

## Headlines

### • **CESR reviews the implementation of guidelines to simplify the notification procedure of UCITS**

The Committee of European Securities Regulators (CESR) has published on 29 January 2010 a *report* entitled "Peer Review of the Implementation of CESR's Guidelines to simplify the notification procedure of UCITS".

This report presents how CESR Members across Europe apply CESR guidelines to simplify the notification procedures of Undertakings for Collective Investments in Transferable Securities (UCITS). A stock-take was conducted during the course of 2008, looking into the degree of application of 13 CESR guidelines for the notification of UCITS by the 27 CESR Members.

The results in the report reflect the position up to 1 April 2008.

The report provides evidence of the level of application of the CESR guidelines on notification procedures for UCITS in the CESR Membership. Out of the 13 CESR guidelines for UCITS notification, seven had been identified as key guidelines according to the CESR self-assessment published on the CESR website, namely (i) the notification letter (guideline 1), (ii) possible grounds to refuse notification (guideline 2), (iii) the starting of the two-month notification period (guideline 4), (iv) the maximum two-months period to check information (guideline 5), (v) the requirement to submit the latest version of the notification documents and (vi) certification of them (guideline 7), and (vii) marketing of only part of an umbrella fund and the single notification letter for several sub-funds and cross-reference (guideline 10).

For Members to be considered as fully applying the CESR guidelines, they were required to apply fully at least the key guidelines. This was the case for Belgium, Bulgaria, Italy, Luxembourg and Norway. Members were considered as partially-applying the guidelines when any of the key guidelines was partially applied. This was the case for Hungary, Portugal, Romania and Sweden. Countries were considered as being "non-applicants of the guidelines" when any of the key guidelines were not fully complied with. This was the case for the 20 remaining CESR Members.

*[Press release](#)*

## Headlines (cont.)

### • CESR : mapping of duties and liabilities of UCITS depositaries

CESR has been working on a number of issues relating to UCITS depositaries. Originally the focus of CESR's work was on assessing the impact of the Madoff fraud on the fund industry. This work was then widened to include the duties and responsibilities of UCITS depositaries. CESR carried out a mapping exercise among its members to establish how the various rules on depositary obligations have been implemented. A summary of the mapping exercise was included as an annex to CESR's response to the European Commission's consultation on the UCITS depositary function.

The Committee of European Securities Regulators (CESR) has published on 15 January 2010 a document entitled "Mapping of duties and liabilities of UCITS depositaries". The document consists of a *table* containing information on the requirements in place in each CESR member state in the following areas:

- General criteria on the depositary. This deals with (i) eligibility requirements; (ii) prudential requirements; (iii) requirements with regard to the experience and skills of the key personnel; (iv) organisational requirements; and (v) any other requirements.
- Liability of the depositary where there is delegation of custody functions. This covers the extent to which, and under what conditions: (i) the depositary would be held liable toward investors and (ii) the depositary would be required to restore assets in the case of sub-custody arrangements.
- Obligation of means/obligation of result. "Obligation of means" refers to an obligation on the depositary to devote appropriate resources and carry out appropriate due diligence to ensure safe-keeping of assets. "Obligation of result" refers to the depositary's obligation to safe-keep the assets.
- Legal framework (administrative/civil). This section covers the domestic legislative framework applicable to depositary liability.
- Requirements on depositaries when delegating (due diligence). This section deals with the due diligence requirements depositaries must satisfy when selecting a sub-custodian.

## Headlines (cont.)

### • CESR : OTC derivatives

CESR has published the following documents on OTC derivatives:

**Feedback Statement on the Consultation on “Classification and identification of OTC derivative instruments for the purpose of the exchange of transaction reports amongst CESR Members”.**

**Decision on the technical standards for classification and identification of OTC derivative instruments for the purpose of the exchange of transaction reports amongst CESR Members.**

Based on the feedback, CESR has decided to go ahead with the scheme of classification of OTC derivatives proposed in its consultation. In particular, no unique identifier will be used for any particular derivative, but instead the relevant broad category of instruments will need to be identified (e.g. swap, option, warrant) as well as a number of particular characteristics of the derivative in question.

**Consultation on guidance on reporting of OTC derivative transactions.**

Based on its decision, CESR is consulting on guidelines covering a wider set of issues regarding the reporting of OTC derivatives transactions.

The deadline for comments is 1 April 2010.

[Press release](#)

### • ALFI response to the IOSCO consultation on point of sale disclosure for CIV

On 16 November 2009, the International Organization of Securities Commissions (IOSCO) published its consultation report regarding principles of point of sale disclosure. The report focuses on Collective Investment Schemes (CIS) and is based on an Issues Paper that examined the issues raised by point of sale disclosure, including:

- whether regulatory disclosures are in fact effective in addressing information;
- asymmetries that exist between investors, producers and sellers;
- what constitutes key information;
- how information should be delivered and whether a layered approach should be used;
- what exactly should be understood as delivery;

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- at what point in time the information should be delivered;
- use of plain language rather than technical jargon; and
- the format of disclosures.

ALFI submitted its [response](#) to IOSCO in due course.

### • **IOSCO : consultation report on Private Equity Conflicts of Interest**

On 3rd November 2009 the IOSCO Technical Committee (TC) published for Public comment a consultation report on Private Equity Conflicts of Interest (the Report).

The Report <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD309.pdf> sets out a number of factors to be considered by market practitioners and authorities when considering the management of conflicts of interest. It also sets out a number of principles for effective mitigation of conflicts of interest in private equity. The Report will be finalised after consideration of comments received from the public.

ALFI has participated in this consultation process which expired on 1 February 2010. [ALFI's contribution to this consultation.](#)

### • **Circular CSSF 10/439** (only in French)

22.02.2010: Entry into force of the law of 18 December 2009 and of the grand-ducal regulations of 18 December 2009 as well as of 15 February 2010 concerning the audit profession. [Link to CSSF website](#)

### • **CSSF Circular 10/437 (only in French) 01.02.2010:**

[Guidelines concerning the remuneration policies in the financial sector](#)

### • **Grand-Ducal Decree of 1 February 2010 : precisions as to various provisions of the Law of 12 November 2004 on the fight against money laundering and terrorist financing**

in [Official Gazette](#)

## Headlines (cont.)

### • New circular on Islamic finance

On 12 January 2010, the Luxembourg tax authorities issued a new [circular](#) which describes both the major principles of Islamic finance and their tax treatment. It clarifies in particular the treatment of murabaha transactions (forward sales) – i.e. sales with deferred payment that is mostly used for the purchase of goods for immediate delivery on deferred payment terms – and sukuk (asset backed securities), being the Islamic counterparts of conventional bonds.

The circular testifies that Islamic finance has the full support of the Luxembourg authorities and it contributes to the development of Luxembourg as a centre of excellence for Shariah compliant structures.

### • IFBL: Islamic Finance Foundation Certificate & Islamic Finance Diploma

Islamic Finance in Luxembourg continues to gain ground as an attractive alternative to conventional finance. The framework in Luxembourg makes it an attractive centre for Islamic Finance in Europe, whilst the authorities and key market players continue to drive and support the development of this activity. Discover the [new 2010 training offer](#) !

### • IFBL/ALFI/ILA Seminar on Roles and Responsibilities of the Directors and Managers of UCI and other investment vehicles

18 & 19 March : [Programme, practical information & registration](#)

### • “Is it true what they say about Luxembourg?”

The Luxembourg Government, in collaboration with several partners, has produced 10 short films to counter wide spread clichés about Luxembourg and present the country the way many inhabitants, visitors and investors experience it today. The films target communication

## Headlines (cont.)

professionals who promote Luxembourg abroad as well as the general public. The project is a joint initiative by the Information and Press Service of the Luxembourg Government, the Ministry of Tourism, Luxembourg for Business and Luxembourg for Finance.

For further information, please go to the video platform

[www.promoteluxembourg.com](http://www.promoteluxembourg.com)

## ALFI Publications

- **UCITS IV : « Luxembourg: where else ? »**

Discover ALFI's new promotional folder explaining why Luxembourg is the location of choice for the establishment of management companies and the domiciliation, administration and global distribution of UCITS.

[Download the PDF](#)

Please contact [info@alfi.lu](mailto:info@alfi.lu) if you wish to be sent prints.

- **Luxembourg Fund Review January-February 2010**

The new edition puts the focus on Investor education: a summary of initiatives worldwide, a presentation of the BVI- Project "Hoch im Kurs" and of the Investor Education in the UK. Other topics are:

- Misselling: what MiFID brings?
- T2S toward a new post-trade architecture, how it will impact the industry
- Opportunity in adversity: how will the KID for UCITS impact the asset management industry?
- The introduction of an extended Qualified Intermediary program:  
What is the impact for the Fund industry?
- German Investment Tax Act – Status quo and latest developments
- Best Practice through Good Judgement

*Keep track of the latest legislation and regulatory developments, and benefit from experts' insights with exclusive analysis of new products and distribution strategies.*

The Luxembourg Fund Review benefits since October last year from the combined support of ALFI and IFE Benelux (International Faculty for Executives), a provider of professional training and editorial services.

[\*More information and subscription details\*](#)

## ALFI past events

### • ALFI's second annual SRI conference

Gathering more than 150 experts from a variety of fields, the attendance of the SRI Conference demonstrated once again the large amount of interest for this topic and reassured ALFI to intensify its efforts in this key area. H.E. Minister Claude Wiseler, Minister for Sustainable Development and Infrastructure, underlined its active involvement in a wide spectrum of projects in the field of sustainable development and took time to answer questions from the audience.

For ALFI's president Claude Kremer "Luxembourg is Europe's largest investment fund center and a world-wide leader in cross-border fund distribution. As such, it has a duty towards investors and must pursue its role as laboratory for innovation in the area of responsible investment".

Please read the [\*press release\*](#)

### • 26 & 27 January: ALFI Roadshow to Switzerland

A good turn out with 240 participants in Zurich and 160 in Geneva including a delegation of almost 70 people from Luxembourg.

[\*Zurich presentation slides\*](#)

[\*Geneva presentation slides\*](#)

## ALFI Upcoming Events

### • **This Thursday, 25 February:**

#### **ALFI & PRiM Risk Management Conference**

210 people registered! Late registrations and onsite registrations are welcome, but will not be listed on the printed attendees list.

Only €300 for ALFI & PRiM members.

Click here for the [programme and registration information](#)

### • **23 & 25 March : ALFI Spring conference**

Exhibition booths fully booked! If you are still interested in exhibiting, contact [events@alfi.lu](mailto:events@alfi.lu) and we will put you on waiting list.

[For registration](#) : benefit from the internet booking discount !

### • **ALFI Gala dinner:**

For conference registrants and gala dinner sponsors only. [More details](#).

### • **25 March : ALFI Microfinance conference:**

Special package deal for the 3 days (Spring & Microfinance conference).

[More details on the conference](#).

### • **12 – 15 April : ALFI US Roadshow**

Seminars will take place in San Francisco, Chicago, Boston, Greenwich and New York. The road show invitation will be available soon on [www.alfi.lu](http://www.alfi.lu) Events section.

### • **11 May : ALFI seminar London**

More information coming soon.

## Luxembourg for Finance Events

### • 17 March : MIPIM Cannes

Luxembourg for Finance (LFF) *invites* to the conference “Luxembourg, Real estate investment vehicles”. This event will be held during the MIPIM 2010 on Wednesday, 17 March 2010 at 10.30 a.m. at the Palais des Festivals, Cannes. For any further information and registration please contact :

Luxembourg for Finance  
Mr. Sohrab Ziai  
Email: sohrab.ziai@lff.lu  
Phone: +352 27 20 21 1

### • 11-15 April : Mission to Russia

The Agency Luxembourg for Finance will take part in the official mission to Moscow and St Petersburg organised by the Chamber of Commerce of the Grand-Duchy of Luxembourg. This mission will be led by HRH Crown Prince Guillaume of Luxembourg and HE Jeannot Krecké, Minister for the Economy and Foreign Trade of Luxembourg.

Luxembourg for Finance has planned to organise a financial seminar in both cities. The themes of Wealth Management and Investment Funds will be tackled in a joint seminar, in Moscow, the event will be organised in partnership with MOSFINAGENCY, in St Petersburg, the International Banking Institute will kindly support the seminar to which students will be conveyed too.

We have pleasure in forwarding to your attention the *invitation letter*, the *programme* and the *registration form* of the Chamber of Commerce which is taking care of general coordination. Please note that international flights must be booked individually.

If your organisation is interested in joining Luxembourg for Finance for this mission, we would be very grateful if you would return the enclosed registration form and *intake form* directly to the Chamber of Commerce (Mrs. Anne-Marie Loesch or Mr. Sohrab Ziai by fax: +352 43 83 26 or by e-mail: international@cc.lu) before Monday February 15th, 2010.

## Other Events

• **24 February : Conference by the University of Luxembourg & Luxembourg for Finance**

« **Malaysia – Luxembourg : A bridge for Islamic finance** »

from 14h30 until 17h30 salle Tavenas 102, avenue Pasteur

Please click here for [more information](#)

### Impressum

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