

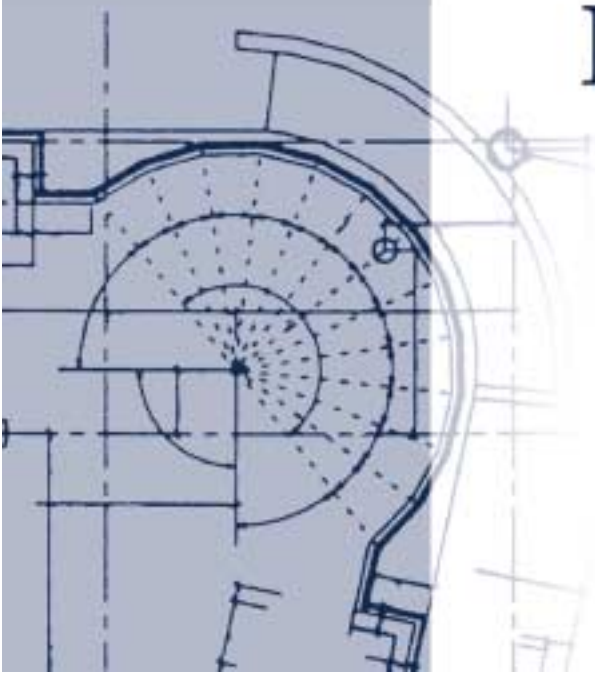
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# CSSF NEWSLETTER

COMMISSION de SURVEILLANCE  
du SECTEUR FINANCIER



## ***Banks***

### **Banks' balance sheet total as at 30 April 2002 reports a slight increase compared to March 2002**

The balance sheet total for the banks established in Luxembourg reached EUR 711.70 billion as at 30 April 2002 compared to EUR 703.67 billion as at 31 March 2002, which is an increase of 1.14 %.

During the month of May 2002, the number of credit institutions registered on the official list of banks fell to 184 units, following the closure of the Vereins- und Westbank AG, Hamburg (Germany), Luxembourg branch.

## ***Professionals of the financial sector (PFS)***

### **Increase in the balance sheet total**

According to the data provided as at 30 April 2002, the balance sheet total of all the professionals of the financial sector (145 active businesses) comes to EUR 3.062 billion compared to EUR 2.934 billion the previous month, which is an increase of 4.4%.

The net profit of the PFS reached EUR 127.97 million.

### **Distribution of the professionals of the financial sector according to their status (as at 31 May 2002)**

<b>Category</b>		<b>Number</b>
Commission agents	COM	15
Financial advisors	COF	9
Brokers	COU	6
Professional custodians of securities or other financial instruments	DEP	4
Distributors of units of investment funds	DIST	44
Domiciliation agents of companies	DOM	36
Private portfolio managers	GF	49
Underwriters	PF	4
Professionals acting for their own account	PIPC	17
Market makers	TM	2
Entity authorised to exercise all the activities as PFS permitted by article 28 of the law of 15 December 2000 on postal services and financial postal services	EPT	1
<b>TOTAL *</b>		<b>145</b>

\* the same establishment can appear in several categories at the same time

## Undertakings for collective investment

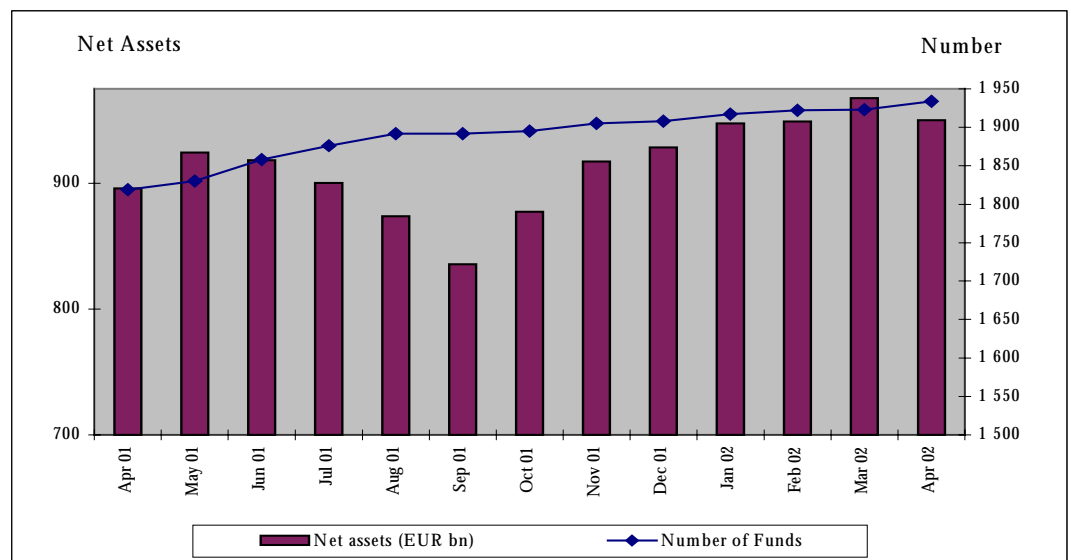
### Slight decrease in UCI's net assets at the end of April 2002

As at 30 April 2002, the total net assets for undertakings for collective investment reached EUR 950.197 billion compared to EUR 967.726 billion as at 31 March 2002. As a result the Luxembourg undertakings for collective investment sector has decreased by 1.81 % compared to March 2002. This decrease can be explained by a general fall in financial markets.

For the month of April 2002, the sector increased by 2.34% compared to 31 December 2001 when the total net assets amounted to EUR 928.447 billion. Over the last twelve months, the volume of net assets increased by 6.07%.

During the month of April 2002 the net capital investment amounted to EUR 6.616 billion. Compared to 31 December 2001 the net capital investment reaches EUR 38.301 billion.

The number of undertakings for collective investment taken into consideration totals 1,934 compared to 1,923 for the previous month. 1,163 UCIs have adopted the multiple compartment structure, which represents a total of 6,949 compartments. When adding 771 UCIs with a traditional structure to the previous figure, a total of 7,720 compartments are active in the financial centre.



## Recent regulatory developments

### CSSF Circulars 02/59, 02/60, 02/61 and 02/62

The CSSF published four circulars concerning the adoption of specific restrictive measures against certain people and entities in the context of the fight against terrorism. They update the list of people and entities to which the freezing of funds and other financial resources apply.

### Law of 14 May 2002 regarding the transposition into the law of 5 April 1993 relating to the financial sector as amended

- of directive 2000/28/EC modifying directive 2000/12/EC concerning access to and the exercise of the banking activity
- of directive 2000/46/EC concerning access to and the exercise of the activity of electronic money institutions as well as prudential supervision of these institutions

The purpose of this law is to define a legal framework governing the access to and the exercise of the activity of electronic money institutions. The legal framework drawn up is quite open from a technological point of view so as not to prejudice innovation in this field. The objective of the law is to ensure a healthy and prudent management as well as financial integrity of electronic money institutions.

The law sets up these electronic money institutions in a particular category of credit institutions in order to apply the requirements regarding minimum reserves to them. The electronic money institutions are defined by their restrictive social objective which only allows them to exercise a few auxiliary and closely related activities along with their main activity which consists of the issue of electronic money. In addition, the electronic money institutions are subject, exceptions aside, to the legal clauses governing the access to the banking activity and its exercise to ensure equality in terms of competition with classical credit institutions whose authorisation includes the issue of means of payment in the form of electronic money. The law introduces adjustments to the authorisation procedure and prudential supervision of banks in view of accounting for the specificity of the activity of electronic money institutions and in particular the nature of risks linked to the issue and the management of means of payment in the form of electronic money. On the other hand, the electronic money institutions can take advantage of the European passport to offer their services in the European Community, in the same way as the classical credit institutions.

### Directive proposal on financial guarantees

In May 2002 the European Parliament finally adopted the directive proposal on financial guarantees. Currently, operators on the European Union markets are still faced with fifteen different legal systems with regard to guarantees, leaving a potential risk open on the efficiency of these guarantees when they are used to cover cross-border operations.



The new directive creates a clear and uniform legal framework at community level that enables the limiting of credit risk associated with financial operations by the constitution of guarantees in the form of cash or financial instruments. To this end, it defines a minimal uniform legal framework applicable to the guarantees offered, in the form of financial instruments or cash, by the establishment of a security or by transfer of property, including repurchase agreements. The directive is intended to guarantee the existence of efficient and simple systems enabling the establishment of guarantees by transfer of property or by the establishment of security. It subjects the financial guarantee contracts to certain clauses of the laws on insolvency, in particular those which impede the realisation of the guarantee or which render uncertain the validity of techniques such as the compensation with forfeit of the maturity or the establishment of complementary guarantees.

The objective of this directive is also to limit the administrative formalities with which the parties using the financial guarantee covered by the directive are faced. The only condition of validity that the national law can impose concerning the financial guarantee is that it is delivered, transferred, detained, registered or otherwise designated, in such a way that the buyer of the guarantee has the ownership or the control. In addition, it ensures that the financial guarantee contracts, with a safety element enable the buyer of the guarantee to exercise the right of use concerning the financial instruments provided according to the financial guarantee contract with a safety element.

### **Directive proposal on “ financial conglomerates “**

The directive proposal on “ financial conglomerates “, as presented by the Commission, reached a political accord on 7 May 2002 during the meeting of the Council of Economics and Finance Ministers. The outcome was that it will be submitted to the European Parliament for a second reading, to respect the conditions foreseen in terms of procedure and co-decision.

The present directive proposal will set up a specific legislation concerning the prudential supervision of large groups exercising activities in the banking or investment services sector and in the insurance sector at the same time.

One of the main objectives of the directive proposal consists of guaranteeing an adequate capitalisation of financial conglomerates by introducing rules aimed at preventing, for instance, double booking of the same own capital and its secondment to several institutions of the same financial conglomerate.

In addition, the directive proposal contains clauses relating to intra-group transactions, risk exposure and its adequate management, and the establishment of appropriate internal control mechanisms.

The co-ordinator, whose set-up is foreseen by the directive proposal, will ensure the co-ordination between the different authorities associated with the supervision of the entities of the same financial conglomerate.

## **Political agreement at the Ecofin Council on proposed Pension Funds Directive**

On 4<sup>th</sup> June 2002, the Council of Economics and Finance Ministers reached a political agreement on the substance of the proposal for a pension funds Directive.

The proposed Directive on institutions for occupational retirement provision was put forward by the Commission in October 2000. The aim is to create, at European union level, a prudential framework strong enough to protect the rights of future pensioners and to increase the affordability of occupational pensions. The proposal for a Directive also seeks to enable an institution in one Member State to manage company pension schemes in other Member States.

The text agreed by the Council maintains the core principles of the Commission's proposal:

### **Scope**

Book reserves schemes where benefits are paid by the employer directly to the employee from company funds continue to be excluded. Nor does the text cover Pay-As-You-Go schemes.

### **Technical provisions and prudential requirements**

The global prudential framework proposed imposes on-going prudential control and requires that funds hold sufficient assets to cover their commitments. The text agreed by the Council recognises the qualitative approach to the calculation of technical provisions proposed by the Commission and introduces two alternative bases for the definition of the maximum interest rate. It would require the Commission to present a report every two years to the Insurance and Pension Committee on the development of the situation.

### **Cross-border membership**

The proposal establishes a mechanism for co-operation and notification between supervisory authorities of the home Member State (where the pension fund is located) and the host Member State (where the company and the members are located).

### **Investment rules**

A qualitative approach to investment rules is proposed. Allocation of assets must be prudent and decided in the light of the liabilities entered into by each fund and not based on a single set of quantitative rules ("prudent person rule"). The Council text confirms the prudent person rules as the main principle and introduces some general qualitative principles that explain what is meant by prudence in asset allocation. It confirms the possibility for Member States to have more detailed requirements at national level, within certain limits. It would also allow host Member States (where the sponsoring company and the members are located) to ask home Member States (where the pension fund is located) to apply certain quantitative rules to the assets corresponding to the pension scheme run on a cross-border basis, provided the host Member State applies the same (or stricter) rules to its own domestic funds.

During the month of May 2002, three international meetings were organised in the CSSF premises.

## **Meetings of the CESR “ Market Abuse “ group of experts on 13 and 14 May 2002**

According to its mandate received by the European Commission in relation to the directive proposal on operations of initiates and market manipulations (market abuse), the CESR “ Market Abuse “ group of experts continued its work on the preparation of executive measures within the scope of the said directive.

The group of experts exchanged ideas in particular on :

- 1) the definition of the notion “ privileged information “ ,
- 2) the types of transactions or orders which can be considered as constituting price manipulations,
- 3) the problems relating to a “ fair presentation “ of financial analyses and any other significant information as well as
- 4) the conditions enabling certain categories of operations to benefit from a “ safe harbour “ .

## **Meeting of CESRPOL on 28 May 2002**

Following the traditional debates on international co-operation in terms of stock market breaches, the members of CESRPOL discussed the creation of new mandates regarding

- 1) the drawing up of a model for a request for assistance within the scope of the FESCO MoU signed on 26 January 1999,
- 2) CESRPOL’s relationship with non co-operative jurisdictions,
- 3) the aim of the co-operation between the members of CESRPOL,
- 4) the supervision of activities in terms of transferable securities by Internet,
- 5) common standards in terms of the electronic collection of information on transactions in support of “ market abuse “ enquiries and
- 6) the “ risk-based enforcement “ in the context of CESRPOL.

In addition, the members of CESRPOL continued their discussion on their co-operation in terms of supervision of remote members of European stock exchanges and on the relation of CESRPOL members with the twelve candidate States to join the European Union.

## **Meeting of the European members of the IOSCO Standing Committee Nr. 1 on 29 May 2002**

The European members of the IOSCO working group have developed a common position on a proposal for international standards relating to information to be published in the sales documentation for bond listings.

## LIST OF BANKS

Withdrawal : on 31 May 2002

**Vereins- und Westbank AG**, Hamburg (Germany),  
Luxembourg branch,

Change of name :

Banco Bradesco (Luxembourg) S.A. has become  
**Banco Bradesco Luxembourg S.A.**

## LIST OF THE PROFESSIONALS OF THE FINANCIAL SECTOR (PFS)

Change of name

MORGAN STANLEY DEAN WITTER INVESTMENT MANAGEMENT LIMITED,  
has become  
**MORGAN STANLEY INVESTMENT MANAGEMENT LIMITED,**

Change of status :

### **EUROPEAN FUND ADMINISTRATION S.A.**

Status as distributor of units of investment funds not authorised to accept and effect  
payments extended to **commission agent**.  
Ministerial authorisation of 16 May 2002

### **GROSSBOETZL, SCHMITZ, LOMPARSKI & PARTNER INTERNATIONAL S.à r.l.**

Status as private portfolio manager extended to **distributor of units of investment funds  
not authorised to accept and effect payments**.  
Ministerial authorisation of 3 May 2002

### **PREMIUM SELECT LUX S.A.**

Status as private portfolio manager extended to **distributor of units of investment funds  
not authorised to accept and effect payments**.  
Ministerial authorisation of 3 May 2002

## OFFICIAL LIST OF PROFESSIONALS AUTHORISED TO EXERCISE THE ACTIVITY OF LIABILITY MANAGER FOR PENSION FUNDS GOVERNED BY THE LAW OF 8 JUNE 1999 AS AMENDED

New liability manager :

### **SWISS LIFE LUXEMBOURG S.A.**

1, rue du Potager L-2347 Luxembourg-Kirchberg  
B.P. 2086, L-1020 Luxembourg  
Registered on the list on 14 May 2002



## LIST OF UNDERTAKINGS FOR COLLECTIVE INVESTMENT (UCI)

Registrations on and withdrawals from the official list of the Luxembourg undertakings for collective investment which fall under the law of 30 March 1988 and the official list of undertakings for collective investment which fall under the law of 19 July 1991, during the **month of April 2002**

### Registrations

- ADIG WELT INVEST 4/2007, 1a-1b, rue Thomas Edison, L-1445 Luxembourg-Strassen
- ADIG WELT INVEST II 4/2007, 1a-1b, rue Thomas Edison, L-1445 Luxembourg-Strassen
- AMBER TRUST S.C.A., 52, route d'Esch, L-1470 Luxembourg
- BRAUCO.INVEST, 2, place Dargent, L-1413 Luxembourg
- BSI MONEY MARKET FUND SICAV, 291, route d'Arlon, L-1150 Luxembourg
- DIAM REGIONAL EQUITY FUND, 1B, Parc d'activité Syrdall, L-5365 Munsbach
- DWS CHINA, 2, boulevard Konrad Adenauer, L-1115 Luxembourg
- DWS INVEST, 2, boulevard Konrad Adenauer, L-1115 Luxembourg
- DWS RUSSIA, 2, boulevard Konrad Adenauer, L-1115 Luxembourg
- FG&W FUND, 4, rue Thomas Edison, L-1445 Luxembourg-Strassen
- GENERALI ASSET MANAGERS FCP, 4, rue Alphonse Weicker, L-2721 Luxembourg-Kirchberg
- GENERALI ASSET MANAGERS SICAV, 39, allée Scheffer, L-2520 Luxembourg
- GLOBAL INVESTORS, 1-7, rue Nina et Julien Lefèvre, L-1952 Luxembourg
- NIKKO TRUST, 112, route d'Arlon, L-1150 Luxembourg
- OIM GLOBAL STRATEGY, 4, rue Jean Monnet, L-2180 Luxembourg-Kirchberg
- PIMCO LUXEMBOURG TRUST, 47, boulevard Royal, L-2449 Luxembourg
- SELECT INDEX SERIES, 47, boulevard Royal, L-2449 Luxembourg
- UBP MULTIFUNDS, 39, allée Scheffer, L-2520 Luxembourg
- UNICAPITAL INVESTMENTS IV, 1, boulevard Royal, L-2449 Luxembourg
- UNITED FINANCIALS, 11, rue Aldringen, L-1118 Luxembourg

### Withdrawals

- AUGUSTA-BANK CONCEPT, 4, rue Thomas Edison, L-1445 Luxembourg-Strassen
- BARCLAYS WORLD FUND SERIES, 47, boulevard Royal, L-2449 Luxembourg
- ETF EUROPEAN THEME FUND, 1C, Parc d'activité Syrdall, L-5365 Munsbach
- NIF-LUX, 283, route d'Arlon, L-1150 Luxembourg
- OP-INVEST BALANCED CHF, 4, rue Jean Monnet, L-2180 Luxembourg-Kirchberg
- OPPENHEIM UMBRELLA FUND, 4, rue Jean Monnet, L-2180 Luxembourg-Kirchberg
- PORTEFEUILLE B.G., 20, boulevard Emmanuel Servais, L-2535 Luxembourg
- TRENDINVEST, 308, route d'Esch, L-1471 Luxembourg
- WALSER RENT HIGH-YIELD, 1-7, rue Nina et Julien Lefèvre, L-1952 Luxembourg

# Financial centre

The main updated figures regarding the financial centre :

Number of banks : **184** (31 May 2002)

Balance sheet total : **EUR 711.698 billion** (30 April 2002)

Profit before reserves : **EUR 1.21 billion** (31 March 2002)

Employment : **23,564 people** (31 March 2002)

Number of UCIs : **1,944** (10 June 2002)

Total net assets : **EUR 950.197 billion** (30 April 2002)

Number of pension funds : **4** (31 May 2002)

Number of PFS : **145** (31 May 2002)

Balance sheet total : **EUR 3.06 billion** (30 April 2002)

Net profit : **EUR 127.97 million** (30 April 2002)

Employment : **4,348 people** (31 March 2002)

Total employment in the supervised establishments : **27,912 people** (31 March 2002)

## CSSF Newsletter

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