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Newsflash Luxembourg

Reserved Alternative Investment Funds

The new law of 23 July 2016 on reserved alternative investment funds (“**RAIF**”) was published in the *Mémorial* (Luxembourg Official Gazette) on 28 July 2016 and has now entered into force (the “**RAIF Law**”).

The RAIF has the same essential characteristics as the Luxembourg specialised investment fund (“**SIF**”) but shall neither be subject to the prior authorisation, nor the ongoing supervision of the *Commission de Surveillance du Secteur Financier* (“**CSSF**”):

- Similarly to the SIF, the RAIF shall be restricted to well-informed investors, meaning institutional investors, professional investors and other investors meeting certain conditions;
- As for SIFs, the RAIF Law does not set out any particular investment rules or minimum diversification requirements for RAIFs and thus CSSF Circular 07/309 regarding risk-spreading in the context of SIF should be applied. Consequently, a RAIF could in principle not invest more than 30% of its assets in securities of the same type issued by the same issuer. Should the RAIF however restrict its investment policy to only invest in qualifying risk capital investments, like a *société d’investissement en capital à risque* (“**SICAR**”), the principle of risk spreading shall not be applicable;
- The RAIF shall be subject to the same taxation as the SIF, meaning an annual subscription tax rate of 0.01% to be levied on the net assets, or alternatively, if the RAIF only invests in qualifying risk capital investments, to the same taxation as the SICAR;
- The structures available for a RAIF are similar to the ones offered under the SIF regime and it may thus be established as either a common fund or as an investment company with variable or fixed capital. The RAIF may also be set up as a single compartment or umbrella fund structure.

In terms of investor protection, the RAIF will have to appoint a duly authorised alternative investment fund manager (“**AIFM**”) in Luxembourg or in another EU Member State, and will therefore be subject to indirect regulatory supervision, as the AIFM shall be responsible for ensuring that the RAIF under its management complies with applicable product rules. In addition, it will benefit from the European marketing passport.

Existing regulated funds such as SIFs, as well as unregulated structures or partnerships, may be able to convert into a RAIF, and conversely a RAIF may opt for a regulated regime (e.g. SIF, Part II fund, SICAR) subject to relevant regulatory approvals.

The RAIF Law further strengthens Luxembourg’s position as a leading investment fund centre by offering a new investment vehicle combining structuring flexibility and regulatory protection.

Julie Thai
Avocat à la Cour
Counsel
Luther S.A.
Luxembourg
Phone +352 27 484 667
julie.thai@luther-lawfirm.com

Jonas Mullo
Jurist
Luther S.A.
Luxembourg
Phone +352 27 484 698
jonas.mullo@luther-lawfirm.com

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Luther Rechtsanwaltsgesellschaft mbH, Anna-Schneider-Steig 22,
50678 Cologne, Phone +49 221 9937 0, Fax +49 221 9937 110,
contact@luther-lawfirm.com

Editor: Eric Sublon, Luther S.A., Aerogolf Center, 1B, Heienhaff,
L-1736 Senningerberg, Phone +352 27484 1, Fax +352 27484 690,
eric.sublon@luther-lawfirm.com

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