

## **Law of 23 July 2016 on reserved alternative investment funds**

### **Law of 23 July 2016 on reserved alternative investment funds and amending**

- 1. the Law of 16 October 1934 on wealth tax, as amended;**
- 2. the Law of 1 December 1936 on commercial tax, as amended;**
- 3. the Law of 4 December 1967 on income tax, as amended;**
- 4. the Law of 5 April 1993 on the financial sector, as amended;**
- 5. the Law of 13 February 2007 relating to specialised investment funds, as amended;**
- 6. the Law of 17 December 2010 relating to undertakings for collective investment, as amended.**

**(Mém. A – No 140 of 28 July 2016)**

as amended by:

- the Law of 16 July 2019
    1. implementing Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds;
    2. implementing Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds;
    3. implementing Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds;
    4. implementing Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds;
    5. implementing Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012;
    6. amending the Law of 5 April 1993 on the financial sector, as amended;
    7. amending the Law of 23 July 2016 on reserved alternative investment funds;
- (Mém. A 2019, No 514)
- the Law of 21 July 2023 amending:
    1. the Law of 15 June 2004 relating to the investment company in risk capital (SICAR), as amended;
    2. the Law of 13 February 2007 relating to specialised investment funds, as amended;
    3. the Law of 17 December 2010 relating to undertakings for collective investment, as amended;
    4. the Law of 12 July 2013 on alternative investment fund managers, as amended;
    5. the Law of 23 July 2016 on reserved alternative investment funds.

(Mém. A 2023, No. 442)

### **Chapter 1 – Scope and general provisions**

#### **Article 1.**

- (1) For the purpose of this Law, reserved alternative investment funds shall be any undertakings for collective investment situated in Luxembourg:
- a) which qualify as alternative investment funds under the amended Law of 12 July 2013 on alternative investment fund managers, and
  - b) the sole object of which is the collective investment of their funds in assets with the aim of spreading the investment risks and giving investors the benefit of the results of the management of their assets, and
  - c) the securities or partnership interests of which are reserved to one or several well-informed investors, and
  - d) the articles of incorporation, the management regulations or the partnership agreement of which provide that they are subject to the provisions of this Law.

"Management" within the meaning of point (b), shall mean an activity comprising at least the service of portfolio management.

- (2) Reserved alternative investment funds may take the legal forms provided for in Chapters 2, 3 and 4.

## Article 2.

- (1) Within the meaning of this Law, a well-informed investor shall be an institutional investor, a professional investor "within the meaning of Annex II to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, hereinafter "Directive 2014/65/EU",<sup>1</sup> or any other investor who meets the following conditions:
  - a) he has stated in writing that he adheres to the status of well-informed investor and
  - b) (i) he invests a minimum of "EUR 100,000"<sup>2</sup> in the reserved alternative investment fund, or  
(ii) he has been the subject of an assessment made by a credit institution within the meaning of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions (...)<sup>3</sup> and amending Regulation (EU) No 648/2012, by an investment firm within the meaning of "Directive 2014/65/EU"<sup>4</sup> by a management company within the meaning of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) or by an authorised alternative investment fund manager within the meaning of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (hereinafter "Directive 2011/61/EU"), certifying his expertise, his experience and his knowledge to adequately appraise an investment in the reserved alternative investment fund.
- (2) The conditions set forth in this Article are not applicable to the directors<sup>5</sup> and other persons involved in the management of reserved alternative investment funds.
- (3) Reserved alternative investment funds must have the necessary means to ensure compliance with the conditions laid down in paragraph 1.

## Article 3.

Reserved alternative investment funds 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 located in Luxembourg.

## Article 4.

- (1) Subject to the application of Article 2, paragraph 2, points (c) and (d) of the amended Law of 12 July 2013 on alternative investment fund managers, every reserved alternative investment fund must be managed by an AIFM, which may either be an AIFM established in Luxembourg authorised under Chapter 2 of the amended Law of 12 July 2013 on alternative investment fund managers, or an AIFM established in another Member State within the meaning of Directive 2011/61/EU or in a third country authorised under Chapter II of Directive 2011/61/EU, subject to the application of Article 66, paragraph 3 of the aforementioned directive where the management of the reserved alternative investment fund is performed by an AIFM established in a third country.
- (2) The AIFM must be determined in accordance with the provisions of Article 4 of the amended Law of 12 July 2013 on alternative investment fund managers or in accordance with the provisions of Article 5 of Directive 2011/61/EU.  
  
The AIFM shall be an external AIFM within the meaning of the amended Law of 12 July 2013 on alternative investment fund managers. This external AIFM must be authorised in accordance with the provisions of Chapter 2 of the amended Law of 12 July 2013 on alternative investment fund managers or in accordance with the provisions of Chapter II of Directive 2011/61/EU.
- (3) In the case of voluntary withdrawal of the AIFM or of its removal by the reserved alternative investment fund or in the case that the AIFM is no longer authorised as required by paragraph

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<sup>1</sup> Law of 21 July 2023

<sup>2</sup> Law of 21 July 2023

<sup>3</sup> Law of 21 July 2023

<sup>4</sup> Law of 21 July 2023

<sup>5</sup> *Dirigeants*

2 or in the case of insolvency of the AIFM, the directors or managers of the reserved alternative investment fund or its management company must take all necessary measures in order to replace the AIFM by another AIFM which complies with the requirements of paragraph 2. If the AIFM has not been replaced within two months as from the withdrawal of the AIFM, the directors or managers of the reserved alternative investment fund or of its management company shall, within 3 months following the withdrawal of the AIFM, request the *Tribunal d'arrondissement* (District Court) dealing with commercial matters to pronounce the dissolution and liquidation of the reserved alternative investment fund pursuant to Article 18.

#### **Article 5.**

- (1) The assets of a reserved alternative investment fund must be entrusted to a depositary for safekeeping, appointed in accordance with the provisions of Article 19 of the amended Law of 12 July 2013 on alternative investment fund managers.
- (2) The depositary must either have its registered office in Luxembourg or have a branch there if its registered office is in another Member State of the European Union.
- (3) Without prejudice to the requirement referred to in the second subparagraph of this paragraph, the depositary must be a credit institution or an investment firm within the meaning of the amended Law of 5 April 1993 on the financial sector. An investment firm shall only be eligible as a depositary to the extent that this investment firm also fulfils the conditions provided in Article 19, paragraph 3 of the amended Law of 12 July 2013 on alternative investment fund managers.

For reserved alternative investment funds which have no redemption rights exercisable during a period of five years from the date of the initial investments and which, in accordance with their core investment policy, generally do not invest in assets that must be held in custody in accordance with point (a) of Article 19, paragraph 8 of the amended Law of 12 July 2013 on alternative investment fund managers or generally invest in issuers or non-listed companies in order to potentially acquire control over such companies in accordance with Article 24 of the aforementioned law, the depositary may also be an entity governed by Luxembourg law which has the status of a professional depositary of assets other than financial instruments within the meaning of Article 26-1 of the amended Law of 5 April 1993 on the financial sector.

The depositary must prove it has adequate professional experience by already exercising these functions for undertakings for collective investment referred to in the amended Law of 17 December 2010 on undertakings for collective investment, in the amended Law of 13 February 2007 on specialised investment funds or in the amended Law of 15 June 2004 on the investment company in risk capital. This requirement does not apply if the depositary has the status of a professional depositary of assets other than financial instruments within the meaning of Article 26-1 of the amended Law of 5 April 1993 on the financial sector.

- (4) The duties and responsibilities of the depositary are defined in accordance with the rules laid down in Article 19 of the amended Law of 12 July 2013 on alternative investment fund managers.
- (5) In the case of voluntary withdrawal of the depositary or of its removal by the reserved alternative investment fund or by its management company or in the case where the depositary no longer fulfils the conditions set forth in paragraphs 2 and 3 or in the case of insolvency of the depositary, the directors or managers of the reserved alternative investment fund or its management company must take all necessary measures in order to replace the depositary by another depositary which fulfils the conditions required by paragraphs 2 and 3. If the depositary has not been replaced within 2 months, the directors or managers of the reserved alternative investment fund or of its management company shall, within 3 months following the withdrawal of the depositary, request the *Tribunal d'arrondissement* (District Court) dealing with commercial matters to pronounce the dissolution and liquidation of the reserved alternative investment fund pursuant to Article 35.

### **Chapter 2 – Common funds (*fonds communs de placement*)**

#### **Article 6.**

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

#### **Article 7.**

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.

#### **Article 8.**

A common fund referred to in this Law shall be managed by a Luxembourg management company "authorised in accordance with Chapters 15, 16 or 18"<sup>6</sup> of the amended Law of 17 December 2010 on undertakings for collective investment.

#### **Article 9.**

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

Rights attaching 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 bearer securities shall be signed by the management company and by the depositary.

These signatures may be reproduced mechanically.

- (2) Ownership of units, in the form of registered or bearer securities, shall be determined and transfer thereof shall be effected in accordance with the rules laid down in "Articles 430-4 and 430-6"<sup>7</sup> of the amended Law of 10 August 1915 concerning commercial companies. The rights of units inscribed in a securities account shall be determined and transfer thereof shall be effected in accordance with the rules laid down in the Law of 6 April 2013 on dematerialised securities and the amended Law of 1 August 2001 concerning the circulation of securities.
- (3) The owners of bearer securities may, at any moment, demand the conversion of bearer securities, at their own expense, into registered securities or, if the management regulations provide for this, into dematerialised securities. In the latter case, the costs are borne by the person provided for in the Law on dematerialised securities.

Unless a formal prohibition is stated in the management regulations, the owners of registered securities may, at any moment, demand the conversion of registered securities into bearer securities.

If the management regulations provide for this, the owners of registered securities may demand the conversion of registered securities into dematerialised securities. The costs are borne by the person provided for in the Law of 6 April 2013 on dematerialised securities.

The holders of dematerialised securities may, at any moment, demand the conversion, at their own expense, of dematerialised securities into registered securities, unless the management regulations provide for the compulsory dematerialisation of securities.

#### **Article 10.**

- (1) Units shall be issued and, as the case may be, redeemed in accordance with the conditions and procedures set forth in the management regulations.
- (2) The issue and redemption of units shall be prohibited:
- a) during any period where there is no management company or depositary;
  - b) where the management company or the depositary is put into liquidation or declared bankrupt or seeks an arrangement with creditors, a suspension of payment or a controlled management or is the subject of similar proceedings.

#### **Article 11.**

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.

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<sup>6</sup> Law of 16 July 2019

<sup>7</sup> Law of 21 July 2023

Without prejudice to the preceding subparagraph, the valuation of the assets of the common funds subject to this Law is performed in accordance with the rules laid down in Article 17 of the amended Law of 12 July 2013 on alternative investment fund managers.

**Article 12.**

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

**Article 13.**

- (1) The management company shall draw up the management regulations for the common fund. These regulations must be lodged with the register of commerce and companies and their publication in the *Recueil électronique des sociétés et associations* (electronic compendium of companies and associations) will be made by way of a notice advising of the deposit of the document, in accordance with the provisions of Title I, Chapter Va of the amended Law of 19 December 2002 on the trade and companies register and the accounting practices and annual accounts of undertakings. The provisions of these regulations shall be deemed accepted by the unitholders by the mere fact of the acquisition of these units.
- (2) The management regulations of the common fund shall contain at least 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 specific objectives and the criteria therefor;
  - c) the distribution policy within the scope of Article 16;
  - d) the remuneration and expenditure which the management company is entitled to charge to the fund and the method of calculation of that 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 procedures for amendment of the management regulations;
  - i) the procedures for the issue of units and, as the case may be, for the redemption of units;
  - j) the rules applicable to the valuation and the calculation of the net asset value per unit.

**Article 14.**

- (1) The management company shall manage the common fund in accordance with the management regulations and in the exclusive interest 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 attaching to the assets comprised in the portfolio of the common fund.

**Article 15.**

The management company must fulfil its obligations with the diligence of a *mandataire salarié* (salaried agent). It shall be liable to the unitholders for any loss resulting from the non-fulfilment or improper fulfilment of its obligations.

**Article 16.**

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 20.

**Article 17.**

In the context of their respective roles, the management company and the depositary must act independently and solely in the interests of the unitholders.

### **Article 18.**

The duties of the management company or of the depositary in respect of the common fund shall cease:

- a) in the case of withdrawal of the management company, provided that it is replaced by another management company authorised in accordance with Article 8;
- b) in the case of voluntary withdrawal of the depositary or of its removal by the management company; until the replacement of the depositary, which must happen within two months, the depositary shall take all necessary steps for the good preservation of the interests of the unitholders;
- c) where the management company or the depositary has been declared bankrupt, has entered into an arrangement 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 competent supervisory authority withdraws its authorisation of the management company or the depositary;
- e) in all other cases provided for in the management regulations.

### **Article 19.**

- (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 of the management company or of the depositary in accordance with points (b), (c), (d) and (e) of Article 18, if they have not been replaced within two months without prejudice to the specific case addressed in point (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 six months below one quarter of the legal minimum provided for in Article 20 hereafter;
  - e) in all other cases provided for in the management regulations.
- (2) Notice of the event giving rise to liquidation shall be lodged without delay by the management company or the depositary with the register of commerce and companies in the common fund's file and published in the *Recueil électronique des sociétés et associations* (electronic compendium of companies and associations), in accordance with the provisions of Title I, Chapter Va of the amended Law of 19 December 2002 on the trade and companies register and the accounting practices and annual accounts of undertakings and in at least two newspapers with adequate circulation, at least one of which must be a Luxembourg newspaper, at the expense of the common fund.
- (3) As soon as the event giving rise to liquidation of the common fund occurs, the issue of units shall be prohibited, under penalty of nullity. The redemption of units remains possible provided the equal treatment of unitholders can be ensured.

### **Article 20.**

The net assets of a common fund may not be less than EUR 1,250,000. This minimum must be reached within a period of "twenty-four months"<sup>8</sup> following the entry into force of the management regulations of the common fund.

### **Article 21.**

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

### **Article 22.**

For funds to which this Law applies, the words "common fund" or "FCP" shall be completed by the words "reserved alternative investment fund" or "RAIF".

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<sup>8</sup> Law of 21 July 2023

### Chapter 3 – Investment companies with variable capital

#### Article 23.

For the purposes of this Law, investment companies with variable capital ("SICAV") shall be taken to mean those reserved alternative investment funds as defined in Article 1, paragraph 1:

- which have adopted the form of a *société anonyme* (public limited company), a *société en commandite par actions* (partnership limited by shares), a *société en commandite simple* (limited partnership), a *société en commandite spéciale* (special limited partnership), a *société à responsabilité limitée* (private limited liability company) or a *société coopérative organisée sous forme de société anonyme* (cooperative company organised as a public limited company), and
- the articles of incorporation or the partnership agreement of which provide that the amount of the capital shall at all times be equal to the net asset value of the company.

#### Article 24.

- (1) SICAVs shall be subject to the general provisions applicable to commercial companies, insofar as this Law does not derogate therefrom.
- (2) When the articles of incorporation or the partnership agreement of a SICAV and any amendment thereto are recorded in a notarial deed, the latter is drawn up in French, German or English as the appearing parties may decide. By derogation from the provisions of the Decree of 24 Prairial, year XI, where this deed is in English, the requirement to attach a translation in an official language to this deed when it is filed with the registration authorities does not apply. This requirement furthermore does not apply to any other deeds which must be recorded in notarial form, such as notarial deeds recording the minutes of meetings of shareholders of a SICAV or of a merger proposal concerning a SICAV.
- (3) By way of derogation from "Article 461-6, second subparagraph,"<sup>9</sup> of the amended Law of 10 August 1915 on commercial companies, SICAVs under this Chapter and which have adopted the form of a public limited company, a partnership limited by shares or a cooperative in the form of a public limited company are not required to send the annual accounts as well as the report of the *réviseur d'entreprises agréé* (approved statutory auditor), the management report and, where applicable, the comments made by the supervisory board to the registered shareholders at the same time as the convening notice to the annual general meeting. The convening notice shall indicate the place and the practical arrangements for providing these documents to the shareholders and shall specify that each shareholder may request that the annual accounts as well as the report of the *réviseur d'entreprises agréé*, the management report and, where applicable, the comments made by the supervisory board, are sent to him.
- (4) For SICAVs which have adopted the form of a public limited company, a partnership limited by shares or a cooperative in the form of a public limited company, the convening notices to general meetings of shareholders may provide that the quorum at the general meeting shall be determined according to the shares issued and outstanding at midnight (Luxembourg time) on the fifth day prior to the general meeting (referred to as the "Record Date"). The rights of shareholders to attend a general meeting and to exercise a voting right attaching to their shares are determined in accordance with the shares held by each shareholder at the Record Date.

#### Article 25.

The subscribed capital of the SICAV, increased by share premiums or the value of the amount constituting partnership interests, may not be less than EUR 1,250,000. This minimum must be reached within a period of "twenty-four months"<sup>10</sup> following the incorporation of the SICAV.

#### Article 26.

- (1) Subject to any contrary provisions of its articles of incorporation or partnership agreement, a SICAV may issue its securities or partnership interests at any time.
- (2) Securities or partnership interests shall be issued and, as the case may be, redeemed in accordance with the conditions and procedures set forth in the articles of incorporation or partnership agreement.

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<sup>9</sup> Law of 21 July 2023

<sup>10</sup> Law of 21 July 2023

- (3) The capital of a SICAV must be entirely subscribed, and at least 5 per cent of the subscription amount per share or unit 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 or partnership agreement, 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 or the partnership agreement.

Without prejudice to the preceding provisions, the valuation of the assets of a SICAV subject to this Law is performed in accordance with the rules laid down in Article 17 of the amended Law of 12 July 2013 on alternative investment fund managers and in the delegated acts provided for in Directive 2011/61/EU.

- (5) The articles of incorporation or partnership agreement shall specify the conditions under which issues and redemptions may be suspended, without prejudice to legal causes.

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"The issue and repurchase of securities or partnership interests shall be prohibited:

- (a) during the period in which the SICAV does not have a depositary;
  - (b) where the depositary is put into liquidation or declared bankrupt or seeks an arrangement with creditors, a suspension of payment or a controlled management or is the subject of similar proceedings."
- (6) The articles of incorporation or partnership agreement shall describe the nature of the expenses to be borne by the SICAV.
  - (7) The securities or partnership interests of a SICAV shall have no par value.
  - (8) The security or partnership interest 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.

#### **Article 27.**

- (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) Reimbursement to investors following a reduction of capital shall not be subject to any restriction other than that provided for in paragraph 1 of Article 29.
- (3) In the case of issue of new securities or partnership interests, pre-emptive rights may not be claimed by existing shareholders or unitholders, unless those rights are expressly provided for in the articles of incorporation.

#### **Article 28.**

- (1) If the capital of the SICAV falls below two thirds of the minimum capital, as defined in Article 25, 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 securities or partnership interests represented at the meeting.
- (2) If the capital of the SICAV falls below one quarter of the minimum capital, as defined in Article 25, 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. The dissolution may be resolved by shareholders or unitholders holding one quarter of the securities or partnership interests represented 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 quarter of the minimum capital, as defined in Article 25, as the case may be.
- (4) If the constitutive documents of the SICAV do not provide for general meetings and if the capital of the SICAV is below one fourth of the minimum capital, as defined in Article 25 for a period exceeding 2 months, the directors or managers shall put the reserved alternative investment fund into liquidation and, as the case may be, within 3 months following this ascertainment, request the *Tribunal d'arrondissement* (District Court) dealing with commercial matters to pronounce the dissolution and liquidation of the reserved alternative investment fund pursuant to Article 35.



**Article 29.**

- (1) Unless otherwise provided for in the articles of incorporation or the partnership agreement, the net assets of the SICAV may be distributed subject to the limits set out in Article 25.
- (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.

**Article 30.**

For companies to which this Law applies, the words "partnership limited by shares", "common limited partnership", "special limited partnership", "limited company", "public limited company", or "cooperative in the form of a public limited company" shall be completed by the words "investment company with variable capital-reserved alternative investment fund" or "SICAV-RAIF".

**Chapter 4 – Reserved alternative investment funds which do not have the legal form of a SICAV or common fund****Article 31.**

Reserved alternative investment funds which do not have the legal form of a SICAV or common fund are subject to this Chapter.

**Article 32.**

- (1) The subscribed capital, increased by share premiums, or the value of the amount constituting partnership interests of reserved alternative investment funds falling within the scope of this Chapter, may not be less than EUR 1,250,000. This minimum must be reached within a period of "twenty-four months"<sup>11</sup> following their constitution.
- (2) If the capital or the value of the amount constituting partnership interests 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 reserved alternative investment fund to a general meeting for which no quorum shall be prescribed and which shall decide by simple majority of the securities or partnership interests represented at the meeting.
- (3) If the capital or the value of the amount constituting partnership interests has fallen below one quarter 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 quarter 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 or the value of the amount constituting partnership interests has fallen below two thirds or one quarter of the legal minimum, as defined in paragraph 1, as the case may be.
- (5) If the constitutive documents of the reserved alternative investment fund do not provide for general meetings and if the capital or the value of the amount constituting partnership interests of the reserved alternative investment fund has fallen below one fourth of the legal minimum as defined in paragraph 1, for a period exceeding 2 months, the directors or managers shall within 3 months following this ascertainment, request the *Tribunal d'arrondissement* (District Court) dealing with commercial matters to pronounce the dissolution and the liquidation of the reserved alternative investment fund pursuant to Article 35.

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<sup>11</sup> Law of 21 July 2023

- (6) If the reserved alternative investment fund is constituted in the form of a public limited company, a corporate partnership limited by shares or a private limited company, its capital must be entirely subscribed and at least 5 per cent of each share or unit must be paid up in cash or by means of a contribution in kind.

### **Article 33**

- (1) Unless otherwise provided for in the constitutive documents, the valuation of the assets of the reserved alternative 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.

Without prejudice to the preceding subparagraph, the valuation of the assets of the reserved alternative investment funds is performed in accordance with the rules laid down in Article 17 of the amended Law of 12 July 2013 on alternative investment fund managers and in the delegated acts provided for in Directive 2011/61/EU.

- (2) Article 24, paragraphs 2, 3 and 4, and Article 26, paragraph 5, are applicable to reserved alternative investment funds subject to this Chapter.
- (3) The denomination of the reserved alternative investment funds to which this Chapter 4 applies shall be completed by the words "reserved alternative investment fund" or "RAIF".

## **Chapter 5 – Constitution formalities of reserved alternative investment funds**

### **Article 34.**

- (1) The constitution of any reserved alternative investment fund shall be recorded in a notarial deed within 5 working days of its constitution ", unless the reserved alternative investment fund is formed by notarial deed"<sup>12</sup>.
- (2) Within 15 working days "as from their constitution if the reserved alternative investment fund is formed by notarial deed or"<sup>13</sup> of the recording of their constitution by notarial deed, a notice regarding the constitution of the reserved alternative investment funds, with an indication of the AIFM which manages them pursuant to Article 4, shall be deposited with the register of commerce and companies in order to be published in the *Recueil électronique des sociétés et associations* (electronic compendium of companies and associations), in accordance with the provisions of Title I, Chapter Va of the amended Law of 19 December 2002 on the trade and companies register and the accounting practices and annual accounts of undertakings.
- (3) Reserved alternative investment funds must be inscribed on a list held by the register of commerce and companies. This inscription must be made within 20 working days "as from their constitution if the reserved alternative investment fund is formed by notarial deed or"<sup>14</sup> following the recording of the constitution of the reserved alternative investment fund by notarial deed.

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"(3a) In the event of a change in the indications communicated for the purpose of the entry on the list referred to in paragraph 3, the reserved alternative investment fund shall inform the Trade and Company Register thereof within 20 working days following the implementation of that change."

- (4) The modalities of maintaining the aforementioned list and the information to be published in the *Recueil électronique des sociétés et associations* (electronic compendium of companies and associations), in accordance with the provisions of Title I, Chapter Va of the amended Law of 19 December 2002 on the trade and companies register and the accounting practices and annual accounts of undertakings are laid down by Grand-Ducal Regulation.

## **Chapter 6 – Dissolution and liquidation**

### **Article 35.**

- (1) The *Tribunal d'arrondissement* (District Court) dealing with commercial matters shall, at the request of the State Prosecutor, pronounce the dissolution and liquidation of reserved alternative investment funds which pursue activities contrary to criminal law or which seriously

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<sup>12</sup> Law of 21 July 2023

<sup>13</sup> Law of 21 July 2023

<sup>14</sup> Law of 21 July 2023

contravene the provisions of this Law, the amended Law of 12 July 2013 on alternative investment fund managers or the laws governing commercial companies.

When ordering the liquidation, the Court shall appoint a *juge-commissaire* (bankruptcy judge) and one or more liquidators. It shall determine the method of liquidation. It may render applicable as far as it may determine the rules governing the liquidation. The method of liquidation may be changed by subsequent decision, either at 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 judgement 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 reserved alternative fund, receive all payments, grant releases with or without discharge, realise all the assets of the reserved alternative investment fund and reemploy the proceeds therefrom, issue or endorse any negotiable instruments, compound or compromise all claims. They may alienate immovable property of the reserved alternative investment fund by public auction.

They may also, but only with the authorisation of the Court, mortgage and pledge the assets of the reserved alternative investment fund and alienate the immovable property of the reserved alternative investment fund by private treaty.

- (3) As from the day of the judgement, no legal actions relating to 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 judgement ordering the liquidation shall terminate all seizures effected at the request of unsecured creditors not benefiting from preferential rights on movable and immovable property.

- (4) After payment or deposit of the sums necessary for the discharge of the debts, the liquidators shall distribute to the investors the sums or amounts due to them.
- (5) The liquidators may convene at their own initiative and must convene, at the request of investors representing at least one quarter of the assets of the reserved alternative investment fund, a general meeting of investors for the purpose of deciding whether, instead of an outright liquidation, it would be appropriate to contribute the assets of the reserved alternative investment fund in liquidation to another reserved alternative investment fund. That decision shall be taken, provided that the general meeting is composed of a number of investors representing at least one half of the value of the amount constituting partnership interests or the capital, by a majority of two thirds of the votes of the investors present or represented.
- (6) The Court's decisions pronouncing the dissolution and ordering the liquidation of a reserved alternative investment fund shall be published in the *Recueil électronique des sociétés et associations* (electronic compendium of companies and associations), in accordance with the provisions of Title I, Chapter Va of the amended Law of 19 December 2002 on the trade and companies register and the accounting practices and annual accounts of undertakings and in two newspapers with adequate circulation specified by the Court, at least one of which 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 *juge-commissaire* (bankruptcy 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 liable both to third parties and to the reserved alternative 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 assets of the reserved alternative investment fund and shall submit the accounts and supporting documents thereof. The Court shall appoint *commissaires* to examine the documents. After receipt of the *commissaires'* 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. That publication shall also indicate:

- the place designated by the Court where the books and records must be kept for at least five years;
- the measures taken in accordance with Article 37 with a view to the consignment of the sums and assets due to creditors, investors or members to whom it has not been possible to deliver the same.

(10) Any legal actions against the liquidators of reserved alternative 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 deceit, five years after the discovery thereof.

(11) The provisions of this Article shall also apply to the reserved alternative investment funds which have not requested the publication and inscription on the list provided for in Article 34 within the time limit laid down therein.

**Article 36.**

- (1) Reserved alternative investment funds shall, after their dissolution, be deemed to exist for the purpose of their liquidation.
- (2) All documents issued by a reserved alternative investment fund in liquidation shall indicate that it is in liquidation.

**Article 37.**

In the event of the voluntary or compulsory liquidation of a reserved alternative investment fund, the sums and assets payable in respect of securities or partnership interests whose holders failed to present themselves at the time of the closure of the liquidation shall be paid to the Consignment Office to be held for the benefit of the persons entitled thereto.

**Chapter 7 – Establishment of an offering document and an annual report and information to be provided to investors**

**Article 38.**

- (1) The reserved alternative investment fund 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 made available to investors within six months from the end of the period to which it relates.
- (3) If a prospectus under the amended Law of 10 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 amended Law of 19 December 2002 on the trade and companies register and the accounting practices and annual accounts of undertakings, reserved alternative investment funds prepare their annual report according to the annexed schedule. The requirements of this schedule are not applicable to reserved alternative investment funds referred to in Article 48, paragraph 1. The annual report must include a balance sheet or a statement of assets and liabilities, a detailed 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 judgement on the development of the activities and of the results of the reserved alternative investment fund. However, Articles 56 and 57 of the amended Law of 19 December 2002 on the trade and companies register and the accounting practices and annual accounts of undertakings apply to reserved alternative investment funds subject to Chapter 3 and Chapter 4 of this Law.

The content of the annual report of reserved alternative investment funds is governed by the rules laid down in Article 20 of the amended Law of 12 July 2013 on alternative investment fund managers.

- (5) Notwithstanding “Article 1711-1”<sup>15</sup> of the amended Law of 10 August 1915 concerning commercial companies, reserved alternative investment funds and their subsidiaries are exempt from the obligation to consolidate the companies owned for investment purposes.
- (6) For reserved alternative investment funds, contributions other than cash shall be, at the time of the contribution, subject to a report to be established by a *réviseur d’entreprises agréé*. The conditions and method provided for in “Article 420-10”<sup>16</sup> of the amended Law of 10 August 1915 concerning commercial companies apply to the establishment of this report, irrespective of the legal form adopted by the reserved alternative investment fund concerned.

**Article 39.**

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

The offering document must contain a clearly visible statement on its cover page to the effect that the reserved alternative investment fund is not subject to supervision by a Luxembourg supervisory authority.

**Article 40.**

The essential elements of the offering document must be kept up to date when additional securities or partnership interests are issued to new investors.

**Article 41.**

In relation to the information to be provided to investors, reserved alternative investment funds must comply with the rules laid down in Article 21 of the amended Law of 12 July 2013 on alternative investment fund managers.

**Article 42.**

- (1) The offering document and the last published annual report shall be supplied, on request, to subscribers free of charge.
- (2) The annual report shall be supplied, on request, to investors free of charge.

**Chapter 8 – Réviseur d’entreprises agréé (approved statutory auditor)**

**Article 43.**

- (1) Reserved alternative investment funds must have the accounting information given in their annual report audited by a *réviseur d’entreprises agréé*.

The *réviseur d’entreprises agréé*'s report and, as the case may be, its qualifications, are set out in full in each annual report.

The *réviseur d’entreprises agréé* must prove it has adequate professional experience by already exercising these functions for undertakings for collective investment referred to in the amended Law of 17 December 2010 on undertakings for collective investment, the amended Law of 13 February 2007 on specialised investment funds or the amended Law of 15 June 2004 on the investment company in risk capital.

- (2) The *réviseur d’entreprises agréé* shall be appointed and remunerated by the reserved alternative investment fund.
- (3) The institution of *commissaire aux comptes* (supervisory auditors) provided for by “Articles 443-1, 600-7, 811-2 and 710-27”<sup>17</sup> of the amended Law of 10 August 1915 concerning commercial companies is repealed with respect to investment companies subject to this Law. The directors or managers are solely competent in all cases where the amended Law of 10 August 1915 concerning commercial companies provides for the joint action of the supervisory auditors and the directors or managers.

The institution of *commissaires* provided for by “Article 1100-15”<sup>18</sup> of the amended Law of 10 August 1915 concerning commercial companies is not applicable to Luxembourg investment

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<sup>15</sup> Law of 21 July 2023

<sup>16</sup> Law of 21 July 2023

<sup>17</sup> Law of 21 July 2023

<sup>18</sup> Law of 21 July 2023

companies subject to this Law. Upon completion of the liquidation, a report on the liquidation shall be drawn up by the *réviseur d'entreprises agréé*. 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.

## Chapter 9 – Protection of name

### Article 44.

- (1) No undertaking shall make use of designations or of a description giving the impression that its activities are subject to the legislation on reserved alternative investment funds if it has not been inscribed on the list provided for in Article 34.
- (2) The *Tribunal d'arrondissement* (District Court) dealing with commercial matters in the place where the reserved alternative investment fund is situated or in the place where the designation has been used may, at the request of the Public Prosecutor, issue an injunction prohibiting any person from using the designation as defined in paragraph 1, if the conditions provided for by this Law are not or are no longer met.
- (3) The final judgement or court decision which delivers this injunction is published, by the Public Prosecutor and at the expense of the person convicted, in two Luxembourg or foreign newspapers with adequate circulation.

## Chapter 10 – Tax provisions

### Article 45.

- (1) Without prejudice to the levy of registration and transcription taxes and the application of national law regarding value added tax and subject to the requirements of Article 48 of this Law, no other tax shall be payable by reserved alternative investment funds apart from the subscription tax referred to in Article 46.
- (2) The amounts distributed by reserved alternative investment funds shall not be subject to a withholding tax. They are not taxable if received by non-residents.

### Article 46.

- (1) The rate of the annual subscription tax payable by the reserved alternative investment funds shall be 0.01 per cent.
- (2) Exempt from the subscription tax are:
  - 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 174 of the amended Law of 17 December 2010 on undertakings for collective investment or by Article 68 of the amended Law of 13 February 2007 on specialised investment funds.

(Law of 21 July 2023)

“In order to qualify for the exemption from the subscription tax on the value of the assets represented by the units of other undertakings for collective investment which are already subject to the subscription tax, the undertakings that hold such units shall state the value separately in the periodic statements they address to the Registration Duties, Estates and VAT Authority;”

- b) reserved alternative investment funds as well as individual compartments of reserved alternative investment funds with multiple compartments:

“(i) that are authorised as short-term money market funds in accordance with Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds; and”<sup>19</sup>

(...)<sup>20</sup>

(iii) that have obtained the highest possible rating from a recognised rating agency;

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<sup>19</sup> Law of 21 July 2023

<sup>20</sup> Law of 21 July 2023

- c) reserved alternative investment funds as well as individual compartments and classes of reserved alternative investment funds whose securities or partnership interests are reserved for:
  - (i) institutions for occupational retirement provision, or similar investment vehicles, set up on one or more employers' initiative for the benefit of their employees; and
  - (ii) companies of one or more employers investing funds they hold in order to provide retirement benefits to their employees;
- d) reserved alternative investment funds as well as individual compartments of reserved alternative investment funds with multiple compartments whose investment policy provides that at least 50 per cent of their assets shall be invested in one or several microfinance institutions. Microfinance institutions within the meaning of this point means financial institutions of which half of the assets consist of investments in microfinance as well as undertakings for collective investment, specialised investment funds and reserved alternative investment funds whose investment policy provides that at least 50 per cent of their assets shall be invested in one or several microfinance institutions. Microfinance refers to any financial transaction other than customer loans whose objective is to assist poor populations excluded from the traditional financial system with the funding of small income-generating activities and whose value does not exceed EUR 5,000;

(Law of 21 July 2023)

- "e) reserved alternative investment funds as well as individual compartments of reserved alternative investment funds with multiple compartments that are authorised as European long-term investment funds in accordance with Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds."

In order to obtain such exemptions, the reserved alternative investment funds must declare the value "of eligible net assets"<sup>21</sup> separately in the periodic declarations they file with the "Registration Duties, Estates and VAT Authority"<sup>22</sup>.

- (3) The taxable basis of the subscription tax shall be the aggregate net assets of the reserved alternative investment funds valued on the last day of each quarter.

(...)<sup>23</sup>

#### **Article 47.**

The duties of the Registration Duties, Estates and VAT Authority include the fiscal control of reserved alternative investment funds.

If, at any date after the constitution of the reserved alternative investment funds, the Registration Duties, Estates and VAT Authority ascertains that the reserved alternative investment funds are engaging in operations which exceed the framework of the activities authorised by this Law, Articles 45 and 46 shall cease to be applicable. Moreover, the Registration Duties, Estates and VAT Authority may levy a fiscal fine of 0.2 per cent on the aggregate amount of the assets of the reserved alternative investment funds.

#### **Article 48.**

- (1) a) Articles 45, paragraph 1, 46 and 47 do not apply to reserved alternative investment funds referred to in chapter 3 and 4, which provide in their constitutive documents that their exclusive object is the investment of their funds in assets representing risk capital and that the requirements of this Article are applicable to them. Investment in risk capital means the direct or indirect contribution of assets to entities in view of their launch, development or listing on a stock exchange. By way of derogation from the requirements of Article 1, reserved alternative investment funds or compartments referred to in this paragraph are not required to spread investment risks.
- b) The *réviseur d'entreprises agréé* of the reserved alternative investment fund shall establish for each financial year a report certifying that during the past financial year, the reserved alternative investment fund has complied with the policy of investing in risk capital. This report shall be transmitted to the Inland Revenue.

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<sup>21</sup> Law of 21 July 2023

<sup>22</sup> Law of 21 July 2023

<sup>23</sup> Law of 21 July 2023

- (2) Income deriving from transferable securities as well as income generated from the transfer, contribution or liquidation of these assets does not constitute taxable income of a joint stock company subject to this Article. Realised losses resulting from the transfer of transferable securities as well as losses that have not been realised but accounted for upon the reduction of the value of these assets may not be deducted from the taxable income of the company.
- (3) Income arising from funds held pending their investment in risk capital does not constitute taxable income for reserved alternative investment funds. This exemption is only applicable for a maximum period of twelve months preceding their investment in risk capital and where it can be established that the funds have effectively been invested in risk capital.

## **Chapter 11 – Special provisions in relation to the legal form**

### **Article 49.**

- (1) Reserved alternative investment funds may be constituted with multiple compartments, each compartment corresponding to a distinct part of the assets and liabilities of the reserved alternative investment fund.
- (2) The constitutive documents of the reserved alternative investment fund must expressly provide for that possibility and the applicable operational rules. The offering document established for the reserved alternative investment fund or the specific offering document established for the compartment concerned must describe the specific investment policy of each compartment.
- (3) The securities and partnership interests of the offering document established for the reserved alternative 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 those 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 as between investors, each compartment will be deemed to be a separate entity, unless a clause included in the constitutive documents provides otherwise.

- (6) Each compartment of a reserved alternative investment fund may be liquidated separately without that separate liquidation resulting in the liquidation of another compartment. Only the liquidation of the last remaining compartment of the reserved alternative investment fund will result in the liquidation of the reserved alternative investment fund, as referred to in Article 35. In this case, where the reserved alternative investment fund is in corporate form, as from the event giving rise to the liquidation of the reserved alternative investment fund, and under penalty of nullity, the issue of units shall be prohibited, except for the purposes of liquidation.
- (7) A compartment of a reserved alternative investment fund may, subject to the conditions provided for in the offering document, subscribe, acquire and/or hold securities or partnership interests to be issued or issued by one or more other compartments of the same reserved alternative investment fund without that reserved alternative investment fund, when it is in corporate form, being subject to the requirements of the amended Law of 10 August 1915 on commercial companies, with respect to the subscription, the acquisition and/or the holding by a company of its own shares, under the condition, however, that:
  - a) the target compartment does not, in turn, invest in the compartment invested in this target compartment, and
  - b) voting rights, if any, attaching to the relevant securities or partnership interests are suspended for as long as they are held by the compartment concerned and without prejudice to the appropriate processing in the accounts and the periodic reports, and
  - c) in any event, for as long as these securities or partnership interests are held by the reserved alternative investment fund, their value will not be taken into consideration for the calculation of the net assets of the reserved alternative investment fund for the purposes of verifying the minimum threshold of the net assets imposed by this Law.



- (8) A separate offering document may be established for each compartment. It shall indicate that the reserved alternative investment fund may contain other compartments.
- (9) A separate annual report may be established for each compartment provided that it contains, in addition to the information on the compartment concerned, the collected data of all compartments.
- (10) Reserved alternative investment funds may, subject to the necessary regulatory authorisations, be transformed into an undertaking for collective investment governed by the amended Law of 17 December 2010 on undertakings for collective investment, into a specialised investment fund governed by the amended Law of 13 February 2007 on specialised investment funds or into an investment company in risk capital within the meaning of the amended Law of 15 June 2004 on the investment company in risk capital and their constitutive documents may be harmonised with the provisions of the aforementioned laws by a resolution of a general meeting passed with a majority of two thirds of the votes cast, regardless of the portion of the capital represented.
- (11) Luxembourg alternative investment funds other than alternative investment funds governed by the amended Law of 17 December 2010 on undertakings for collective investment, the amended Law of 13 February 2007 on specialised investment funds or the amended Law of 15 June 2004 on the investment company in risk capital, may be transformed into reserved alternative investment funds and their constitutive documents may be harmonised with the provisions of this Law by resolution of a general meeting passed with a majority of two thirds of the votes cast, regardless of the portion of the capital represented.

*(Law of 16 July 2019)*

"(12) The common funds referred to in this Law may convert themselves into a SICAV and their constitutive and offering documents may be harmonised with the provisions of Chapter 3 by resolution of a general meeting of unitholders passed with a majority of two thirds of the votes of the unitholders present or represented regardless of the net asset value of the common fund represented. The convening notices to such a meeting will be communicated to the unitholders in accordance with the provisions governing the convening of general meetings of shareholders of public limited companies as set out in Articles 450-8 and 450-9 of the amended Law of 10 August 1915 concerning commercial companies."

*(Law of 21 July 2023)*

#### **"Chapter 11a - Marketing on the territory of Luxembourg**

##### **Article 49a.**

By way of derogation from Article 46(1)(a) of the amended Law of 12 July 2013 on alternative investment fund managers, the securities or partnership interests of the reserved alternative investment funds may be marketed by the AIFM on the territory of Luxembourg in accordance with this Law."

#### **Chapter 12 – Cross-border marketing and management**

##### **Article 50.**

The marketing by their AIFM in the European Union of securities or partnership interests of reserved alternative investment funds as well as the management of these reserved alternative investment funds in the European Union on a cross-border basis are governed by the provisions of Chapter 6 of the amended Law of 12 July 2013 on alternative investment fund managers in the case of reserved alternative investment funds managed by an AIFM established in Luxembourg, or by the provisions of Chapters VI and VII of Directive 2011/61/EU in the case of reserved alternative investment funds managed by an AIFM established in another Member State or in a third country, subject to the application of Article 66, paragraph 3, of the aforementioned directive where the reserved alternative investment fund is managed by an AIFM established in a third country.

#### **Chapter 13 – Criminal law provisions**

##### **Article 51.**

A penalty of imprisonment from one month to one year and a fine of EUR 500 to EUR 25,000 or either one of these penalties 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 10, paragraph 2, and 19, paragraph 3;

- 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 10, paragraph 1;
- c) any person who, as director, manager or *commissaire* 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 made.
- d) the directors or managers of the management company which have contravened Article 11.

**Article 52.**

A fine of EUR 500 to EUR 25,000 shall be imposed upon any persons who, in violation of Article 44, use a designation or description giving the impression that they relate to the activities subject to the legislation on reserved alternative investment funds if they are not inscribed on the list provided for in Article 34.

**Article 53.**

A penalty of imprisonment from one month to one year and a fine of EUR 500 to EUR 25,000, or either one of these penalties, shall be imposed upon the founders, directors or managers of an investment company who have infringed Articles 26, paragraph 2, and 26, paragraph 4.

**Article 54.**

A penalty of imprisonment of one month to one year and a fine of EUR 500 to EUR 25,000 or either one of these 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 28 and with Article 32, paragraphs 2, 3 and 4 or who have infringed the provisions of Articles 28, paragraph 4, and 32, paragraph 5.

**Article 55.**

A penalty of imprisonment of three months to two years and a fine of EUR 500 to EUR 50,000 or either one of these 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 reserved alternative investment fund for which they acted, no request for publication and inscription on the list provided for in Article 34, paragraphs 1 and 2 has been made.

**Article 56.**

A penalty of imprisonment from one month to one year and a fine of EUR 500 to EUR 25,000 or either one of these penalties shall be imposed on the directors or managers of a reserved alternative investment funds or of its management company who have failed to observe the obligations imposed upon them by this Law.

## **Chapter 14 – Amending and final provisions**

(...)<sup>24</sup>

**Article 63.**

This Law may, in abbreviated form, be referred to as the "Law of 23 July 2016 on reserved alternative investment funds".

*(Law of 21 July 2023)*

**"Article 64.**

Article 46(2)(b), in its version applicable as at 28 July 2023, shall remain applicable to the reserved alternative investment funds which as at 28 July 2023 benefited from the exemption referred to in that letter (b)."

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<sup>24</sup> The amending and repealing provisions are not included in this coordinated version.

## ANNEX

### ***Information to be included in the annual report by reserved alternative investment funds other than those subject to Article 48***

- I. Statement of assets and liabilities:
  - a) investments,
  - b) bank balances,
  - c) other assets,
  - d) total assets,
  - e) liabilities,
  - f) net asset value.
- II. Number of units in circulation.
- III. Net asset value per unit.
- IV. Qualitative or quantitative information on the investment portfolio enabling investors to make an informed judgement on the development of the activities and the results of the reserved alternative investment fund.
- V. Statement of the developments concerning the assets of the reserved alternative investment fund during the reference period including the following:
  - a) income from investments,
  - b) other income,
  - c) management charges,
  - d) depositary's charges,
  - e) other charges and taxes,
  - f) net income,
  - g) distributions and income reinvested,
  - h) increase or decrease of capital accounts,
  - i) appreciation or depreciation of investments,
  - j) any other changes affecting the assets and liabilities of the reserved alternative investment fund.
- VI. A comparative table covering the three financial years and including, for each financial year, at the end of the financial year:
  - a) the total net asset value,
  - b) the net asset value per unit.