

**COMMISSION de SURVEILLANCE
du SECTEUR FINANCIER**

In case of discrepancies between the French and the English text, the French text shall prevail

Luxembourg, 28 February 2007

To all persons and undertakings under the
supervision of the CSSF

Circular CSSF 07/283

Re: Entry into force of the law of 13 February 2007 relating to specialised investment funds

Ladies and Gentlemen,

This circular purposes to draw your attention to the entry into force of the law of 13 February 2007 relating to specialised investment funds as published in the *Mémorial A* – No. 13 of 13 February 2007.

The law of 13 February 2007 relating to specialised investment funds repeals the law of 19 July 1991 concerning undertakings for collective investment the securities of which are not intended to be placed with the public.

This circular presents a summary of the main elements of the legal framework introduced by the new law.

I. General provisions and scope

For the purpose of the law of 13 February 2007, specialised investment funds shall be any undertakings for collective investment situated in Luxembourg:

- the exclusive object of which is the collective investment of their funds in assets in order to spread the investment risks and to ensure for the investors the benefit of the results of the management of their assets, and
- the securities of which are reserved to one or several well-informed investors, and
- the constitutive documents or offering documents of which provide that they are subject to the provisions of the said law.

Specialised investment funds governed by the new law may be constituted under the legal form of a common fund (“*fonds commun de placement*” (FCP-SIF)), an investment company with variable capital (“*société d’investissement à capital variable*” (SICAV-SIF)) or a legal form other than the preceding. The detailed provisions governing the different forms of specialised investment funds are laid down in Chapters 2, 3 and 4 of the law.

The central administration of a specialised investment fund shall be located in Luxembourg.

II. Concept of well-informed investor

Under the terms of the law of 13 February 2007, the securities of a specialised investment fund shall be reserved to one or several well-informed investors.

According to the law, a well-informed investor shall be an institutional investor, a professional investor or any other investor who meets the following conditions:

- a) he has confirmed in writing that he adheres to the status of well-informed investor, and
- (b) (i) he invests a minimum of 125,000 Euro in the specialised investment fund, or
- (ii) he has been the subject of an assessment made by a credit institution within the meaning of Directive 2006/48/EC, by an investment firm within the meaning of Directive 2004/39/EC or by a management company within the meaning of Directive 2001/107/EC certifying his

expertise, his experience and his knowledge in adequately appraising an investment in the specialised investment fund.

III. Authorisation and supervision

Specialised investment funds are subject to the authorisation and supervision of the CSSF.

The authorisation of a specialised investment fund is subject to the approval by the CSSF of the constitutive documents and of the choice of the depository.

The directors of the specialised investment fund and of the depository must be of good repute and have sufficient experience, also in relation to the type of investment fund concerned.

Are to be considered as directors within the meaning of the law, the members of the board of directors in the case of public limited companies and cooperatives in the form of a public limited company, the general partners in the case of partnerships limited by shares, the manager(s) in the case of limited companies, the members of the board of directors or the managers of the management company in the case of common funds (“*fonds communs de placement*”).

The law does not provide for an authorisation prior to the start of activities of a specialised investment fund. Nevertheless, the law requires that the application requests for registration on the list must be filed with the CSSF within the month following the formation or creation of the specialised investment fund.

IV. Offering document and annual report

The law requires the establishment of an offering document and of an annual report for each financial year.

The offering document must include the information necessary for investors to be in a position to make a well-informed judgment on the investment proposed to them.

The annual report must include the information set out in the schedule annexed to the law.

The detailed provisions applicable to the offering documents and annual reports of a specialised investment fund are specified under Chapter 7 of the law.

V. Transitional provisions

The law entered into force on 13 February 2007.

Due to the abrogation of the law of 19 July 1991 concerning undertakings for collective investment the securities of which are not intended to be placed with the public, article 76 of the law of 13 February 2007 provides that the undertakings subject to the law of 19 July 1991 are governed *ipso jure* by the new law.

For these undertakings, all references in the articles of incorporation and sales documents to the law of 19 July 1991 shall be read as references to the law of 13 February 2007.

Yours faithfully,

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER

Simone DELCOURT
Director

Arthur PHILIPPE
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Director General