

Luxembourg newsflash

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Implementation of the UCITS V Directive into Luxembourg law

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Background

Directive 2014/91/EU of 23 July 2014 on UCITS as regards depositary functions, remuneration policies and sanctions ("**UCITS V Directive**") must be implemented by 18 March 2016.

The UCITS V Directive clarifies the functions and liabilities of UCITS depositaries, provides the parameters for remuneration policies for UCITS management companies in order to limit excessive risk taking, and harmonises minimum administrative sanctions in respect of breaches of national provisions.

Where does Luxembourg stand with the implementation of the UCITS V Directive?

On 10 July 2015 the Government Council (*Conseil de Gouvernement*) approved the bill of law no. 6845 (the "**Bill of Law**") which will:

- implement the UCITS V Directive, by way of amending the Luxembourg law of 17 December 2010 on undertakings for collective investment (the "**UCI Law**"); and
- amend the Luxembourg law of 12 July 2013 on alternative investment fund managers (the "**AIFM Law**").

As a first step in the legislative process, the Bill of Law has been deposited on 5 August 2015 with the Luxembourg Parliament (*Chambre des Députés*). The Bill of Law as deposited is merely a transcription of the UCITS V Directive into the UCI Law.

The Bill of Law proposes one amendment that goes beyond the implementation of the UCITS V Directive. It suggests that a UCI established in Luxembourg, governed by Part II of the UCI Law and currently subject to the depositary regime of the AIFM Law or of CSSF Circular 91/75, depending on whether the UCI's assets under management are above or below the threshold provided by the AIFM Law, shall be subject going forward to the new and more stringent depositary regime for UCITS (independent of its assets under management).

The Bill of Law also proposes some amendments to the AIFM Law. Among others, the requirement for alternative investment fund managers to have their accounting documents audited by an

independent auditor and certain clarifications on the provision of non-core services.

Further steps

In accordance with the Luxembourg legislative process, the Bill of Law will be discussed in public session(s) of the *Chambre des Députés* and will then be reviewed by the *Conseil d'Etat*. Following its adoption it will need to be promulgated by the *Grand-Duc*. According to the information currently available, deliberation, review and a possible adoption will only occur during the fourth quarter of 2015, leaving the stakeholders with a very short transition period.

This publication is intended to provide information on recent legal developments and does not cover every aspect of the topics with which it deals. It was not designed to provide legal or other advice and it does not substitute for the consultation with legal counsel before any actual undertakings.
