

SEPTEMBER 2019

# LEO

THE FINANCIAL CENTRE'S MAG

## ASSET MANAGEMENT

SUPPORTING THE WORLD'S  
INVESTORS



**UCITS: PRESENT  
AT THE CREATION**

**30 YEARS OF FINE-TUNING  
THE CSSF IN FULL STRIDE**



MARCO ZWICK,  
DIRECTOR,  
COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER (CSSF)

## The CSSF in full stride

LFF MET MARCO ZWICK, DIRECTOR OF THE COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER (CSSF) TO DISCUSS ITS ROLE IN THE DEVELOPMENT OF THE ASSET MANAGEMENT INDUSTRY AND THE INNER WORKINGS OF WHAT IT TAKES TO BE THE SUPERVISOR.

**LFF: LUXEMBOURG PLAYS A LEADING ROLE IN EUROPE'S INVESTMENT FUND INDUSTRY, WHAT INFLUENCES HAVE CONTRIBUTED TO THIS AND HAS REGULATION OR SUPERVISION BEEN A FACTOR?**

**MZ:** Regulation and supervision are a factor and have evolved over time. When we refer to “regulation” this means that most of the fund laws are based on EU legislation (directives and regulations) which are as such, common to the EU Member States.

As for the trend to further centralise the supervisory powers at EU level, we should not forget that efficient supervision must be carried out close to the market and its players. However, we also recognize the value of exchanging expertise between EU regulators with the objective of regulatory convergence.

At the CSSF, we like to think about the spirit of supervision and believe that having a strong focus on investor protection provides an essential basis for effective business development. The regulatory tool box available for the incorporation of fund vehicles is wide-ranging and unique to Luxembourg. In this area, the Luxembourg legal system has historically offered a legal framework to suit the legal requirements fund promoters may seek (e.g. the possibility to launch contractual and statutory funds, the possibility to have sub-funds within one umbrella fund or the existence of partnership-type vehicles for the incorporation of alternative investment funds). Another important aspect of supervision is the frictionless access to the CSSF: many choose Luxembourg as a fund domicile because we can communicate and process paperwork in English, French and German.

Fund promoters also choose Luxembourg as their domicile to launch funds given the range of investment fund “expertise” from a supervisory perspective. Such expertise can explain why following the

introduction of the Alternative Investment Fund Managers Directive (AIFMD), Luxembourg has effectively managed to replicate the UCITS success story in relation to the incorporation of Alternative Investment Funds.

In essence, Luxembourg's ecosystem is geared towards the domiciliation, administration and the distribution of cross border funds, all due to the adequate regulatory framework, comprehensive financial sector expertise and, most importantly, the right outlook.

**LFF: OVER THE PAST FEW YEARS, WHAT HAVE THE CSSF'S MAIN MILESTONES BEEN IN TERMS OF ITS ROLE AS SECURITY SUPERVISOR?**

**MZ:** There have been a few key milestones ranging from the financial crisis, to the opening of the Chinese Capital Markets, to most recently, Brexit. Undertakings for Collective Investment in Transferable Securities (UCITS) funds have become a strong global brand, with Luxembourg becoming the first country to implement the European Directive. Each implementation from UCITS I to V was landmark, together with the implementation of the EU's AIFMD into national law in 2013; with increasing volumes of application from investment fund managers for their own licenses and for licensing their products.

“Luxembourg has effectively managed to replicate the UCITS success story in relation to the incorporation of Alternative Investment Funds.”

MARCO ZWICK



The financial crisis of 2007-2008 had a negative effect on the financial markets as a whole and on Undertakings for Collective Investment (UCIs) which diversify their investments into transferable securities in particular. Luxembourg assumed a central role as a regulatory, risk, and compliance competence centre, encouraged by the aftermath of the crisis and increasing regulation. In turn, this transformed the country into a fundamental part of the global asset management value chain with know-how in investments, international fund distribution, and asset servicing.

Even though a number of funds were facing asset valuation and liquidity issues during the peak of the crisis, the investment fund industry emerged stronger than before. The crisis years had undoubtedly led to a paradigm shift, whereby our action became integrated in a European, or even international, supervisory system.

Lastly, Brexit has raised a number of questions on the continuation of services of UK firms in Europe and vice-versa. We have tackled a number of important questions (from the market), particularly the possibility to continue the delegation of investment management activities to asset managers based in the UK (at least on a temporary basis). Luxembourg also benefits from the Brexit laws, as introduced in April this year, which provide the possibility for the CSSF to ensure market continuity and investor protection in the event of a no-deal Brexit.

**LFF: HOW HAS THE GROWTH OF THE ECO-SYSTEM AND THE INCREASING COMPLEXITY OF THE FRAMEWORK IMPACTED THE WORK OF THE REGULATOR? WHAT IS THE MARKET'S FEEDBACK AND WHAT ARE YOUR CHALLENGES?**

**MZ:** The CSSF has addressed this growth-complexity challenge by investing considerably in its staff; we have added around 400 agents over the last five years with a strong focus on highly educated and experienced candidates. We also revised our training policy, ensuring that each of our agents received an average of 50 hours of training in 2018. We have invested and continue to invest in new technologies and new ways of working, embracing the lean management model. Post-crisis, our approach to supervision became risk-based.

The positive feedback we receive from industry players is that they enjoy the “ease-of-access” to the CSSF. This allows them to discuss their product pipeline and/or the set-up of investment funds in Luxembourg in a pro-active way. We prefer that a company informs us that they are experiencing issues so we can troubleshoot meaningfully, rather than discovering that this is the case during an onsite inspection. While we are respectful of our role as an independent supervisor, we also do not want any surprises. We also regularly receive very positive feedback for our competence and capacity to understand complex multi-jurisdictional issues.

The CSSF's response time in relation to new investment management company and fund applications is perceived as satisfactory; particularly with regard to standard applications. Of course, the quality of the application file sent to us is directly proportional to the time spent processing it. The better the quality, the fewer questions we have to raise and the quicker we are at the processing stage.

In 2018 we launched eDesk, an online tool for the online issuance of residence

“Efficient supervision must be carried out close to the market and its players.”

MARCO ZWICK

certificates for Luxembourg investment funds, investment fund managers and securitisation undertakings and also for the issuance of UCITS and AIFMD/ESMA attestations for non-EU countries. A year later, we are set to launch a new IT-interface with the market in order to further automate the receipt and handling of fund applications. In this second eDesk system release, fund promoters will be in a position to automatically track their status and identify where and when a delay occurs. With this type of initiative, we are promoting an industry mindset shift to submit reports digitally.

**LFF: HOW DO YOU SEE YOUR ROLE EVOLVING IN THE FUTURE AND WHAT OTHER FACTORS WILL CONTRIBUTE TO THIS EVOLUTION?**

**MZ:** Our role is to observe and to listen to the financial sector's needs, and we will need to have very practical communication around the evolution of technology which its members envisage. Evolution of technology also implies evolution of



“Our role is to observe and to listen to the financial sector’s needs, and we will need to have very practical communication around the evolution of technology which its members envisage.”

MARCO ZWICK

MARCO ZWICK,  
DIRECTOR,  
COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER (CSSF)

the players and of their way of carrying out their activity. The challenge for us is to understand the activity and the way it is being carried out. While we must have a strong understanding of any associated risk(s), we must strike the right balance to supervise these players without stifling or harming innovation.

The CSSF is supportive of technology changes and innovations, a good example being our circular on cloud computing which outlines options for cloud technology use. We speak to market players about technology projects, such as the use of block-

chain, for example. Since technological advances are likely to impact the way how we supervise activities, we are eager to anticipate and embrace these changes as much as possible.

**LFF: WHAT WOULD YOU SAY THE MAIN EVOLUTIONS THAT DIGITALISATION WILL BRING ABOUT AND THEN FOR LUXEMBOURG IN PARTICULAR? WE HAVE SEEN YOUR LONG TRACK RECORD OF OPENNESS TO THIS KIND OF INNOVATION...**

**MZ:** With respect to digitalisation, I believe that there are two certainties: firstly, we

anticipate deep transformation within the business areas of the Luxembourg financial sector; secondly, I believe that computers will not replace human beings. Rationally speaking, human intelligence will control artificial intelligence and not the opposite. Therefore, it is doubtful that clients of financial institutions or investors of funds, as well as regulators, will ever fully trust robots.

That said, we should not fear digitalisation. If used intelligently, it will help to build a financial system that is more efficient, cheaper, less vulnerable to human error, and more inclusive. At the CSSF, we are noticing that the digital transition

“We should not fear digitalisation. If used intelligently, it will help to build a financial system that is more efficient, cheaper, less vulnerable to human error, and more inclusive.”

MARCO ZWICK

is also evolving the requirements for employee skills which are necessary to develop a future-proof financial centre. The types of jobs required in the industry will change and employees will therefore have to undergo a re-skilling exercise. Instead of causing job disruption, we believe there will be job creation with roles such as “data scientist”, just being one such example.

We are open to innovation and developments, and an example of this is that we were one of the first regulators to seriously consider using a circular on cloud computing, which outlines options to use cloud technology. We support this technology under a number of conditions, and have given very clear and pragmatic guidance to the market on how to use it.

The technological changes I have mentioned will impact how we supervise which is why we are eager to anticipate them as much as we can. Ultimately digitalisation will be instrumental to help us manage expectations and delivery to the market.

**LFF: HOW CAN A REGULATOR CONTRIBUTE TO MAINSTREAMING SUSTAINABLE FINANCE THROUGHOUT THE ENTIRE INDUSTRY? WHAT DO YOU THINK NEEDS TO BE DONE BY THE AUTHORITIES, OR THE INDUSTRY, MORE GENERALLY TO ACHIEVE THIS?**

**MZ:** As a regulator, our role is to raise citizens’ awareness and to safeguard transparency on the importance of sustainable finance and the meaning of ESG; and given the current focus, with a particular emphasis on the Environment. Our approach to meeting this objective has been to implement financial education, whether by speaking to the financial services industry and schools about sustainable finance. We expect these discussions to be followed by action at all levels: government, market, and individual.

Although the EU’s new taxonomy to classify sustainable activities is under discussion, we expect results from these wider

efforts in the foreseeable future. In the absence of a clearer EU level framework, we are seeing that fund promoters are already defining their own ESG strategy for their investment fund launches. This is a good example of initiatives which are in progress and heading in a positive direction.

We believe it is essential that any disclosure in fund documentation, i.e. labelling and instrument marketing, clearly explains the ESG implications and the application of inclusive or exclusive criteria to determine investment choices. Investors must be aware of exactly what they are buying, and this is not only the case for ESG.

CC

## ABOUT THE CSSF

The Commission de Surveillance du Secteur Financier, CSSF, is the supervisory authority for banks, investment managers and investment funds, and the securities markets in Luxembourg.