

# Luther.

## Luxembourg Family Office

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# 1. Law

On 21 December 2012, the Bill no. 6366 regarding the activity of family offices in Luxembourg has been enacted (the “**Law**”).

With the Law, Luxembourg created its own specific law regarding the activities of family offices. The Law also has an impact on certain already existing Luxembourg laws: It amends the provisions of the law of 5 April 1993 regarding the financial sector, as amended (the “**1993 Law**”) and of the law of 12 November 2004 regarding the fight against money laundering and the financing of terrorism, as amended (the “**AML Law**”).

## 2. Goals

The Law establish a specific and coordinated legal and regulatory framework for family offices. It aims to further increase investor protection and to protect the integrity of the financial place.

## 3. Details

### 3.1. Definition of Family Office Activities

Article 1 of the Law defines family office activities as those “consisting in providing, on a professional level, patrimonial related advice or services to private individuals, families or patrimonial entities founded/owned by or beneficial to private individuals or families” (the “**Family Office**” respective the “**Family Office Activities**”).

The sub-concepts “patrimonial related advice or services”, “patrimonial entities” and “patrimony” are further clarified in the same article.

The above definition is very broad and leads to a wide scope of Family Office Activities.

However, two specific categories of activities are excluded by the Law:

#### a) **Mono Family Office**

Due to the fact that these Family Offices are at the service of only one private individual or family, a specific legal and regulatory framework is not required. If a mono Family Office were to advise more than one family, the Law would be applicable from that date.

#### b) **Board members of commercial companies or foundations, trustees, fiduciaries and judicially appointed mandates**

These persons have fiduciary duties and – although they possibly act to the service of families or private individuals – do not essentially provide professional services. Again, whenever these persons start Family Office Activities as defined in Article 1 of the Law, the latter will be applicable.

### 3.2. Protected Title

For the purpose of ensuring the high quality of services and professional integrity, the Family Office title shall only be available for specified Luxembourg professionals. Article 2 of the Law contains an exhaustive list of these professionals:

- credit establishments;
- investment advisers;
- asset managers;
- authorised domiciliation agents;
- specialised professionals on the financial sector (professionnels du secteur financier, the “PSF”) authorised as
  - Family Office;
  - domiciliaries of companies; or
  - professionals providing services in relation to the incorporation or the management of the companies;
- attorneys-at-law (list 1 and 4);
- notaries;
- independent auditors and authorised independent auditors; and
- chartered accountants.

The list includes certain already existing regulated professionals as well as a new specific category Family Office PSF, as further detailed below.

All professionals who provide Family Office Activities without being in the scope of the list above is granted a six (6) month-period to comply with these requirements; this time limit begins on the day the Family Office law comes into effect. In case of violation of these rules, criminal sanctions – may it be imprisonment or a fine – may apply.

### 3.3. PSF

A new category of PSF on Family Office will be inserted as article 28-6 in the 1993 Law. In addition to the standard conditions applicable to all PSF, the authorisation as a PSF Family Office requires two further specific conditions: The applicant

must be a corporate entity (not a private individual); and  
must have a share capital of at least 50,000.- euros.

The PSF Family Office is subject to a prior authorisation of and on-going supervision by the CSSF.

### 3.4. Common Obligations

The following obligations apply to all professional Family Offices, including the new PSF:

- they are subject to professional secrecy as well as their legal representatives, employees or private individuals acting on their behalf;
- fees and remunerations have to be transparent and the related details have to be communicated in written form to the clients; and
- they are subject to the AML Law.

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