

■ INVESTMENT FUNDS AND ISLAMIC FINANCE

“Sharia investment funds” may be set up under the general legal framework applicable to investment funds, that is the law dated 17 December 2010 relating to undertakings for collective investment or the law dated 13 February 2007 concerning specialised investment funds. Of course, only the investment funds that reserve their shares to one or several well informed investors may opt to fall under the scope of the law dated 13 February 2007 concerning specialized investment funds.

As the legal framework in force in Luxembourg does not put obstacles in this area, there are no specific legal requirements concerning “Sharia investment funds” set up under the Luxembourg law.

The provisions of the aforementioned laws are determining and apply to the authorisation and the supervision of “Sharia investment funds” without distinguishing between “Sharia investment funds” or other types of investment funds set up under the Luxembourg law. This applies notably for the investment policy and for the management.

It is common practice that “Sharia investment funds” set up a “Sharia Board” where the members assess the compliance of the investments with the Sharia precepts. Where such a “Sharia Board” is planned, the role, the competences and the practical details of the “Sharia Board” have to be described in the prospectus.

The common regulatory principles applicable to the managers of an investment fund set up under the Luxembourg law must be fulfilled. Therefore, the role of the “Sharia Board” has to be determined as acting in an advisory role (which is generally the case) or in a decision-making role. In the case of the “Sharia Board” having a decision-making role, the members shall be of sufficiently good repute and be sufficiently experienced in relation to the investment policy of the concerned investment fund. To that end, the identity of the members and of every person succeeding them in office must be communicated forthwith to the CSSF.

As a secular institution and without a specific competence for assessing the Sharia precepts, the CSSF does not decide whether the investment policy of a “Sharia investment fund” is in line with the instructions of the Sharia.

The law dated 17 December 2010 does not provide for special requirements regarding the presentation of the prospectus or presentation of the financial reports of Islamic funds set up under the Luxembourg law. The standard charts in appendix of this law are applicable. There are no special requirements regarding the offering document of a specialised investment funds. However, if needed, the investment fund is free to determine some elements to insert in a report prepared for the investors as long as the information required by the standard charts are duly respected and as long as the specific additional information are presented in a clear and comprehensible way to the investors.

Luxembourg, 11 May 2011

