

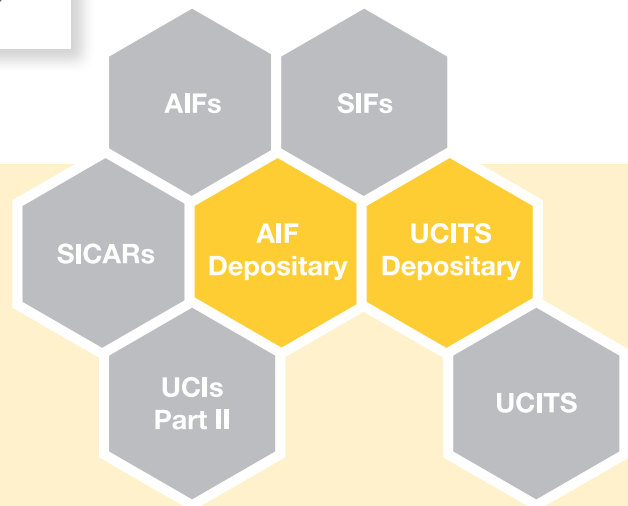
DEPOSITARIES

Understand, Implement, Apply

Depositaries in Luxembourg

Each Luxembourg-domiciled undertaking for collective investment (UCI) must appoint a single depositary from among the eligible Luxembourg entities, or Luxembourg branches of eligible entities established in the European Union, to act as depositary for the UCITS or AIF in question. To be eligible, entities such as credit institutions, investment firms and professional depositaries of assets other than financial instruments (PDAOFIs) are required to obtain an administrative authorisation from the Luxembourg regulator, the CSSF.

Since the release of CSSF Circulars 16/644 and 18/697, which clarify and expound on the depositary information contained in the Luxembourg UCITS and AIFM laws, and in the UCITS V and AIFMD level 2 regulations, depositaries must act independently and in the best



interests of UCI investors. They do this by complying with organisational and good-practice requirements when performing their depositary duties, such as the safekeeping of assets, alongside a number of oversight duties and monitoring the cash flows of the UCIs for which they act as depositary.

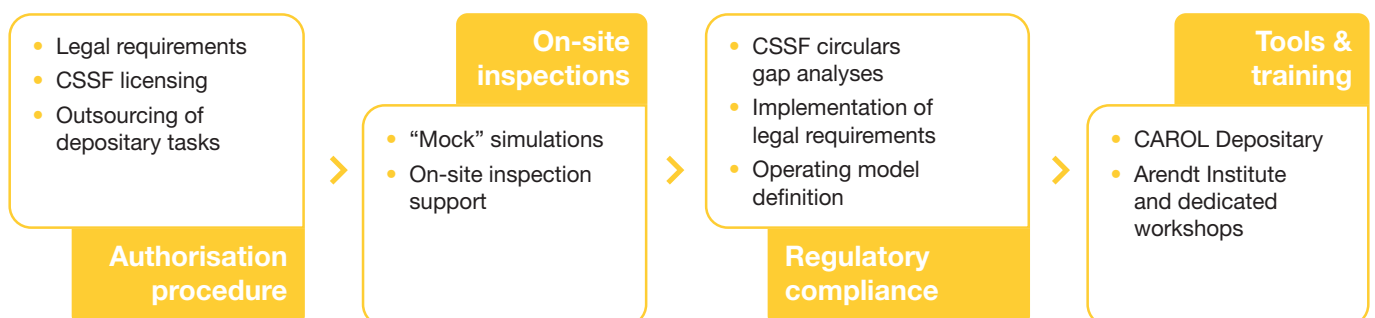
Need for reorganisation

Luxembourg remains the world's largest fund domicile after the United States of America. For decades the European Union has debated creating a depositary passport, but for the time being, Luxembourg-domiciled UCIs still require the appointment of a Luxembourg-based depositary. Since 2014, the Luxembourg market has seen a significant increase in alternative/non-UCITS funds in terms of both net assets and the number of funds, up to the near 40% market share seen today.

Beyond the typical UCITS-driven depositary business, which is predominantly based on financial instruments, non-UCITS

funds investing primarily in real assets have added a layer of complexity with respect to depositary operations and oversight. Here, market participants have been (and still are) calling for change, in the form of new competences for the management of more complex fund strategies. While the European organisational requirements on UCITS and AIF depositaries have largely converged over time, for non-UCITS funds, the depositary control framework must account for enhanced asset supervision and 'look-through' principles. In practice, this can require a single entity to establish multiple depositary regimes and businesses.

Depositary assistance offered



'A la carte' services

✓ Regulatory assistance

- Identification of the applicable depositary regime by fund type
- Understanding the legal and regulatory requirements
- 'Mock' simulations and on-site inspection support
- Authorisation procedure to obtain an administrative license as depositary
- Gap analysis to comply with relevant CSSF laws and circulars
- Communication with the CSSF

✓ Organisation of your operations

- Definition of your operating model and operational framework
- Risk assessment on the depositary's capacity to serve a specific fund
- Advice on delegation and outsourcing models
- Implementation of operational processes throughout the fund's lifecycle
- Review and updating of policies and procedures (SLA, operating memo, etc.)
- Creation of a depositary control plan

✓ Management of delegates and external parties

- Implementation of initial and ongoing due diligence monitoring plans
- Provision, advice and/or review of due diligence documentation/checklists
- Review of your key performance indicators per counterparty and type of role

✓ Tools and training

- CAROL Depositary – your depositary compliance and regulatory oversight tool
- Training solutions (Arendt Institute) and targeted workshops



If you want to:

- Understand your depositary duties
- Be aware of the latest regulatory changes
- Keep up-to-date depositary policies and procedures
- Build efficient monitoring and control tools



**Then
talk to
us!**

For more information, contact us at DepositariesARC@arendt.com

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