agreement of such authorities and, where appropriate, solely for the purposes for which those authorities gave their agreement.

For the purpose of this paragraph third countries are countries other than those referred to in paragraph (2).

(4) Where the CSSF receives confidential information under paragraphs (2) and (3), the CSSF may use it only in the course of its duties:

- to check that the conditions governing the taking-up of the business of SICARs and depositaries are met and to facilitate the monitoring of the conduct of that business, of administrative and accounting procedures and of internal control mechanisms; or

- to impose sanctions; or

- in an administrative appeal against decisions taken by the CSSF; or

- in court proceedings initiated against decisions refusing or withdrawing an authorisation. §

(5) Paragraphs (1) to (4) shall not preclude:

a) the exchange of information within the European Union between the CSSF and:

    - authorities with public responsibility for the supervision of credit institutions, investment firms, insurance undertakings and other financial organisations and the authorities responsible for the supervision of financial markets;

    - bodies involved in the liquidation, bankruptcy or other similar proceedings concerning investment companies in risk capital and depositaries;

    - persons responsible for carrying out statutory audits of the accounts of credit institutions, investment firms, other financial institutions or insurance undertakings, in the performance of their functions.

b) the disclosure by the CSSF within the European Union to bodies, which administer investor compensation schemes or central credit registers, of information necessary for the performance of their functions.

The communication of information by the CSSF authorised by this paragraph is subject to the condition that such information is covered by the professional secrecy of the authorities, bodies or persons receiving the information and is only authorised to the extent the professional secrecy of such

authorities, bodies or persons offers guarantees at least equivalent to the professional secrecy of the CSSF. In particular, authorities which receive information from the CSSF may only use such information for the purposes for which it has been communicated and must be able to ensure that no other use can be made therewith.

Countries other than Member States of the European Union which are party to the Agreement on the European Economic Area are assimilated to the Member States of the European Union within the limits provided by that Agreement and the instruments relating thereto.

(6) Paragraphs (1) and (4) do not prevent exchanges of information within the European Union between the CSSF and:

- the authorities responsible for overseeing the bodies involved in the liquidation, bankruptcy or other similar proceedings concerning credit institutions, investment firms, insurance undertakings, investment companies in risk capital and depositaries;

- the authorities responsible for overseeing persons entrusted with the carrying out of statutory audits of the accounts of credit institutions, investment firms, insurance undertakings and other financial institutions.

The communication of information by the CSSF authorised by this paragraph is subject to the following conditions:

- the transmitted information is intended to be used for the purpose of performing the supervisory duty of the authorities which receive the information;

- information received shall be subject to the professional secrecy of the authorities which receive the information and the professional secrecy of such authorities must offer guarantees at least equivalent to the professional secrecy of the CSSF;

- the authorities which receive information from the CSSF may only use such information for the purposes for which it has been communicated to them and must be able to ensure that no other use can be made therewith;

- the CSSF may only disclose information received from supervisory authorities referred to in paragraphs (2) and (3) with the express agreement of such authorities and, where appropriate, solely for the purposes for which those authorities gave their agreement.

Countries other than Member States of the European Union which are party to the Agreement on the European Economic Area are assimilated to the Member States of the European Union within the limits provided by that Agreement and the instruments relating thereto.

(7) This Article shall not prevent the CSSF from transmitting to central banks and other bodies with a similar function in their capacity as monetary authorities information intended for the performance of their duties.

The communication of information by the CSSF authorised by this paragraph is subject to the condition that such information is covered by the professional secrecy of the authorities which receive the information and is only authorised to the extent the professional secrecy of such authorities offers guarantees at least equivalent to the professional secrecy of the CSSF. In particular, authorities which

receive information from the CSSF may only use such information for the purposes for which it has been communicated and must be able to ensure that no other use can be made therewith.

This Article shall furthermore not prevent the authorities or bodies referred to in this paragraph from communicating to the CSSF such information as it may need for the purposes of paragraph (4). Information received by the CSSF shall be subject to its professional secrecy.

(8) This Article shall not prevent the CSSF from communicating the information referred to in paragraphs (1) to (4) to a clearing house or other similar body recognised under the law for the provision of clearing or contractual settlement services on one of the Luxembourg markets, if the CSSF considers it is necessary to communicate such information in order to ensure the proper functioning of those bodies in relation to defaults or potential defaults by a market participant.

The communication of information by the CSSF authorised by this paragraph is subject to the condition that such information is covered by the professional secrecy of the recipient bodies, and is only authorised to the extent the professional secrecy of such bodies offers guarantees at least equivalent to the professional secrecy of the CSSF. In particular, bodies which receive information from the CSSF may only use such information for the purposes for which it has been communicated and must be able to ensure that no other use can be made therewith.

The information received by the CSSF pursuant to paragraphs (2) and (3) may not be disclosed in the circumstances referred to in this paragraph without the express agreement of the supervisory authorities which have disclosed such information to the CSSF.

Art. 16 (1) The decisions to be adopted by the CSSF in implementation of this Law shall state in writing the reasons on which they are based and, unless the delay entails risks, they shall be adopted after preparatory proceedings at which all parties are able to state their case[14]. They shall be notified by registered letter or delivered by bailiff[15].

(2) The decisions by the CSSF concerning the granting, refusal or withdrawal of the authorisations provided for in this Law as well as the decisions of the CSSF concerning the administrative fines imposed in accordance with Article 17 of this Law may be referred to the administrative court which will deal with the substance of the case. The appeal must be filed within one month from the notification of the contested decision, or else shall be time-barred.

Art. 17 (1) The directors of SICARs, as well as the liquidators in the case of voluntary liquidation of a SICAR, may have imposed upon them by the said authority a fine of fifteen to five hundred euros in the event of their refusing to provide the financial reports and the requested information or where such documents prove to be incomplete, inaccurate or false, and in the event of any infringement of Article 23 of this Law or in the event of any other serious irregularity being discovered.

(2) The same fine may be imposed upon any person who infringes the provisions of Article 14.

Chapter 4: Dissolution and liquidation

Art. 18 The decision of the CSSF to withdraw a SICAR from the list provided for in Article 13 shall, as from the notification thereof to such company and at its expense, until the judgment ordering liquidation provided for in Article 19, paragraph (1), *ipso jure* entail suspension of any payment by said company

[14] *instruction contradictoire*
[15] *huissier*

and prohibition, on penalty of nullity, for such company to take any measures other than protective measures, except when taken with the authorisation of the supervisory commissioner[16]. The function of supervisory commissioner is carried out by one or more supervisory commissioners appointed by the judge presiding over the District Court[17] dealing with commercial matters ruling on a request made by the CSSF. The request is made in accordance with the procedure applicable to summary proceedings before the Court in the district where the SICAR has its registered office. The supervisory commissioners must have sufficient skills and professional experience with regard to the type and investment strategies of the SICARs concerned. The CSSF shall *ipso jure* hold the office of supervisory commissioner pending the appointment of the supervisory commissioner(s) by the Court.

(…)[18]

(…)[19]

The written authorisation of the supervisory commissioners is required for all actions and decisions of the SICAR and, failing such authorisation, they shall be void.

The Court may, however, limit the scope of operations subject to authorisation.

The commissioners may submit for consideration to the relevant bodies of the SICAR any proposals which they consider appropriate. They may attend proceedings of the administrative, management, executive or supervisory bodies of the SICAR.

The Court shall decide as to the expenses and fees of the supervisory commissioners; it may grant them advances.

The judgment ordering liquidation provided for in Article 19, paragraph (1), shall terminate the functions of the supervisory commissioner. Before deciding on the appointment of one or more liquidators, the Court shall receive a report from the supervisory commissioners on the use made of the assets of the SICAR. In the absence of a judgment pronouncing dissolution and ordering liquidation within one year of notification to the SICAR concerned of the decision of withdrawal from the list, the supervisory commissioners shall report to the Court on an annual basis. Within one month after their replacement, the supervisory commissioners shall report to the liquidators appointed in such judgment on the use of the SICAR's assets and submit the accounts and supporting documents to them.

If the withdrawal decision is amended on appeal in accordance with Article 16, paragraph (2), the supervisory commissioner shall be deemed to have resigned.

Art. 19 (1) The District Court dealing with commercial matters shall, at the request of the Public Prosecutor, acting on its own initiative or at the request of the CSSF, pronounce the dissolution and order the liquidation of the SICARs, whose entry on the list provided for in Article 13, paragraph (1) has definitively been refused or withdrawn. The District Court dealing with commercial matters shall, at the request of the Public Prosecutor, acting on its own initiative or at the request of the CSSF, pronounce the dissolution and order the liquidation of one or more compartments of a SICAR, in cases where the authorisation of this (these) compartment(s) has been definitively refused or withdrawn.

[16] *commissaire de surveillance*
[17] *tribunal d'arrondissement*
[18] Repealed by the Law of 21 July 2023.
[19] Repealed by the Law of 21 July 2023.

When ordering the liquidation, the Court shall appoint a reporting judge[20] and one or more liquidators. It shall determine the method of liquidation. It may render applicable to such extent as it may determine the rules governing bankruptcy. The method of liquidation may be changed by subsequent decision, either of the Court's own motion or at the request of the liquidator(s).

The Court shall decide as to the expenses and fees of the liquidators; it may grant advances to them. The judgment pronouncing dissolution and ordering liquidation shall be enforceable on a provisional basis.

(2) The liquidator(s) may bring and defend all actions on behalf of the SICAR, receive all payments, grant releases with or without discharge, realise all the transferable securities of the SICAR and reemploy the proceeds therefrom, issue or endorse any negotiable instruments, compound or compromise any dispute. They may alienate immovable property of the SICAR by public auction.

They may also but only with the authorisation of the Court, mortgage and pledge its assets and alienate its immovable property by private treaty.

(3) As from the day of the judgment, no legal actions relating to movable or immovable property or any enforcement procedures relating to movable or immovable property may be pursued, commenced or exercised otherwise than against the liquidators.

The judgment ordering the liquidation shall terminate all seizures effected at the instance of general creditors who are not secured by charges[21] on movable and immovable property.

(4) After payment or payment into court of the sums necessary for the discharge of the debts, the liquidators shall distribute to investors the sums or amounts due to them.

(5) The liquidators may convene at their own initiative, and must convene at the request of investors representing at least one fourth of the assets of the SICAR, a general meeting of investors for the purpose of deciding whether instead of an outright liquidation it is appropriate to contribute the assets of the SICAR in liquidation to another SICAR. That decision shall be taken, provided that the general meeting is composed of a number of investors representing at least one half of the value of the amount constituting partnership interests or capital, by a majority of two thirds of the votes of the investors present or represented.

(6) The Court's decisions pronouncing the dissolution and ordering the liquidation of a SICAR shall be published in the *Recueil électronique des sociétés et associations*[22] and in two newspapers with adequate circulation specified by the Court, at least one of which must be a Luxembourg newspaper. The liquidator(s) shall arrange for such publications.

(7) If there are no or insufficient assets, as ascertained by the reporting judge, the documents relating to the proceedings shall be exempt from any registry and registration duties and the expenses and fees of the liquidators shall be borne by the Treasury and paid as judicial costs.

(8) The liquidators shall be liable both to third parties and to the SICAR for the discharge of their duties and for any faults committed in the conduct of their activities.

[20] *juge-commissaire*
[21] *créanciers chirographaires et non privilégiés*
[22] The *Recueil électronique des sociétés et associations* is the central electronic platform of official publication.

(9) When the liquidation is completed, the liquidators shall report to the Court on the use made of the assets of the SICAR and shall submit the accounts and supporting documents thereof. The Court shall appoint auditors[23] to examine the documents.

After receipt of the auditors' report, a ruling shall be given on the management of the liquidators and the closure of the liquidation.

The closure of the liquidation shall be published in accordance with paragraph (6) above.

Such publication shall also indicate:

- the place designated by the Court where the books and records must be kept for at least five years;

- the measures taken in accordance with Article 22 with a view to the payment into court[24] of the sums and funds due to creditors or to investors to whom it has not been possible to deliver the same.

(10) Any legal actions against the liquidators of SICARs, in their capacity as such, shall be prescribed five years after publication of the closure of the liquidation provided for in paragraph (9).

Legal actions against the liquidators in connection with the performance of their duties shall be prescribed five years after the date of the facts or, in the event of concealment thereof by wilful misconduct, five years after the discovery thereof.

(11) The provisions of this Article shall equally apply to the SICARs which have not applied to be entered on the list provided for in Article 13 within the time limit laid down therein.

Art. 20 (1) After their dissolution, SICARs shall be deemed to exist for the purpose of their liquidation. In the case of a non-judicial liquidation, they shall remain subject to the supervision of the CSSF.

(2) All documents issued by a SICAR in liquidation shall indicate that it is in liquidation.

(3) Until the close of the operations relating to the liquidation of a SICAR, the institution which acted as depositary at the time the SICAR was put into liquidation shall take all necessary steps for the good preservation of the interests of the investors, including an obligation to keep open or to open any accounts necessary for the safekeeping of the various assets of the SICAR.

Art. 21 (1) In the event of a non-judicial liquidation of a SICAR, the liquidator(s) must be approved by the CSSF. The liquidator(s) must provide all guarantees of good repute and professional skill.

(2) Where a liquidator does not accept office or is not approved, the District Court dealing with commercial matters shall, at the request of any interested party or of the CSSF, appoint the liquidator(s). The judgment appointing the liquidator(s) shall be provisionally enforceable, on the production of the original thereof and before registration, notwithstanding any appeal or objection.

Art. 22 In the event of a voluntary or compulsory liquidation of a SICAR within the meaning of this Law, the sums and assets payable in respect of securities or partnership interests whose holders failed to

[23] *commissaires*
[24] *consignation*

present themselves at the time of the closure of the liquidation, shall be paid to the public trust office[25] to be held for the benefit of the persons entitled thereto.

Chapter 5: Publication of a prospectus and an annual report

Art. 23 (1) The SICAR shall draw up a prospectus and an annual report for each financial year.

(2) The annual reports together with the report of the statutory auditor[26] shall be made available to the investors within 6 months from the end of the period these reports refer to.

Art. 24 (1) The prospectus must include the information necessary for investors to be able to make an informed judgement on the investment proposed to them and the risks attached thereto.

(2) The annual report must include a balance sheet or a statement of assets and liabilities, an income and expenditure account for the financial year, a report on the activities of the past financial year, as well as any significant information enabling investors to make an informed judgment on the development of the activities and the results of the SICAR.

(3) Notwithstanding Article 1711-1[27] of the amended Law of 10 August 1915 on commercial companies, the SICAR shall be exempt from the obligation to prepare consolidated accounts.

(4) Contributions other than cash shall be, at the time of the contribution, subject to a report to be carried out by a statutory auditor. The report shall be carried out in accordance with the rules provided for in Article 420-10 of the amended Law of 10 August 1915 concerning commercial companies, irrespective of the legal form adopted by the SICAR concerned.

Art. 25 (1) The constitutional documents of the SICAR shall form an integral part of the prospectus and must be annexed thereto.

(2) However, the documents referred to in paragraph (1) need not be annexed to the prospectus, provided that the investor is informed that at his request, he will either be sent those documents or be apprised of the place where he may consult them.

Art. 26 The essential elements of the prospectus must be up to date when new securities or partnership interests are issued to new investors.

Art. 27 (1) The SICARs must have the accounting information provided in their annual report audited by an approved statutory auditor[28].

The report of the approved statutory auditor and its qualifications, if any, are set out in full in each annual report.

The approved statutory auditor must establish that he has appropriate professional experience.

(2) The approved statutory auditor shall be appointed and remunerated by the SICAR.

[25] *Caisse de Consignation*
[26] *réviseur d'entreprises*
[27] Formerly Article 309 (new numbering via Grand-Ducal Regulation of 5 December 2017).
[28] *réviseur d'entreprises agréé*

(3) The approved statutory auditor must report promptly to the CSSF any fact or decision of which he has become aware while carrying out the audit of the accounting information contained in the annual report of a SICAR or any other legal task concerning a SICAR, where such fact or decision is liable to:

- constitute a material breach of this Law or the regulations adopted for its execution, or
- affect the continuous functioning of the SICAR, or
- lead to a refusal to certify the accounts or to the expression of reservations thereon.

The approved statutory auditor shall likewise have a duty to promptly report to the CSSF, in the accomplishment of its duties referred to in the preceding sub-paragraph in respect of a SICAR, any fact or decisions concerning the SICAR and meeting the criteria referred to in the preceding sub-paragraph of which he has become aware while carrying out the audit of the accounting information contained in the annual report of another undertaking having close links resulting from a control relationship with the SICAR or while carrying out any other legal task concerning such other undertaking.

For the purposes of this Article, a close link resulting from a control relationship shall mean the link which exists between a parent undertaking and a subsidiary in the cases referred to in Article 77 of the amended Law of 17 June 1992 concerning the annual accounts and consolidated accounts of credit institutions, or as a result of a relationship of the same type between any individual or legal entity and an undertaking; any subsidiary undertaking of a subsidiary undertaking is also considered as a subsidiary of the parent undertaking which is at the head of those undertakings. A situation in which two or more individuals or legal persons are linked to one and the same person by a control relationship on a long term basis shall also be regarded as constituting a close link between such persons.

If, in the discharge of his duties, the approved statutory auditor ascertains that the information provided to investors or to the CSSF in the reports or other documents of the SICAR does not truly describe the financial situation and the assets and liabilities of the SICAR, he shall be obliged to inform the CSSF forthwith.

The approved statutory auditor shall moreover be obliged to provide the CSSF with all information or certificates required by the latter on any matters of which the approved statutory auditor has or ought to have knowledge in connection with the discharge of his duties. The same applies if the approved statutory auditor ascertains that the assets of the SICAR are not or have not been invested according to the regulations set out by the law or the prospectus.

The disclosure in good faith to the CSSF by the approved statutory auditor of any fact or decision referred to in this paragraph shall not constitute a breach of professional secrecy or of any restriction on disclosure of information imposed by contract and shall not result in liability of any kind for the approved statutory auditor.

Each SICAR subject to the supervision of the CSSF whose accounts have to be audited by an approved statutory auditor, must communicate to the CSSF spontaneously the reports and written comments of the approved statutory auditor in the context of its audit of the annual accounting documents. The CSSF may regulate the scope of the mandate for the audit of annual accounting documents and the content of the reports and written comments of the approved statutory auditor referred to in the preceding sub-

paragraph, without prejudice to the legal provisions governing the content of the independent auditor's[29] report.

The CSSF may request an approved statutory auditor to perform a control on one or several particular aspects of the activities and operations of a SICAR. This control is performed at the expense of the SICAR concerned.

(4) The CSSF shall refuse or withdraw the entry on the list of SICARs whose approved statutory auditor does not satisfy the conditions or does not discharge the obligations prescribed in this Article.

(5) The institution of supervisory auditors[30] provided for by Articles 443-1[31], 600-7[32], 811-2[33] and 710-27[34] of the amended Law of 10 August 1915 on commercial companies, is repealed with respect to Luxembourg SICARs. The directors are solely competent in all cases where the amended Law of 10 August 1915 on commercial companies provides for the joint action of the supervisory auditors and the directors.

The institution of auditors[35] provided for by Article 1100-15[36] of the amended Law of 10 August 1915 on commercial companies is not applicable to SICARs. Upon completion of the liquidation, a report on the liquidation shall be drawn up by the approved statutory auditor. This report shall be tabled at the general meeting at which the liquidators report on the application of the corporate assets and submit the accounts and supporting documents. The same meeting shall resolve on the approval of the accounts of the liquidation, the discharge and the closure of the liquidation.

Art. 28 The SICAR must send its prospectus and any amendments thereto, as well as its annual reports, to the CSSF, and the latter must be sent within the same time period as that provided for in Article 23, paragraph (2).

Art. 29 (1) The prospectus currently in force and the latest annual report must be offered free of charge to subscribers before the conclusion of the contract.

(2) The annual reports shall upon request be supplied free of charge to investors.

Chapter 6: Publication of other information

Art. 30 (…)[37]

Art. 31 Any invitation to purchase securities or partnership interests of a SICAR must indicate that a prospectus exists and the places where it may be obtained.

[29] *contrôleur légal des comptes*
[30] *commissaires aux comptes*
[31] Formerly Article 61 (new numbering via Grand-Ducal Regulation of 5 December 2017).
[32] Formerly Article 109 (new numbering via Grand-Ducal Regulation of 5 December 2017).
[33] Formerly Article 114 (new numbering via Grand-Ducal Regulation of 5 December 2017).
[34] Formerly Article 200 (new numbering via Grand-Ducal Regulation of 5 December 2017).
[35] *commissaires*
[36] Formerly Article 151 (new numbering via Grand-Ducal Regulation of 5 December 2017).
[37] Repealed by the Law of 24 October 2008.

Chapter 7: Transmission of other information to the CSSF

Art. 32 The CSSF may request SICARs to provide any information relevant to the fulfilment of its duties and may, for that purpose, itself or through appointees, examine the books, accounts, registers or other records and documents of SICARs.

Chapter 8: Protection of name

Art. 33 (1) No SICAR shall make use of designations or of a description giving the impression that it is subject to this Law if it has not obtained the authorisation provided for in Article 12.

(2) The District Court dealing with commercial matters of the place where the SICAR is situated or of the place where the designation has been used, may at the request of the Public Prosecutor issue an injunction, prohibiting anyone from using the designation as defined in paragraph (1), if the conditions provided for by this Law are not or no longer met.

(3) The judgment or final court decision which delivers this injunction, is published by the Public Prosecutor and at the expense of the person sentenced in two Luxembourg or foreign newspapers with adequate circulation.

Chapter 9: Tax provisions

Art. 34 (1) The amended Law of 4 December 1967 on income tax is amended as follows:

a) Article 14, number 1, is completed by the following sentence: "The investment company in risk capital (SICAR) organised under the legal form of a common limited partnership shall however not be considered to be a commercial company;"

b) Number 3 of Article 147 is amended and completed as follows: "3. if the income is allocated by a Luxembourg holding company as defined by the Law of 31 July 1929 or by an undertaking for collective investment (UCI), including a Luxembourg investment company in risk capital (SICAR), without prejudice however to the taxation of the aforementioned income if received by residents."

c) Article 156, number 8, is completed by a point c) worded as follows: "c) However, the income resulting from the transfer of a participation in an investment company in risk capital (SICAR) is not covered by numbers 8a and 8b."

d) Article 164*bis* is completed by the insertion, after indent 4, of a new indent 5 worded as follows: "(5) Investment companies in risk capital (SICAR) are excluded from the scope of this Article." The other indents are renumbered accordingly.

(2) Income resulting from securities as well as income resulting from the transfer, contribution or liquidation of these assets does not constitute taxable income of joint stock companies subject to this Law. Realised losses resulting from the transfer of transferable securities as well as unrealised losses accounted for upon the reduction of the value of these assets may not be deducted from the taxable income of the company.

(3) Income arising from funds held pending their investment in risk capital does not constitute taxable incomes for SICARs; this exemption is only applicable for a maximum period of twelve months preceding

their investment in risk capital and where it can be established that the funds have effectively been invested in risk capital.

Art. 35 Number 5 of the first indent of paragraph 3 of the amended Law of 16 October 1934 on wealth tax is amended as follows:

"5. investment companies in risk capital (SICAR) organised under the form of a partnership limited by shares, a cooperative in the form of a public limited company, a limited company or a public limited company governed by Luxembourg law, except from the minimum wealth tax determined in accordance with the requirements of § 8, sub-paragraph 2."

Art. 36 The amended Law of 1 December 1936 on commercial communal tax is amended as follows:

a) Indent 2 of paragraph 2 is completed by the insertion of a number 4 worded as follows: "4. The provisions under number 3 are not applicable to investment companies in risk capital (SICAR) organised under the form of a common limited partnership."

b) Paragraph 9 is completed by a number 2b which states as follows: "2b. participating shares added pursuant to paragraph 8 number 4 to the operating profit of a partnership limited by shares, as long as they are included in the operating profit determined pursuant to paragraph 7."

Art. 37 (…)[38]

Art. 38 Paragraph 1, point d) of Article 44 of the amended Law of 12 February 1979 concerning value added tax is amended by adding the words ", comprising also SICAR" after the word "UCI".

Chapter 10: Criminal law provisions

Art. 39 A fine of five hundred to twenty-five thousand euros shall be imposed upon any person who in infringement of Article 33 purports to use a designation or description giving the impression that they relate to the activities subject to this Law if they have not obtained the authorisation provided for in Article 12.

Art. 40 (…)[39]

Art. 41 A penalty of imprisonment of one month to one year and a fine of five hundred to twenty-five thousand euros or either of such penalties shall be imposed upon the founders or directors of a SICAR who have infringed the provisions of Articles 5(1) and 5(3) of this Law.

Art. 42 A penalty of imprisonment of three months to two years and a fine of five hundred to fifty thousand euros or either of such penalties shall be imposed on anyone who has carried out or caused to be carried out operations involving the receipt of savings from investors concerned if the SICAR for which they acted was not entered on the list provided for in Article 13.

Art. 43 A penalty of imprisonment of one month to one year and a fine of five hundred to twenty-five thousand euros or either of such penalties shall be imposed on the directors of SICARs who,

[38] Repealed by the Law of 19 December 2008.
[39] Repealed by the Law of 24 October 2008.

notwithstanding the provisions of Article 18, have taken measures other than protective measures without being authorised for that purpose by the supervisory commissioner.

Chapter 11: Final provision

Art. 44 This Law may, in abbreviation, be referred to as the "Law of 15 June 2004 relating to the investment company in risk capital (SICAR)".

Chapter 12: Modifying provision

Art. 45 Paragraph 3 of Article 129 of the amended Law of 20 December 2002[40] relating to undertakings for collective investment is completed by a point c) worded as follows:

"c) UCIs whose securities are reserved for i) institutions for occupational retirement provision, or similar investment vehicles, created on the initiative of a same group for the benefit of its employees and ii) undertakings of this same group investing funds they hold, to provide retirement benefits to their employees."

PART II - SPECIFIC PROVISIONS APPLICABLE TO SICARS MANAGED BY AN AIFM AUTHORISED UNDER CHAPTER 2 OF THE LAW OF 12 JULY 2013 RELATING TO ALTERNATIVE INVESTMENT FUND MANAGERS OR UNDER CHAPTER II OF DIRECTIVE 2011/61/EU

Art. 46 This Part shall apply, by way of derogation from the general rules of Part I of this Law, to SICARs managed by an AIFM authorised under Chapter 2 of the Law of 12 July 2013 relating to alternative investment fund managers or under Chapter II of Directive 2011/61/EU.

Art. 47 (1) Any SICAR subject to this Part must be managed by an AIFM, which may either be an AIFM established in Luxembourg authorised under Chapter 2 of the Law of 12 July 2013 relating to alternative investment fund managers, or an AIFM established in another Member State or in a third country authorised under Chapter II of Directive 2011/61/EU, subject to the application of paragraph (3) of Article 66 of the aforementioned directive where the SICAR is managed by an AIFM established in a third country.

(2) The AIFM must be determined in accordance with the provisions of Article 4 of the Law of 12 July 2013 relating to alternative investment fund managers or in accordance with the provisions of Article 5 of Directive 2011/61/EU.

The AIFM is:

a) either an external AIFM, which is the legal person appointed by the SICAR or on behalf of the SICAR and which, through this appointment, is responsible for managing this SICAR; in case of appointment of an external AIFM, the latter must be authorised in accordance with the provisions of Chapter 2 of the Law of 12 July 2013 relating to alternative investment fund managers or in accordance with the provisions of Chapter II of Directive 2011/61/EU, respectively;

[40] The amended Law of 20 December 2002 relating to undertakings for collective investment has been repealed and replaced by the Law of 17 December 2010 relating to undertakings for collective investment.

b) or where the governing body of the SICAR chooses not to appoint an external AIFM, the SICAR itself.

An internally managed SICAR within the meaning of this Article must, in addition to the authorisation required under Article 12 of this Law, be authorised as an AIFM under Chapter 2 of the Law of 12 July 2013 relating to alternative investment fund managers. The relevant SICAR must ensure at all times compliance with all provisions of the aforementioned law, provided that such provisions are applicable to it.

Art. 48 (1) The assets of a SICAR subject to this Part must be entrusted to a depositary for safe-keeping appointed in accordance with the provisions of Article 19 of the Law of 12 July 2013 relating to alternative investment fund managers.

(2) The depositary must either have its registered office in Luxembourg or have a branch there if its registered office is in another Member State of the European Union.

(3) Without prejudice to the second sub-paragraph of this paragraph, the depositary must be a credit institution or an investment firm within the meaning of the amended Law of 5 April 1993 on the financial sector. An investment firm shall only be eligible as depositary to the extent that this investment firm also fulfils the conditions referred to in paragraph (3) of Article 19 of the Law of 12 July 2013 relating to alternative investment fund managers.

For SICARs which have no redemption rights exercisable during a period of five years from the date of the initial investments and which, in accordance with their core investment policy, generally do not invest in assets that must be held in custody in accordance with paragraph (8), point a) of Article 19 of the Law of 12 July 2013 relating to alternative investment fund managers or generally invest in issuers or non-listed companies in order to potentially acquire control over such companies in accordance with Article 24 of the aforementioned law, the depositary may also be an entity governed by Luxembourg law which has the status of a professional depositary of assets other than financial instruments within the meaning of Article 26-1 of the amended Law of 5 April 1993 on the financial sector.

(4) The depositary is required to provide the CSSF on request with all information that the depositary has obtained in the exercise of its duties and which is necessary to enable the CSSF to monitor compliance by the SICAR with this Law.

(5) The duties and responsibilities of the depositary are defined in accordance with the rules laid down in Article 19 of the Law of 12 July 2013 relating to alternative investment fund managers.

Art. 49 Without prejudice to the application of the provisions of paragraph (3) of Article 5 of this Law, the valuation of the assets of a SICAR subject to this Part is performed in accordance with the rules laid down in Article 17 of the Law of 12 July 2013 relating to alternative investment fund managers and in the delegated acts provided for in Directive 2011/61/EU.

Art. 50 By way of derogation from paragraph (2) of Article 24 of this Law, the content of the annual report of SICARs subject to this Part is governed by the rules laid down in Articles 20 and 26 of the Law of 12 July 2013 relating to alternative investment fund managers and in the delegated acts provided for under Directive 2011/61/EU.

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Art. 51 In relation to the information to be provided to investors, SICARs subject to this Part shall comply with the rules laid down in Article 21 of the Law of 12 July 2013 relating to alternative investment fund managers and in the delegated acts provided for in Directive 2011/61/EU.

Art. 51*bis* The AIFM of a SICAR falling within the scope of this Part is authorised to delegate to third parties the power to carry out one or more of its functions on its behalf. In this case, the delegation of functions by the AIFM must comply with all the conditions provided for in Article 18 of the amended Law of 12 July 2013 relating to alternative investment fund managers in the case of SICARs managed by an AIFM for whom Luxembourg is the home Member State within the meaning of the amended Law of 12 July 2013 relating to alternative investment fund managers, subject to the application of Article 66, paragraph (3) of Directive 2011/61/EU where the SICAR is managed by an AIFM established in a third country.

Art. 52 The CSSF may request SICARs subject to this Part to provide any information referred to in Article 24 of Directive 2011/61/EU.

Art. 53 The marketing by the AIFM in the European Union of securities or partnership interests of SICARs subject to this Part as well as the management of these SICARs in the European Union on a cross-border basis are governed by the provisions of Chapter 6 of the Law of 12 July 2013 relating to alternative investment fund managers in the case of SICARs managed by an AIFM established in Luxembourg or by the provisions of Chapters VI and VII of Directive 2011/61/EU, respectively in the case of SICARs managed by an AIFM established in another Member State or in a third country, subject to the application of paragraph (3) of Article 66 of the aforementioned directive where the SICAR is managed by an AIFM established in a third country.

PART III - TRANSITIONAL PROVISIONS

Art. 54 SICARs established before 22 July 2013 shall have until 22 July 2014 to comply with Article 7*bis* of this Law.

Art. 55 (1) Without prejudice to the transitional provisions provided for in Article 58 of the Law of 12 July 2013 relating to alternative investment fund managers or, if it concerns an AIFM established in a third country, provided for in Article 45 of the Law of 12 July 2013 relating to alternative investment fund managers, SICARs established before 22 July 2013, which are managed by an AIFM authorised under Chapter 2 of the Law of 12 July 2013relating to alternative investment fund managers or under Chapter II of Directive 2011/61/EU, must comply with the provisions of Part II of this Law from 22 July 2014 at the latest.

(2) Without prejudice to the transitional provisions provided for in Article 58 of the Law of 12 July 2013 relating to alternative investment fund managers or, if it concerns an AIFM established in a third country, provided for in Article 45 of the Law of 12 July 2013 relating to alternative investment fund managers, SICARs established between 22 July 2013 and 22 July 2014, which are managed by an AIFM authorised under Chapter 2 of the Law of 12 July 2013 relating to alternative investment fund managers or under Chapter II of Directive 2011/61/EU, shall qualify as AIFs within the meaning of the Law of 12 July 2013 relating to alternative investment fund managers from the date they are established. These SICARs must comply with the provisions of Part II of this Law from the date they are established. By way of derogation from this principle, SICARs established between 22 July 2013 and 22 July 2014, with an external AIFM which exercises the activities of AIFM before 22 July 2013, must comply with the provisions of Part II of this Law from 22 July 2014 at the latest.

(3) All SICARs established after 22 July 2014, which are managed by an AIFM authorised under Chapter 2 of the Law of 12 July 2013 relating to alternative investment fund managers or under Chapter II of Directive 2011/61/EU shall be, subject to the transitional provisions provided for in Article 45 of the Law of 12 July 2013 applicable to AIFMs established in a third country, *ipso jure* governed by Part II of this Law. These SICARs which are managed by an AIFM authorised under Chapter 2 of the Law of 12 July 2013 relating to alternative investment fund managers or under Chapter II of Directive 2011/61/EU or, where applicable, their AIFM, shall be *ipso jure* subject to the provisions of the Law of 12 July 2013 relating to alternative investment fund managers.

(4) SICARs established before 22 July 2013, managed by an AIFM authorised under Chapter 2 of the Law of 12 July 2013 relating to alternative investment fund managers or under Chapter II of Directive 2011/61/EU, which qualify as AIFs of the closed-ended type within the meaning of the Law of 12 July 2013 relating to alternative investment fund managers and which do not make any additional investments after such date, do not need to comply with the provisions deriving from Part II of this Law.

(5) SICARs managed by an AIFM authorised under Chapter 2 of the Law of 12 July 2013 relating to alternative investment fund managers or under Chapter II of Directive 2011/61/EU, which qualify as AIFs of the closed-ended type within the meaning of the Law of 12 July 2013 relating to alternative investment fund managers whose subscription period for investors has closed prior to 22 July 2011 and which are established for a period of time expiring at the latest three years after 22 July 2013, do not need to comply with the provisions of the Law of 12 July 2013 relating to alternative investment fund managers, except for Article 20 and, where applicable, Articles 24 to 28 of the Law of 12 July 2013 relating to alternative investment fund managers, nor do they need to submit an application for authorisation under the Law of 12 July 2013 relating to alternative investment fund managers.

Art. 56 SICARs authorised before 28 July 2023 have twelve months starting from 28 July 2023 in which to comply with the obligations contained in Article 12*bis*.