



LUXEMBOURG: A KEY EU DOMICILE

CLAUDE NIEDNER, OF ARENDT & MEDERNACH, DISCUSSES RECENT DEVELOPMENTS TO LUXEMBOURG'S FUND OFFERING, AND THE COUNTRY'S IMPORTANCE AS A HEDGE FUND JURISDICTION IN EUROPE POST-BREXIT



Claude Niedner is a founding partner of Arendt & Medernach and a member of the firm's strategy board. He specialises in investment funds and works in the Ucits, hedge funds and real estate areas.

HFMWeek (HFM): How has Luxembourg's fund vehicle offering developed in recent years?

Claude Niedner (CN): Within the last few years, there have been two very important developments. Firstly, there was the implementation of the AIFMD package in 2013. This has been significant as it has served to bolster and modernise the toolbox, and helped to make Luxembourg a major jurisdiction wherein asset managers can set up partnerships fund structures.

The next important development has been the implementation of the RAIF (Reserved Alternative Investment Fund) in 2016. This is an extremely flexible vehicle designating an EU-authorized AIFM (Alternative Investment Fund Manager) and is not under the supervision of the Commission de Surveillance du Secteur Financier (CSSF).

Therefore, these offerings need not adhere to certain time-consuming processes. These vehicles also allow asset managers to benefit from the AIFM passport.

HFM: How easy is it to set up these fund structures?

CN: As well as their considerable flexibility, LPs and RAIFs are easy to establish. Often they have a quick time-to-market; without any direct supervision from the Luxembourg regulator, their schedules and any time constraints can be controlled directly by the par-

ties themselves – usually a product's launch depends on the time it takes to establish legal documents (usually several weeks).

HFM: What support is the Luxembourg regulator offering managers looking to re-domicile or set up in the country?

CN: The Luxembourg regulator is very open to asset managers wishing to set up an AIFM, a Ucits management company or a CSSF supervised fund in the jurisdiction. The regulator is keen to meet new players wishing to become established and they put in place an increasing amount of standard procedures that help facilitate and streamline a business's implementation. The regulator is also keen to directly discuss with asset managers any technical issues that arise during implementation, in order to speed up the process as necessary.

At the beginning, hedge fund managers came into Luxembourg for the alternative Ucits. Nowadays, the growing trend we

see is for managers to develop hedge fund platforms in Luxembourg. It helps that the implementation process for the partnership structures and the RAIF is particularly smooth.

Luxembourg is an onshore international jurisdiction which is keen to launch products which are innovative

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and flexible but still offer access to the European passport for distribution within full scope of the AIFMD.

HFM: What support can Arendt offer managers looking to re-domicile or outsource business functions in the context of Brexit?

CN: Arendt is a full services law firm. We not only have expertise within investment management, private equity and real estate fund structuring, but also in banking & finance, tax law, employment law or administrative law, property, and construction & environment. We are therefore able to do more than assist with fund structuring, and can also advise on a fund's day-to-day operational activities and help asset managers to further develop their practices.

HFM: How do you see the importance of Luxembourg as a hedge fund jurisdiction developing post-Brexit?

CN: I am of the belief that hedge fund managers will stay in the UK/US but will use Luxembourg in order to reach their EU clients. As a jurisdiction, Luxembourg is able to partner with UK-based hedge fund managers to establish an efficient delegation

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model via AIFMs based in Luxembourg. Luxembourg based AIFMs also offer opportunities with regards to the distribution of products within the EU, an area in which Luxembourg has a long history of expertise.

Ireland and Luxembourg are going to be the two main jurisdictions whom will have a key role in the development of the hedge fund industry in Europe. Luxembourg will remain the best place for the structuration of AIFs, and Ireland will continue to be a key jurisdiction for administration of hedge funds. Both countries have their advantages dependent on requirements. Luxembourg will surely be preferred for the asset managers who want to distribute within continental Europe.

Luxembourg will permit the hedge funds asset managers to provide their investors with protection and legal certainty using flexible fund structuring solutions. In addition, compared to offshore jurisdictions, Luxembourg has many double tax treaties in place. These non-double imposition treaties enable asset managers to develop, in compliance with Beps standards, investment strategies in an efficient manner. ■