|  |
| --- |
| SG Audit |
| Newsletter | N° III/2016 |

**Reserved Alternative Investment Fund (RAIF)**

***Preliminary comments***

During the course of the second semester of 2016, the Grand Duchy of Luxembourg should be endowed with a new investment vehicle, referred to in the working documents -already approved by the Council of Government at the end of November 2015-, as “reserved alternative investment fund” (hereinafter “RAIF”).

This new type of AIF tends to be more flexible since it would be implemented without any approval or supervision by the Luxembourg supervisory authority (hereinafter “CSSF”). That means that at the launch of such fund, only its management will fall under the supervision of the CSSF and therefore will ensure that the RAIF, itself, complies with all the requirements of the AIFMD.

The timeframe within which a RAIF can be set up and launched will be much more attractive compared to the current available vehicles.

***Main Characteristics***

The RAIF will conform with the regulations and criteria related to specialized investment funds (hereinafter “SIF”), which means that it will be dedicated to sophisticated investors and will be subject to the principle of risk spreading (the CSSF defines that a SIF, and thus a RAIF, should not invest more than 30% of its assets in securities issued by the same institution).

Exemptions from the latter criteria - i.e. the principle of risk spreading- can be pronounced, if investments of the RAIF are made into risk capital.

The minimum share capital of a RAIF will be EUR 1,250,000,- which would have to be reached within 12 months of the date of the incorporation of such vehicle.

Regarding its legal form, the law bill specifically refers to the *fonds commun de placement* ( FCP) and the *société d’investissement à capital variable* (SICAV) but does not limit the legal forms a RAIF may take. Other legal forms are therefore possible, such as the *société en commandite spéciale* i.e. the special limited partnership.

The RAIF will have to be externally managed, that means that contrary to a SIF-AIF, a RAIF cannot be internally managed, but has to appoint an authorized AIFM, which can be established either in Luxembourg or in another EU Member State. The appointment of the AIFM, before the notary, will attest that the RAIF has duly been established.

The RAIF will be authorized to compartmentalize its investments. This “Umbrella structure” will imply that each compartment may have an own investment strategy, its own investors and its specific redemption and distribution features.

The RAIF will publish a memorandum mentioning the necessary information, such as the name of the depositary bank which has to be a Luxembourg financial institution or investment firm within the meaning of the Law of 5 April 1993 on the financial sector, the identity of its independent auditor “*réviseur d’entreprises agréé”* in charge of auditing the RAIF, as well as its investment strategies, enabling the investors to analyze the investments which are proposed to them and the relative risks.

The memorandum will have to comply with all the AIFMD requirements.

Central administration will have to be located in Luxembourg. Therefore, this role will be endorsed by the RAIF itself or its management company as long as the latter is also located in the Grand- Duchy of Luxembourg.

***Taxation***

General tax regime

The RAIF will be exempted from Luxembourg wealth and income taxes. The tax regime on SIF, i.e. only the “*taxe d’abonnement”* at the 0.01 % rate applied on the net asset value, valued at the end of each calendar quarter, will be due.

Optional tax regime for RAIF investing in risk capital

Tax regime on SICAR will be applicable if the RAIF invests into risk capital. The entity will be fully taxable (and will consequently benefit from International Treaties against double taxation) but any capital gains as well as any incomes deriving from securities held by the RAIF will be exempted from the taxable basis.

Taxation of the investors in a RAIF

Distributions as well as any payment of proceeds resulting from redemption of RAIF units or shares will not be subject to Luxembourg withholding tax.

In case of interest for this new vehicle, we remain at your entire disposal to inform you about its availability and to ensure the liaison with the above mentioned actors enabling its implementation.

For further information concerning this newsletter, please contact

**SG Group**

231, Val des Bons-Malades

L-2121 Luxembourg

Telephone (352) 43 89 89 1

Marco RIES (m.ries@sgluxembourg.eu)

Emmanuelle BRULÉ (e.brule@sgluxembourg.eu)