

<p style="text-align: center;">In case of discrepancies between the French and the English text, the French text shall prevail</p>

**LAW OF 13th FEBRUARY, 2007 RELATING TO SPECIALISED INVESTMENT
FUNDS**

Chapter 1. – *General provisions and scope*

Art. 1. (1) For the purpose of this Law, specialised investment funds shall be any undertakings for collective investment situated in Luxembourg:

- the exclusive object of which is the collective investment of their funds in assets in order to spread the investment risks and to ensure for the investors the benefit of the results of the management of their assets, and
- the securities of which are reserved to one or several well-informed investors, and
- the constitutive documents or offering documents of which provide that they are subject to the provisions of this Law.

(2) Specialised investment funds may be constituted under the legal forms laid down in Chapters 2, 3 and 4 of this Law.

Art. 2. (1) Within the meaning of this Law, a well-informed investor shall be an institutional investor, a professional investor or any other investor who meets the following conditions:

- a) he has confirmed in writing that he adheres to the status of well-informed investor, and
- b) (i) he invests a minimum of 125,000 Euro in the specialised investment fund, or
(ii) he has been the subject of an assessment made by a credit institution within the meaning of Directive 2006/48/EC, by an investment firm within the meaning of Directive 2004/39/EC or by a management company within the meaning of Directive 2001/107/EC certifying his expertise, his experience and his knowledge in adequately appraising an investment in the specialised investment fund.

(2) The conditions set forth in this Article are not applicable to the directors and other persons who intervene in the management of the specialised investment funds.

Art. 3. Specialised investment funds subject to this Law shall be deemed to be situated in Luxembourg if the registered office of the management company of the common fund or the registered office of the investment company is situated in Luxembourg. The head office must be situated in Luxembourg.

Chapter 2. – *Common funds*

Art. 4. There shall be regarded as a common fund for the application of this Law any undivided collection of assets made up and managed according to the principle of risk-spreading on behalf of joint owners who are liable only up the amount contributed by them and whose rights are represented by units reserved to one or several well-informed investors.

Art. 5. The common fund shall not be liable for the obligations of the management company or of the unitholders; it shall be answerable only for the obligations and expenses expressly imposed upon it by its management regulations.

Art. 6. A common fund shall be managed by a Luxembourg management company which complies with the conditions set out in Chapter 13 or 14 of Part IV of the amended law of 20th December, 2002 relating to undertakings for collective investment.

Art. 7. (1) The management company shall issue registered certificates or bearer securities representing one or more portions of the common fund which it manages or, in accordance with the conditions laid down in the management regulations, written confirmations of entry in the register of units or fractions of units without limitation as to the splitting-up of units.

Rights attached to fractions of units are exercised in proportion to the fraction of a unit held except for possible voting rights which can only be exercised for whole units. The certificates and securities shall be signed by the management company and the depository referred to in Article 16.

Such signatures may be reproduced mechanically.

(2) Ownership of units shall be determined and transfer thereof shall be effected in accordance with the rules laid down in Articles 40 and 42 of the amended law of 10th August, 1915 concerning commercial companies.

Art. 8. Units shall be issued and, as the case may be, redeemed in accordance with the conditions and procedures set forth in the management regulations.

Art. 9. Unless otherwise provided for in the management regulations of the fund, the valuation of the assets of the common fund shall be based on the fair value. This value must be determined in accordance with the rules set forth in the management regulations.

Art. 10. Neither the holders of units nor their creditors may require the distribution or the dissolution of the common fund.

Art. 11. (1) The *Commission de Surveillance du Secteur Financier* (the Commission for the Supervision of the Financial Sector) (the "CSSF") may, in the interest of the unitholders or in the public interest, require the suspension of the redemption of units, in particular where the provisions of laws, regulations or agreements concerning the activity and operation of the common fund are not observed.

(2) The issue and redemption of the units shall be prohibited:

- a) during any period where there is no management company or depository;
- b) where the management company or the depository is put into liquidation or declared bankrupt or seeks a composition with creditors, a suspension of payment or a court controlled management or is the subject of similar proceedings.

Art. 12. (1) The management company shall draw up the management regulations for the common fund.

Such regulations must be lodged with the register of commerce and companies and its publication in the *Mémorial*¹ will be made through a notice advising of the deposit of such document with the register of commerce and companies, all in accordance with the provisions of the amended law of 10th August, 1915 concerning commercial companies. The provisions of such regulations shall be deemed accepted by the unitholders by the mere fact of the acquisition of such units.

(2) The management regulations of the common fund shall at least contain the following provisions:

- a) the name and duration of the common fund, the name of the management company and of the depositary,
- b) the investment policy according to its proposed specific objectives and the criteria therefore,
- c) the distribution policy within the scope of Article 15,
- d) the remuneration and expenditure which the management company is empowered to charge to the fund and the method of calculation of such remuneration,
- e) the provisions as to publications,
- f) the date of the closing of the accounts of the common fund,
- g) the cases where, without prejudice to legal grounds, the common fund shall be dissolved,
- h) the procedure for amendment of the management regulations,
- i) the procedure for the issue of units and, as the case may be, for the redemption of units.

Art. 13. (1) The management company shall manage the common fund in accordance with the management regulations and in the exclusive interests of the unitholders.

(2) It shall act in its own name, but shall indicate that it is acting on behalf of the common fund.

(3) It shall exercise all the rights attached to the assets comprised in the portfolio of the common fund.

Art. 14. The management company must fulfil its obligations with the diligence of a salaried agent²; it shall be answerable to the unitholders for any loss resulting from the non-fulfilment or improper fulfilment of its obligations.

Art. 15. Unless otherwise provided for in the management regulations, the net assets of the common fund may be distributed subject to the limits set out in Article 21 of this Law.

Art. 16. (1) The custody of the assets of the common fund must be entrusted to a depositary.

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

(3) The depositary must be a credit institution within the meaning of the amended law of 5th April, 1993 concerning the financial sector.

¹ The *Mémorial, C; Recueil des Sociétés et Associations* is the part of the official gazette in which certain required corporate publications and notifications are made.

² *Mandataire salarié*

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

(5) The depository shall carry out all operations concerning the day-to-day administration of the assets of the common fund.

Art. 17. (1) The depository shall be liable in accordance with Luxembourg law to the management company and the unitholders for any losses suffered by them as a result of its wrongful failure to perform its obligations or its wrongful improper performance thereof.

(2) The liability to unitholders shall be invoked indirectly through the management company. Should the management company fail to act despite a written notice to that effect from a unitholder within a period of three months following receipt of such a notice, such unitholder may directly invoke the liability of the depository.

Art. 18. In the context of their respective roles, the management company and the depository must act independently and solely in the interest of the unitholders.

Art. 19. The duties of the management company or of the depository in respect of the common fund shall respectively cease:

- a) in the case of withdrawal of the management company, provided that it is replaced by another authorised management company within the meaning of Article 6 of this Law;
- b) in the case of voluntary withdrawal of the depository or of its removal by the management company; until it is replaced, which must happen within two months, the depository shall take all necessary steps for the good preservation of the interest of the unitholders;
- c) where the management company or the depository 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;
- d) where the CSSF withdraws its authorisation of the management company or the depository;
- e) in all other cases provided for in the management regulations.

Art. 20. (1) Liquidation of the common fund shall take place:

- a) upon the expiry of any period as may be fixed by the management regulations;
- b) in the event of cessation of their duties by the management company or by the depository in accordance with the sub-paragraphs b), c), d) and e) of Article 19, if they have not been replaced within two months without prejudice to the specific circumstance addressed in sub-paragraph c) below;
- c) in the event of bankruptcy of the management company;
- d) if the net assets of the common fund have fallen for more than 6 months below one fourth of the legal minimum provided for in Article 21 hereafter;
- e) in all other cases provided for in the management regulations.

(2) Notice of the event giving rise to liquidation shall be given to the knowledge of the unitholders as well as eventual creditors of the common fund without delay, by the management company or the depository. If they fail to do so, such notice will be published by the CSSF at the expense of the common fund. The notice shall be published in the *Mémorial*

and in at least two newspapers with adequate circulation one of which at least must be a Luxembourg newspaper.

(3) As soon as the event giving rise to liquidation of the common fund occurs, the issue of units shall be prohibited, on penalty of nullity. The redemption of units remains possible provided the equal treatment of unitholders can be ensured.

Art. 21. The net assets of a common fund may not be less than one million two hundred fifty thousand Euro (1,250,000 Euro).

This minimum must be reached within a period of twelve months following the authorisation of the common fund.

A grand-ducal regulation may increase such minimum amount up to a maximum of two million five hundred thousand Euro (2,500,000 Euro).

Art. 22. The management company must without delay inform the CSSF if the net assets of the common fund have fallen below two thirds of the legal minimum. In a case where the net assets of the common fund have fallen below two thirds of the legal minimum, the CSSF may, having regard to the circumstances, compel the management company to put the common fund into liquidation.

Unitholders as well as any creditors of the common fund shall be informed without delay by the management company or the depository about the order addressed by the CSSF to the management company to put the common fund into liquidation. If they fail to do so, such notice shall be published by the CSSF at the expense of the common fund. The notice shall be published in the *Mémorial* and in at least two newspapers with adequate circulation, one of which at least must be a Luxembourg newspaper.

Art. 23. Neither the management company, nor the depository, acting on behalf of the common fund may grant loans to unitholders of the common fund.

Art. 24. For funds to which this Law applies, the words "common fund" or "FCP" are completed by the words "specialised investment fund" or "FIS³".

Chapter 3. – *Investment companies with variable capital*

Art. 25. For the purposes of this Law, investment companies with variable capital ("SICAV") shall be taken to mean those companies:

- which have adopted the form of a public limited company, a partnership limited by shares, a limited company or a cooperative in the form of a public limited company,
- the exclusive object of which is to invest their funds in assets in order to spread the investment risks and to ensure for their investors the benefit of the results of the management of their assets, and
- the securities of which are reserved to one or several well-informed investors, and
- the articles of incorporation of which provide that the amount of capital shall at all times be equal to the net asset value of the company.

Art. 26. SICAVs shall be subject to the general provisions applicable to commercial companies, insofar as this Law does not derogate therefrom.

³ "FIS" stands for the French abbreviation of "*Fonds d'Investissement Spécialisé*"

Art. 27. The subscribed capital of the SICAV, increased by the share premium, may not be less than one million two hundred fifty thousand Euro (1,250,000 Euro). This minimum must be reached within a period of twelve months following the authorisation of the SICAV. A grand ducal regulation may increase such minimum amount up to a maximum of two million five hundred thousand Euro (2,500,000 Euro).

Art. 28. (1) Subject to any contrary provisions of its articles of incorporation, a SICAV may issue its securities at any time.

(2) Securities shall be issued and, as the case may be, redeemed in accordance with the conditions and procedures set forth in the articles of incorporation.

(3) The capital of a SICAV must be entirely subscribed, and at least 5% of the subscription amount for shares or units must be paid-up in cash or by means of a contribution other than cash.

(4) Unless otherwise provided for in the articles of incorporation, the valuation of the assets of the SICAV shall be based on the fair value. This value must be determined in accordance with the rules set forth in the articles of incorporation.

(5) The articles of incorporation shall specify the conditions in which issues and redemptions may be suspended, without prejudice to legal causes. In the event of suspension of issues or redemptions, the SICAV must without delay inform the CSSF.

Where the interest of the shareholders or unitholders so requires, redemptions may be suspended by the CSSF if the provisions of laws, regulations, or the articles of incorporation concerning the activity and operation of the SICAV are not observed.

(6) The articles of incorporation shall describe the nature of the expenses to be borne by the SICAV.

(7) The shares or units of a SICAV shall have no par value.

(8) A share or a unit shall specify the minimum amount of capital and shall give no indication regarding its par value or the portion of the capital which it represents.

Art. 29. (1) 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.

(2) Repayments to investors following a reduction of capital shall not be subject to any restriction other than the one provided for by Article 31(1).

(3) In the case of issue of new shares or units, pre-emptive rights may not be claimed by existing shareholders or unitholders unless the articles of incorporation provide for such a right by express provision.

Art. 30. (1) If the capital of the SICAV falls below two thirds of the minimum capital, as defined in Article 27, the directors or managers must submit the question of the dissolution of the SICAV to a general meeting for which no quorum shall be prescribed and which shall decide by a simple majority of the shares or units represented at the meeting.

(2) If the capital of the SICAV falls below one fourth of the minimum capital, as defined in Article 27, the directors or managers must submit the question of the dissolution of the SICAV to a general meeting for which no quorum shall be prescribed; dissolution may be resolved by shareholders or unitholders holding one fourth of the shares or units at the meeting.

(3) The meeting must be convened so that it is held within a period of forty days as from the ascertainment that the capital has fallen below two thirds or one fourth of the minimum capital, as defined in Article 27, as the case may be.

(4) If the constitutive documents of the SICAV do not provide for general meetings, the managers must, if the capital of the SICAV has fallen below two thirds of the minimum capital, as defined in Article 27, inform without delay the CSSF. In such case, the CSSF may, having regard to the circumstances, require the managers to put the SICAV into liquidation.

Art. 31. (1) Unless otherwise provided for in the articles of incorporation, the net assets of the SICAV may be distributed subject to the limits set out in Article 27 of this Law.

(2) SICAVs shall not be obliged to create a legal reserve.

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

Art. 32. For companies to which this Law applies, the words "partnership limited by shares", "limited company", "public limited company", or "cooperative in the form of a public limited company" are completed by the words "investment company with variable capital - specialised investment fund" or "SICAV-FIS".

Art. 33. The custody of the assets of a SICAV must be entrusted to a depository.

Art. 34. (1) The depository must either have its registered office in Luxembourg or be established in Luxembourg if its registered office is in another Member State of the European Union.

(2) The depository must be a credit institution within the meaning of the amended law of 5th April, 1993 concerning the financial sector.

(3) The depository's liability shall not be affected by the fact it has entrusted all or some of the assets in its custody to a third party.

Art. 35. The depository shall be liable in accordance with Luxembourg Law to the investors for any loss suffered by them as a result of its wrongful failure to perform its obligations or its wrongful improper performance thereof.

Art. 36. The duties of the depository regarding the SICAV shall respectively cease:

- a) in the case of voluntary withdrawal of the depository or of its removal by the SICAV; until it is replaced, which must happen within two months, the depository must take all necessary steps for the good preservation of the interests of the investors;

- b) where the SICAV or the depository 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 a similar proceeding or has been put into liquidation;
- c) where the CSSF withdraws its authorisation of the SICAV or the depository;
- d) in all other cases provided for in the articles of incorporation.

Art. 37. In carrying out its role as depository, the depository must act solely in the interest of the investors.

Chapter 4. – *Specialised investment funds which have not been constituted as common funds or SICAVs*

Art. 38. This Chapter is applicable to all specialised investment funds subject to this Law which have not been constituted as common funds or SICAVs.

Art. 39. (1) The subscribed capital, increased by the share premium, of specialised investment funds falling within this Chapter, may not be less than one million two hundred and fifty thousand Euro (1,250,000 Euro).

This minimum must be reached within a period of twelve months following their authorisation. A grand-ducal regulation may increase such minimum amount up to a maximum of two million five hundred thousand Euro (2,500,000 Euro).

(2) If the capital has fallen below two thirds of the legal minimum, as defined in paragraph (1), the directors or managers must submit the question of the dissolution of the specialised investment fund to a general meeting for which no quorum shall be prescribed and which shall decide by simple majority of the securities represented at the meeting.

(3) If the capital has fallen below one fourth of the legal minimum, as defined in paragraph (1), the directors or managers must submit the question of the dissolution to a general meeting for which no quorum shall be prescribed; the dissolution may be resolved by investors holding one fourth of the securities represented at the meeting.

(4) The meeting must be convened so that it is held within a period of forty days as from the ascertainment that the capital has fallen below two thirds or one fourth of the minimum, as defined in paragraph (1), as the case may be.

(5) If the constitutive documents of the specialised investment fund do not provide for general meetings, directors or managers must, if the subscribed capital of the specialised investment fund has fallen below two thirds of the legal minimum as defined in paragraph (1), inform without delay the CSSF. In such case, the CSSF may, having regard to the circumstances, require the directors or managers to put the specialised investment fund into liquidation.

(6) If the specialised investment fund is constituted under a statutory form, its capital must be entirely subscribed and at least 5% of each share or unit must be paid-up in cash or by means of a contribution other than cash.

Art. 40. (1) Unless otherwise provided for in the constitutive documents, the valuation of the assets of the specialised investment fund shall be based on the fair value. This value must be determined in accordance with the rules set forth in the constitutive documents.

(2) Articles 28 (5), 33, 34, 35, 36 and 37 of this Law are applicable to specialised investment funds subject to this Chapter.

(3) The denomination of the specialised investment funds to which this Chapter 4 applies is completed by the words "specialised investment fund" or "FIS".

Chapter 5. – Authorisation and supervision

Art. 41. (1) The authority which is to carry out the duties provided for in this Law is the CSSF.

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

(3) The CSSF ensures that the specialised investment funds subject to this Law and their directors, comply with the applicable legal and contractual rules.

Art. 42. (1) Specialised investment funds subject to this Law must, in order to carry out their activities, be authorised by the CSSF.

(2) A specialised investment fund shall be authorised only if the CSSF has approved its constitutive documents and the choice of the depository.

(3) The directors of the specialised investment fund and of the depository must be of sufficiently good repute and have sufficient experience, also in relation to the type of the specialised investment fund concerned. To that end, the identity of the directors and of every person succeeding them in office, must be communicated forthwith to the CSSF.

"Directors" shall mean, in the case of public limited companies and in the case of cooperatives in the form of a public limited company, the members of the board of directors, in the case of partnerships limited by shares, the general partners, in the case of limited companies, the manager(s) and in the case of common funds, the members of the board of directors or the managers of the management company.

(4) The replacement of the management company or of the depository and any amendment of the constitutive documents of the specialised investment fund are subject to approval by the CSSF.

Art. 43. (1) Authorised specialised investment funds shall be entered by the CSSF on a list.

Such entry shall be tantamount to authorisation and shall be notified by the CSSF to the specialised investment fund concerned. Applications for entry on the list must be filed with the CSSF within the month following their constitution or formation. The said list and any amendments made thereto shall be published in the *Mémorial*⁴ by the CSSF.

⁴ The *Mémorial B, Recueil Administratif et Economique* is the part of the official gazette in which certain administrative publications are made.

(2) The entering and the maintaining of 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 specialised investment funds subject to this Law and the distribution, placing or sale of their securities.

Art. 44. The fact that a specialised investment fund is entered on the list referred to in Article 43(1) shall not, under any circumstances, be described in any way whatsoever as a positive assessment made by the CSSF of the quality of the securities offered for sale.

Art. 45. (1) The decisions to be adopted by the CSSF in implementation of this Law shall state the reasons on which they are based and, unless any delay entails risks, they shall be adopted after preparatory proceedings at which all parties are able to state their case⁵. They shall be notified by registered letter or delivered by bailiff⁶.

(2) The decisions by the CSSF concerning the grant, refusal or withdrawal of the authorisations provided for in this Law may be referred to the administrative court⁷ which will be dealing with the substance of the case. The case must be filed within one month from the date of notification of the contested decision, and otherwise shall be time barred.

Chapter 6. – Dissolution and liquidation

Art. 46. The decision of the CSSF withdrawing a specialised investment fund subject to this Law from the list provided for in Article 43(1) shall, as from the notification thereof to such specialised investment fund and at its expense, until the decision has become final, *ipso jure* entail for such specialised investment fund suspension of any payment by said specialised investment fund, prohibition for such specialised investment fund, on pain of nullity, to take any measures other than protective measures, except with the authorisation of the supervisory commissioner⁸. The CSSF shall, *ipso jure*, hold the office of supervisory commissioner, unless at its request, the District Court⁹ dealing with commercial matters appoints one or more supervisory commissioners. The application, stating the reasons on which it is based and accompanied by supporting documents, shall be lodged for that purpose at the Registry of the District Court¹⁰ in the district within which the specialised investment fund has its registered office.

The Court shall give its ruling within a short period.

If it considers that it has sufficient information, it shall immediately make an order in public session, without hearing the parties. If it deems necessary, it shall convene the parties by notification from the registrar¹¹ at the latest within three days from the lodgement of the application. It shall hear the parties in chambers¹² and give the decision in public session.

⁵ *Instruction contradictoire.*

⁶ *Huissier* (court process server).

⁷ *Tribunal administratif.*

⁸ *Commissaire de surveillance.*

⁹ *Tribunal d'Arrondissement.*

¹⁰ *Grefe du tribunal.*

¹¹ *Greffier.*

¹² *Chambre du conseil.*

The written authorisation of the supervisory commissioners is required for all measures and decisions of the specialised investment fund 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 specialised investment fund any proposals which they consider appropriate. They may attend proceedings of the administrative, management, executive and supervisory bodies of the specialised investment fund.

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

The judgment provided for in paragraph (1) of Article 47 of this Law shall terminate the functions of the supervisory commissioner who must, within one month after his replacement, submit to the liquidators appointed in such judgment a report on the use of the specialised investment fund's assets together with the accounts and supporting documents.

If the withdrawal decision is amended on appeal in accordance with paragraph (2) of Article 45 above, the supervisory commissioner shall be deemed to have resigned.

Art. 47. (1) The District Court dealing with commercial matters shall, at the request of the State Prosecutor¹³, acting on its own motion or at the request of the CSSF, pronounce the dissolution and order the liquidation of the specialised investment funds subject to this Law, whose entry on the list provided for in Article 43(1) has finally been refused or withdrawn.

When ordering the liquidation, the Court shall appoint a reporting judge¹⁴ 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 the liquidation in 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 specialised investment fund, receive all payments, grant releases with or without discharge, realise all the securities of the specialised investment fund and reemploy the proceeds therefrom, issue or endorse any assets, compound or compromise all claims. They may alienate immovable property of the specialised investment fund by 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.

¹³ *Procureur d'Etat.*

¹⁴ *Juge-commissaire.*

(3) As from the day of the judgment, no legal actions relating to the 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 liquidation shall terminate all seizures effected at the instance of general creditors who are not secured by charges¹⁵ 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 unitholders the sums or amounts due to them.

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

(6) The court decisions pronouncing the dissolution and ordering the liquidation of the specialised investment fund shall be published in the *Mémorial*¹⁶ and in two newspapers with adequate circulation specified by the Court, one of which at least 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 responsible both to third parties and to the specialised investment fund for the discharge of their duties and for any faults committed in the conduct of their activities.

(9) When the liquidation is completed, the liquidators shall report to the Court on the use made of the funds of the specialised investment fund and shall submit the accounts and supporting documents thereof. The Court shall appoint auditors¹⁷ 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 designed by the Court where the books and records must be kept for at least five years;

¹⁵ *Créanciers chirographaires et non-privilégiés.*

¹⁶ *Mémorial C, Recueil des Sociétés et Associations* is the part of the official gazette in which certain required corporate publications and notifications are made.

¹⁷ *Commissaires.*

- the measures taken in accordance with Article 50 with a view to the payment into court¹⁸ of the sums and funds due to creditors, unitholders or members to whom it has not been possible to deliver the same.

(10) Any legal actions against the liquidators of specialised investment funds, 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 specialised investment funds which have not applied to be entered on the list provided for in Article 43 within the time limit laid down therein.

Art. 48. (1) Specialised investment funds shall, after the dissolution, be deemed to exist for the purpose of 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 specialised investment fund in liquidation shall indicate that it is in liquidation.

Art. 49. (1) In the event of a non-judicial liquidation of a specialised investment fund, the liquidator(s) must be approved by the CSSF. The liquidator(s) must provide all guarantees of honourability 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. 50. In the event of a voluntary or compulsory liquidation of a specialised investment fund within the meaning of this Law, the sums and assets payable in respect of securities whose holders failed to present themselves at the time of the closure of the liquidation, shall be paid to the public trust office¹⁹ to be held for the benefit of the persons entitled thereto.

Art. 51. (1) The directors, managers and officers of the specialised investment funds subject to supervision by the CSSF as well as the liquidators in the case of voluntary liquidation of a specialised investment fund may have imposed upon them by the said authority a fine of fifteen to five hundred Euro 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 52 of this Law or in the event of any other serious irregularity being recorded.

(2) The same fine may be imposed upon any person who infringes the provisions of Article 44.

¹⁸ *Consignation.*

¹⁹ *Caisse de Consignation.*

Chapter 7. – Establishment of an offering document and an annual report

Art. 52. (1) The investment company and the management company, for each of the common funds it manages, must establish:

- an offering document, and
- an annual report for each financial year.

(2) The annual report must be available to investors within six months from the end of the period to which it relates.

(3) If a prospectus under the Law of 10th July, 2005 concerning the prospectus for transferable securities has been published, there is no obligation to establish an offering document within the meaning of this Law.

(4) Notwithstanding paragraphs (1) and (2) of Articles 29 and 30 of the Law of 19th December, 2002 relating to the register of commerce and companies and the accounting and annual accounts of undertakings, specialised investment funds subject to this Law prepare their annual report according to the annexed schedule. 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 of the results of the specialised investment fund. However, Articles 56 and 57 of the Law of 19th December, 2002 relating to the register of commerce and companies and the accounting and annual accounts of undertakings apply to specialised investment funds subject to Chapter 3 and Chapter 4 of this Law.

(5) Notwithstanding Article 309 of the amended law of 10th August, 1915 concerning commercial companies, specialised investment funds subject to this Law and their subsidiaries shall be exempt from the obligation of consolidating the companies owned for investment purposes.

Art. 53. The offering document must include the information necessary for investors to be able to make an informed judgment of the investment proposed to them and, in particular, of the risks attached thereto.

Art. 54. The essential elements of the offering document must be up to date when new securities are issued to new investors.

Art. 55. (1) Luxembourg specialised investment funds must have the accounting information given in their annual report audited by an authorised external auditor²⁰.

The auditor's report and its qualifications, if any, are set out in full in each annual report.

The auditor must justify of an appropriate professional experience.

(2) The auditor shall be appointed and remunerated by the specialised investment fund.

²⁰ Réviseur d'entreprises agréé.

(3) The 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 specialised investment fund or any other legal task concerning a specialised investment fund, where such fact or decision is likely to constitute a material breach of this Law or the regulations adopted for its execution, or

- affect the continuous functioning of the specialised investment fund, or
- lead to a refusal to certify the accounts or to the expression of qualifications thereon.

The 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 specialised investment fund, any fact or decisions concerning the specialised investment fund 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 specialised investment fund or while carrying any other legal tasks concerning such other undertaking.

For the purpose 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 17th 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 permanently linked to one and the same person by a control relationship shall also be regarded as constituting a close link between such persons.

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

The auditor shall moreover be obliged to provide the CSSF with all information or certificates required by the latter on any matters of which the auditor has or ought to have knowledge in connexion with the discharge of his duties. The same applies if the auditor ascertains that the assets of the specialised investment fund are not or have not been invested according to the regulations set out by the Law or the offering document.

The disclosure in good faith to the CSSF by the 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 of the auditor.

The CSSF may regulate the scope of the auditor's mandate and the contents of the audit report on the annual accounts.

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

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

(5) The institution of statutory auditors²¹ provided for by Articles 61, 109, 114 and 200 of the amended law of 10th August, 1915 concerning commercial companies is repealed with respect to Luxembourg investment companies. The directors or managers are solely competent in all cases the amended law of 10th August, 1915 concerning commercial companies, provides for the joint action of the statutory auditors and the directors or managers.

The institution of statutory auditors provided for by Article 151 of the amended law of 10th August, 1915 concerning commercial companies is not applicable to Luxembourg investment companies. Upon completion of the liquidation, a report on the liquidation shall be drawn up by the 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. 56. Specialised investment funds must send their offering document and any amendments thereto, as well as their annual report, to the CSSF.

Art. 57. (1) The offering document and the last published annual report shall on request be supplied to subscribers free of charge.

(2) The annual report shall on request be supplied to investors free of charge.

Chapter 8. – *Transmission of other information to the CSSF*

Art. 58. The CSSF may request specialised investment funds 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 specialised investment funds.

Chapter 9. – *Protection of name*

Art. 59. (1) No undertaking shall make use of designations or of a description giving the impression that its activities are subject to the legislation on specialised investment funds if it has not obtained the authorisation provided for in Article 43 of this Law.

(2) The District Court dealing with commercial matters of the place where the specialised investment fund is situated or of the place where the designation has been used, may at the request of the State 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.

²¹ *Commissaire aux comptes* – A statutory auditor under company law is an organ of the company with a certain control and surveillance function

(3) The final judgement of the District Court, of the Court of Appeals or of the Supreme Court which delivers this injunction, is published by the State Prosecutor and at the expense of the person sentenced in two Luxembourg or foreign newspapers with adequate circulation.

Chapter 10. – Criminal law provisions

Art. 60. A penalty of imprisonment from one month to one year and a fine of five hundred to twenty-five thousand Euro or either of such penalty shall be imposed upon:

- a) any person who has issued or redeemed or caused to be issued or redeemed units of a common fund in the cases referred to in Articles 11 (2) and 20 (3) of this Law;
- b) any person who has issued or redeemed units of a common fund at a price other than that obtained by application of the criteria provided for in Article 8 of this Law;
- c) any person who, as director, manager or *commissaire* (auditor) of the management company or the depositary has made loans or advances on units of the common fund using assets of the said fund, or who has by any means at the expense of the common fund, made payments in order to pay up units or acknowledged payments to have been made which have not actually been so made.

Art. 61. (1) A penalty of imprisonment from one to six months and a fine of five hundred to twenty-five thousand Euro or either of such penalties shall be imposed upon:

- a) any director or manager of the management company who has failed to inform the CSSF without delay that the net assets of the common fund have fallen below two thirds and one fourth respectively of the legal minimum for the net assets of the common fund;
- b) any director or manager of the management company who has infringed Article 9 of this Law.

(2) A fine of five hundred to twenty-five thousand Euro shall be imposed upon any persons who in infringement of Article 59 purport to use a designation or description giving the impression that they relate to the activities subject to the legislation on specialised investment funds if they have not obtained the authorisation provided for in Article 43 of this Law.

Art. 62. A penalty of imprisonment from one month to one year and a fine of five hundred to twenty-five thousand Euro or either of such penalties shall be imposed upon the founders, directors or managers of an investment company who have infringed the provisions of Articles 28 (2) and 28 (4).

Art. 63. A penalty of imprisonment of one month to one year and a fine of five hundred to twenty-five thousand Euro or either of such penalties shall be imposed upon the directors or managers of an investment company who have not convened the extraordinary general meeting in accordance with Article 30 of this Law and with Article 39 (2) to (4) of this Law or who have infringed the provisions of Article 39(5) of this Law.

Art. 64. A penalty of imprisonment of three months to two years and a fine of five hundred to fifty thousand Euro 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 funds from investors if, for the specialised investment fund for which they acted, no application for entry on the list has been filed with the CSSF within the month following the constitution or formation of the specialised investment fund.

Art. 65. (1) A penalty of imprisonment from one month to one year and a fine of five hundred to twenty-five thousand Euro or either such penalties shall be imposed on the directors of the specialised investment funds referred to in Article 38 who failed to observe the conditions imposed upon them by this Law.

(2) The same penalties or either of them only shall be imposed upon the directors of specialised investment funds who, notwithstanding the provisions of Article 46, have taken measures other than protective measures without being authorised for that purpose by the supervisory commissioner.

Chapter 11. – Fiscal provisions

Art. 66. (1) Apart from the capital duty²² levied on the contribution of capital to civil and commercial companies and the subscription tax²³ mentioned in Article 68 below, no other tax shall be payable by the specialised investment funds referred to in this Law.

(2) Without prejudice to the provisions of the Law of 21st June, 2005 implementing in Luxembourg law Directive 2003/48/EC on taxation of saving incomes in the form of interest payments, the amounts distributed by such specialised investment funds shall not be subject to a deduction at source. They are not taxable if received by non residents.

Art. 67. (1) By way of derogation from the law of 29th December, 1971 on the tax levied on contribution of capital to civil and commercial companies and amending certain legislative provisions governing the collection of registration duties, the capital duty payable at the time of the constitution of a specialised investment fund governed by this Law or when an undertaking for collective investment governed by the amended law of 20th December, 2002 relating to undertakings for collective investment is converted into a specialised investment fund governed by this Law, or subsequently, in particular when new contributions are made, when a specialised investment fund governed by this Law is converted into an other specialised investment fund governed by this Law, or into an undertaking for collective investment governed by the amended law of 20th December, 2002 relating to undertakings for collective investment, and when a specialised investment fund governed by this Law is merged with another specialised investment fund governed by this Law or with an undertaking for collective investment governed by the amended law of 20th December, 2002 relating to undertakings for collective investment, may be paid as a fixed charge the amount of which shall be determined for each taxable operation. The modalities and amount of the fixed charge are determined by a grand-ducal regulation provided that such amount may not exceed one thousand two hundred and fifty Euro (1,250 Euro).

(2) Capital duty on contributions made after the constitution of SICAVs is payable only insofar as the amount of the new company fund exceeds the amount which was taxed previously.

(3) A grand-ducal regulation shall lay down the detailed procedures for the determination and the collection of the said tax.

Art. 68. (1) The rate of the annual subscription tax payable by the specialised investment funds referred to in this Law shall be of 0.01%.

²² *Droit d'apport.*

²³ *Taxe d'abonnement.*

- (2) Are exempt from the subscription tax:
- a) the value of the assets represented by units held in other undertakings for collective investment, provided that such units have already been subject to the subscription tax provided for by this Article or by Article 129 of the amended law of 20th December, 2002 relating to undertakings for collective investment;
 - b) specialised investment funds as well as individual compartments of specialised investment funds with multiple compartments:
 - (i) the exclusive object of which is the collective investment in money market instruments and the placing of deposits with credit institutions, and,
 - (ii) the weighted residual portfolio maturity of which does not exceed 90 days , and,
 - (iii) that have obtained the highest possible rating from a recognised rating agency;
 - c) specialised investment funds the securities of which are reserved for (i) institutions for occupational retirement provision, or similar investment vehicles, set up on one or several employers' initiative for the benefit of their employees and (ii) companies of one or several employers investing the funds they own, in order to provide their employees with retirement benefits.

(3) A grand-ducal regulation shall determine the conditions necessary for the application of the exemption, and fix the criteria with which the money market instruments referred to above must comply.

(4) The taxable basis of the subscription tax shall be the entire net assets of the specialised investment funds valued on the last day of each quarter.

(5) The provisions of paragraph (2) (c) apply *mutatis mutandis* to:

- individual compartments of a specialised investment fund with multiple compartments the securities of which compartments are reserved for (i) institutions for occupational retirement provision, or similar investment vehicles, set up on one or several employers' initiative for the benefit of their employees and (ii) companies of one or several employers investing the funds they own, in order to provide their employees with retirement benefits, and,
- individual classes created within a specialised investment fund or within a compartment of a specialised investment fund with multiple compartments the securities of which classes are reserved for (i) institutions for occupational retirement provision, or similar investment vehicles, set up on one or several employers' initiative for the benefit of their employees and (ii) companies of one or several employers investing the funds they own, in order to supply their employees with retirement benefits.

Art. 69. The administration for registration²⁴ is responsible for the fiscal control of specialised investment funds.

If, at any date after the constitution of the specialised investment funds referred to in this Law, the said administration ascertains that such specialised investment funds are engaging in operations which fall outside the framework of the activities authorised by this Law, the fiscal provisions provided for in Articles 66 to 68 shall cease to be applicable.

Moreover, the registration administration may levy a fiscal fine of 0.2% on the aggregate amount of the assets of the specialised investment funds.

Chapter 12. – *Special provisions in relation to the legal form*

²⁴ *Administration de l'Enregistrement*

Art. 70. (1) Investment companies entered on the list provided for by Article 43(1) may be converted into SICAVs and their articles of incorporation may be brought into harmony with the provisions of Chapter 3 of this Law by resolution of a general meeting passed at a majority of two thirds of the votes of the shareholders or holders of units present or represented regardless of the portion of the capital represented.

(2) Common funds referred to in this Law may on the same conditions as those laid down in paragraph (1) above, convert themselves into a SICAV governed by this Law.

Art. 71. (1) Specialised investment funds may be constituted with multiple compartments, each compartment corresponding to a distinct part of the assets and liabilities of the specialised investment fund.

(2) The constitutive documents of the specialised investment fund must expressly provide for that possibility and the applicable operational rules. The offering document must describe the specific investment policy of each compartment.

(3) The shares and units of the specialised investment fund with multiple compartments may be of different value with or without indication of a par value depending on the legal form which has been chosen.

(4) Common funds with multiple compartments may, by separate management regulations, determine the characteristics of and rules applicable to each compartment.

(5) 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 constitutive documents provides otherwise.

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 constitutive 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 constitutive documents provides differently.

(6) Each compartment of a specialised investment fund may be separately liquidated without such separate liquidation resulting in the liquidation of another compartment. Only the liquidation of the last remaining compartment of the specialised investment fund will result in the liquidation of the specialised investment fund, as referred to in Article 49(1) of this Law.

Chapter 13. – *Amending provisions*

Art. 72. Paragraph (3) of Article 129 of the amended law of 20th December, 2002 relating to undertakings for collective investment, is amended by the insertion, at the end of item (a),

of the words: “or by Article 68 of the Law of 13th February, 2007 relating to specialised investment funds”.

Art. 73. Article 44 paragraph 1, item (d) of the amended law of 12th February, 1979 concerning value added tax, is amended by adding the words “and specialised investment funds” after the words “, including the SICAR”.

Chapter 14. –*Transitional and repealing provisions*

Art. 74. The Law of 19th July, 1991 concerning undertakings for collective investment the securities of which are not intended to be placed with the public is repealed.

Art. 75. All references in legal and regulatory texts to "undertakings governed by the Law of 19th July, 1991 concerning undertakings for collective investment the securities of which are not intended to be placed with the public" shall be replaced by "undertakings governed by the law of 13th February, 2007 relating to specialised investment funds".

Art. 76. Undertakings governed by the Law of 19th July, 1991 concerning undertakings for collective investment the securities of which are not intended to be placed with the public are governed *ipso jure* by this Law.

For these undertakings, all references in the articles of incorporation and the sales documents to the Law of 19th July, 1991 concerning undertakings for collective investment the securities of which are not intended to be placed with the public shall be read as references to this Law.

Chapter 15. –*Final provisions*

Art. 77. This Law may, in abbreviation, be referred to as the "Law of 13th February, 2007 relating to specialised investment funds".

Art. 78. This Law enters into force on 13th February, 2007.

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ANNEX

Information to be included in the annual report

- I. Statement of assets and liabilities
 - investments,
 - bank balances,
 - other assets,
 - total assets,
 - liabilities,
 - net asset value
- II. Number of units in circulation
- III. Net asset value per unit
- IV. Qualitative and/or quantitative information on the investment portfolio enabling investors to make an informed judgment on the development of the activities and the results of the specialised investment fund

- V. Statement of the developments concerning the assets of the specialised investment fund during the reference period including the following:
- income from investments,
 - other income,
 - management charges,
 - depository's charges,
 - other charges and taxes,
 - net income,
 - distributions and income reinvested,
 - changes in capital accounts,
 - appreciation or depreciation of investments,
 - any other changes affecting the assets and liabilities of the specialised investment fund.
- VI. A comparative table covering the last three financial years and including, for each financial year, at the end of the financial year:
- the total net asset value,
 - the net asset value per unit.