

Frequently Asked Questions in relation to investment funds established in Luxembourg
(Version 2, 5 May 2015)
concerning the Law of 28 July 2014
regarding immobilisation of bearer shares and units

(Loi du 28 juillet 2014 relative à l'immobilisation des actions et parts au porteur et à la tenue du registre des actions nominatives et du registre des actions au porteur et portant modification 1) de la loi modifiée du 10 août 1915 concernant les sociétés commerciales et 2) de la loi modifiée du 5 août 2005 sur les contrats de garantie financière.)

I. Definitions

The 2014 Law	The law of 28 July 2014 regarding immobilisation of bearer shares and units
The 1915 Law	The law of 10 August 1915 on commercial companies as modified by the 2014 Law
AIFM	Alternative investment fund manager within the meaning of the law of 12 July 2013 on AIFMs
Depository	Depository within the meaning of Article 42(2) of the 1915 Law, which is not necessarily the depository of the investment fund in the sense of the law under which the investment fund has been established
FCP	Undertaking for collective investment of the contractual type (" <i>fonds commun de placement</i> " or "common fund")
S.A.	Public limited company (<i>société anonyme</i>)
S.C.A.	Partnership limited by shares (<i>société en commandite par actions</i>)
Shareholder(s)	Holder(s) of bearer shares or units of a SICAR, SIF, UCI or UCITS incorporated under the form of a FCP, S.A. or S.C.A.
SICAR	Investment companies in risk capital (SICARs) within the meaning of the law of 15 June 2004 regarding SICARs
SIF	Specialized investment funds within the meaning of the law of 13 February 2007 on specialized investment funds
UCI	Undertakings for collective investment within the meaning of part II of the law of 17 December 2010 on undertakings for collective investment (the "2010 Law")

UCITS

Undertakings for collective investment in transferable securities within the meaning of part I of the 2010 Law

II. Questions and Answers

1. When has the 2014 Law entered into force?
The 2014 Law has entered into force on 18 August 2014.

2. Which investment funds are impacted by the 2014 Law?
The 2014 Law applies to UCITS, UCIs, SIFs and SICARs which have been incorporated under the form of an S.A., S.C.A. or FCP and which have issued bearer shares or units which are still in issue.

3. What obligation does the 2014 Law establish?
The 2014 Law modifies the 1915 Law by introducing (i) the obligation for investment funds that are impacted by the 2014 Law to appoint a Depositary and (ii) the obligation for each holder of bearer shares or units to deposit those with such Depositary.

The 2014 Law further spells out specific criminal sanctions for the management board of investment funds that are impacted by the 2014 Law and for Depositaries in case of non-compliance with the provisions of the Law.

4. Who has to appoint the Depositary?
The board of directors, or, if applicable, the management board of the investment fund that is impacted by the 2014 Law has to appoint the Depositary.

In the context of an FCP the board of directors or, if applicable, the management board of the management company of the FCP has to appoint the Depositary.

5. Who may be appointed as Depositary?
Article 42(2) of the 1915 Law contains a limitative list of persons and entities that can be appointed as Depositary¹. Article 42(2) requires that such person or entity is established in Luxembourg.

With respect to investment funds impacted by the 2014 Law, any service provider of such investment fund (e.g. registrar and transfer agent, depositary

¹ The 2014 Law mentions that only the following persons/entities can act as Depositary: credit institutions, asset managers, distributors of OPC shares, certain specialised professionals in the financial sector (notably domiciliary agents and Family Offices), Luxembourg lawyers or European lawyers admitted to practise in Luxembourg, Luxembourg notaries, auditors (*réviseurs d'entreprises agréés* and *réviseurs d'entreprises*), chartered accountants (*experts comptables*).

bank) can be appointed as Depositary in the sense of the 2014 Law to the extent such entity fulfils the requirements of article 42(2) of the 1915 Law.

6. May the appointed Depositary enter in the register that it will keep an entity acting as a nominee? Yes. Articles 42(2) and 42(4) of the 1915 Law allow for the Depositary to hold bearer shares or units for an entity acting as a nominee, to the extent that such entity is subject to professional obligations concerning the fight against money laundering and terrorist financing under Directive 2005/60/EC or equivalent legislation.
7. How are bearer shares and units, issued after the entry into force of the 2014 Law, affected by such law? Bearer shares and units which have been issued after 18 August 2014 have to be deposited with a Depositary immediately upon issuance of the bearer shares or units.
8. How are bearer shares and units, issued before the entry into force of the 2014 Law, affected by such law? The following deadlines apply.
- *as far as the entities mentioned under question 2 above are concerned:*
These entities have had a period of 6 months from the entry into force of the 2014 Law to appoint a Depositary, meaning that the deadline for the appointment of such a Depositary was 18 February 2015.
The voting rights linked to the bearer shares or units that had not been deposited by this deadline have been automatically suspended since 18 February 2015 and payment of distributions by the entities are deferred.
At the latest 18 months after the entry into force of the 2014 Law, these entities have to cancel the bearer shares and units which have not been deposited with the appointed Depositary. Consequently, the bearer shares and units will be cancelled on 18 February 2016 at the latest.
- *as far as Shareholders are concerned:*
Shareholders have 18 months from the entry into force of the 2014 Law to deposit their bearer shares or units with the Depositary appointed by the investment fund in which they are invested. Consequently, the deadline for the deposit is 18 February 2016.
The voting rights related to bearer shares or units which had not been deposited by 18 February 2015, have been automatically suspended and distributions are deferred.
Bearer shares or units which are not deposited within 12 months (i.e. 18 February 2016) after this suspension shall have their shares or units cancelled.
Following such cancellation, the cash equivalent of such cancelled shares or units, or, absent such cash equivalent, other assets of equivalent value, are

deposited with the Luxembourg *Caisse de consignation*.

9. Do the Shareholders have to be informed with regard to the new legislation? Yes. The CSSF requires that each regulated investment fund which has issued bearer shares or units informs its Shareholders on the implications and deadlines of the 2014 Law, as well as on the identity of the Depositary, in an adequate manner.
10. What are the possible means to transmit the information to the Shareholders? This information can be achieved by all means, including the following:
- (i) the usual information sources used by the investment fund as are mentioned in its prospectus;
 - (ii) the website of the investment fund or its management company;
 - (iii) a notice to Shareholders published in at least two newspapers with adequate circulation, one of which at least shall be a Luxembourg newspaper. Such information can be made globally by, as the case may be, the management company or AIFM of a SIF, UCI and/or UCITS for all SIF, UCI and/or UCITS managed, provided the notice clearly identifies all investment funds to which such notice relates; and
 - (iv) an information circulated through the distribution chain.

* *
*