

Frequently Asked Questions

(version 3, 2 September 2019)

concerning specialised investment funds (SIFs) under the law of 13 February 2007 and investment companies in risk capital (SICARs) under the law of 15 June 2004 that do not qualify as alternative investment funds (AIFs)

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I. Definitions:

IFM:	Investment Fund Manager as defined within Circular CSSF 18/698, as applicable
Law of 2004:	Law of 15 June 2004 relating to the investment company in risk capital
Law of 2007:	Law of 13 February 2007 relating to specialised investment funds
PRIIPs KID:	Key investor document for packaged retail and insurance-based investment products
PRIIPs Regulation:	Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products
Professional investor:	An investor, which is considered to be a professional client or may, on request, be treated as a professional client within the meaning of Annex II to Directive 2014/65/EU
Retail investor:	An investor who is not a professional investor
SICAR:	Investment company in risk capital governed by the Law of 2004
SIF:	Specialised investment fund governed by the Law of 2007
UCITS KIID:	Key investor information document within the meaning of article 159 of the Law of 2010

II. Questions and answers:

(6 July 2017)

1. Impact of the PRIIPs Regulation

1.a) Do manufacturers of Luxembourg SIFs and SICARs that do not qualify as AIFs the units of which are being advised on, offered or sold to retail investors need to draw up a PRIIPs KID?

(14 August 2018)

Yes, manufacturers of Luxembourg SIFs and SICARs that do not qualify as AIFs the units of which are being advised on, offered or sold to retail investors need to have in place a PRIIPs KID as of 1 January 2018. If they choose to issue a UCITS KIID-like document as per article 2 of the law of 17 April 2018 regarding the implementation of the PRIIPs Regulation, they are exempted from the obligations of the PRIIPs Regulation until 31 December 2019 under article 32(2) of the PRIIPs Regulation, unless such deadline shall be postponed by the European Commission on the basis of the review of the transitional arrangements of the PRIIPs Regulation under article 33(1), paragraph 2.

1.b) Do the same questions and answers as mentioned under 23.b) to 23.q) of the Frequently Asked Questions concerning the Luxembourg law of 12 July 2013 on alternative investment fund managers apply to the drawing up of a PRIIPs KID by Luxembourg SIFs and SICARs that do not qualify as AIFs?

Yes.

http://www.cssf.lu/fileadmin/files/AIFM/FAQ_AIFMD.pdf

(2 September 2019)

2. Obligation of professional secrecy - What are the conditions to comply with in case of data transfer by a central administration or a depositary to another service provider ?

In case of data transfer, a service provider (“SP”) acting as central administration or depositary bank (a credit institution, an investment firm or a professional of the financial sector) must obtain consent from its clients, the SIFs/SICARs, through the Board of Directors (“BoD”) / management body of the SIF/SICAR or the IFM for common funds, for outsourcing the services in scope, the type of information transmitted in the context of the outsourcing and the country of establishment of the entities providing outsourced services, pursuant to article 41 (2a) of the Law of 5 April 1993 on the financial sector, as amended.

The BoD / management body of the SIF/SICAR or the IFM for common funds should inform and obtain consent from investors to the transfer of their personal and confidential data through the following means:

- Communication to existing investors (letter explaining the transfer of data with a possibility to object within a reasonable timeframe)
- Immediate change/modification of the subscription form in order to seek consent from future investors
- At the first occasion: modification of the prospectus (disclosing the necessary information regarding the data transfer)

Before outsourcing the services in scope, the SP should also obtain the commitment of the BoD / management body of the SIF/SICAR respectively the IFM for common funds, that investors have been informed of and consented to the transfer of their personal and confidential data.

Due to transparency and confidentiality requirements, the same conditions apply to SIFs/SICARs/IFMs acting as central administration.