



CHAPTER IV

Supervision of other financial sector professionals (FSPs)

1. Movements in financial sector professionals (FSPs) in 2000
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1. Movements in financial sector professionals (FSPs) in 2000

The table below highlights the variation in the number of other financial sector professionals.¹

Categories ²	1993	1994	1995	1996	1997	1998	1999	2000
Investment firms:								
Commission agents						4	7	10
(Brokers and Commission agents)	16	15	14	14	14	/	/	/
Private Portfolio Managers	27	31	33	36	34	37	38	46
Professionals acting for their own account	15	17	18	18	20	15	17	14
Distributors of investment fund units/shares	11	14	19	20	18	22	25	35
Underwriters						1	2	4
(Underwriters and market makers)	3	3	3	3	3	/	/	/
FSPs other than investment firms:								
Financial advisors	6	7	6	6	7	9	10	9
Brokers						10	8	7
Market makers						1	2	2
Professional custodians of securities or other financial instruments	3	3	3	3	3	1	1	3
Company domiciliation agents							1	14
Total²	66	74	78	82	80	83	90	113

¹ FSPs not subject to the ongoing supervision of the CSSF are not included in the tables below.

² The same entity may be included under several categories.

The increase in the number of financial sector professionals (FSPs) from 90 to 113 is explained by the increase in the number of company domiciliation agents (13 new entities), distributors of investment fund units/shares (10 new entities) and private portfolio managers (8 new entities). Following the Law dated 31 May 1999, thirteen companies operating as domiciliation agents applied for incorporation to comply with the legal requirements. The increase in the number of distributors of investment fund units/shares is closely correlated with the spectacular growth in Luxembourg's investment fund industry.



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Other financial sector professionals by geographic origin

	1994	1995	1996	1997	1998	1999	2000
Belgium	26	26	29	27	25	24	21
France	11	9	11	10	10	10	11
United Kingdom	7	8	9	10	9	8	8
Switzerland	8	6	5	6	4	4	7
Luxembourg	7	8	8	11	12	17	22
Germany	4	8	6	6	6	7	11
United States	4	5	6	3	4	3	4
Other	7	8	8	7	13	17	29
Total	74	78	82	80	83	90	113

Total assets and net result of other financial sector professionals

Categories	In EUR Total assets			In EUR Net result		
	1998	1999	2000	1998	1999	2000
Investment firms						
Commission agents	15,108,615	18,389,700	42,094,395	3,013,394	1,661,187	8,387,660
Private portfolio managers	175,043,071	546,155,533	988,282,637	21,186,964	109,011,443	219,283,859
Professionals acting for their own account	106,296,991	176,986,025	176,087,734	11,898,641	25,111,056	31,968,754
Distributors of investment fund shares/units	225,647,064	314,064,828	595,893,541	31,125,263	39,271,095	68,552,349
Underwriters	7,451,679	14,826,461	63,293,414	176,748	1,097,104	4,220,147
FSPs other than investment firms						
Advisors	189,181,183	300,897,745	5,057,732	23,173,582	64,326,247	1,191,401
Brokers	77,082,739	64,524,440	67,301,524	13,551,843	13,877,143	17,274,554
Domiciliation agents	/	/	20,493,379	/	/	2,733,162
Market makers	7,451,679	14,826,461	17,608,959	176,748	1,097,104	1,908,936
Depositors	184,722	297,536,840	643,093,339	23,150,033	63,569,555	133,963,542
Total	634,679,560	1,216,504,853	2,109,615,042	79,883,688	217,237,068	428,904,231

Comment on the table: since the same company may operate in several sectors, the total does not reflect the arithmetic sum total of headings under the different FSP categories. For financial sector professionals authorised to conduct business as defined in articles 24a to 24c, 25 and 26 of the amended Law of 5 April 1993, total assets are recorded only once in the total in the category for which the capital requirements are the most stringent. If outside of the above-mentioned categories, the professional conducts additional business as covered in articles 24d, 24e, 27 and 28 of the aforesaid Law, total assets are aggregated for each category but are not included in the grand total to avoid counting them twice.

At 31 December 2000, total assets posted by FSPs established in Luxembourg amounted to EUR 2,109 million (LUF 85.1 billion) compared with EUR 1,216 million (LUF 49.1 billion) a year earlier, representing a substantial increase of 73%.

FSP net results also rose significantly to total EUR 428 million (LUF 17.3 billion) compared with EUR 217 million (LUF 8.8 million) in 1999, an increase of 97%.

However, a review of the figures in the table reveals that total assets and net results posted by all FSPs fluctuate considerably. The main reason for this is the heavy concentration of activities and results around a handful of professionals. For example, at 31 December 2000, only 18 companies had total assets exceeding EUR 15 million, whereas there were only nine FSPs whose total assets exceeded EUR 30 million.

Financial advisors

The newly formed company Clearstream International S.A. did not adopt the status of financial advisor (previously Cedel International accounted for 99% of total assets posted by financial advisors) but opted for the status of “professional custodian of securities and other financial instruments”. Consequently, total assets posted by financial advisors has decreased.

Private portfolio managers

Total assets and profits posted by private portfolio managers rose sharply. This increase is closely related to the performances of Dexia Asset Management Luxembourg S.A. (shortened to Dexiam Luxembourg) and its branch in

Switzerland and to the growing number of private portfolio managers, up from 38 to 46 entities over a one-year period.

The CSSF's position in cases where a private portfolio manager reinvests its own profits

The CSSF holds that the reinvestment by a private portfolio manager of its own profits does not qualify as trading activity as defined in Article 24 C) (1) of the amended Law of 5 April 1993 on the financial sector and is not, therefore, subject to approval in its capacity as a professional acting for its own account. Profit here denotes the total profits brought forward from previous financial years as well as the profit posted in the current financial year.

Distributors of investment fund units/shares

Total assets posted by distributors almost doubled during the period 31 December 1999 – 31 December 2000, while the number of distributors increased from 25 to 35 entities. New entities distributing investment fund units/shares originated from major banking groups or institutions in general which aim to benefit from the expansion of the investment fund sector.

Professionals acting for their own account

The income posted by this category of FSP was maintained despite:

- the conversion of Puilaetco (Luxembourg) S.A. and Kaupthing Luxembourg S.A. into banks
- the change in the object of the Groupe Indosuez Funds Investment Services (Luxembourg) S.A. whereby it no longer falls within the scope of the amended Law of 5 April 1993
- the merger between Comptoir d'Agents de Change du Benelux S.A., abridged to Codalux S.A, and the private portfolio manager Degroof, Conseil (Luxembourg) S.A., Codalux being absorbed.

2. FSPs subject to permanent supervision by the CSSF

During 2000, the number of FSPs subject to permanent supervision by the *Commission de surveillance du secteur financier* increased from 90 to 113. 31 new entities were approved in 2000, while 8 establishments dropped their FSP status. The figures only include FSPs subject to prudential supervision by the CSSF, i.e.

- Luxembourg-registered FSPs,
- Branches of investment firms originating from third-party countries outside the EU,

- branches of FSPs other than investment firms originating from an EU member state or a third-party country outside the EU.

Branches established in Luxembourg by investment firms originating from another EU member state fall under the supervision of their country of origin.

Company domiciliation agents in Luxembourg

Since the enactment of the Law dated 31 May 1999 governing the domiciliation of companies, only members of one of the following regulated professions are qualified to conduct this activity: a credit institution or other financial sector and insurance sector professional, lawyer, auditor or chartered accountant. Approval to operate as a company domiciliation agent is subject to producing proof of university qualifications in law, economic or business management studies as well as capital totalling LUF fifteen million (EUR 372,000). Since the enactment of this law, 14 companies have been approved as company domiciliation agents, *ABN AMRO Trust Company (Luxembourg) S.A.*, *Euroskandic S.A.*, *F. van Lanschot Trust Company (Luxembourg) S.A.*, *Fiducenter S.A.*, *Fidupar S.A.*, *Gesfo S.A.*, *International Corporate Activities S.A.*, *Luxembourg International Consulting S.A.*, *Luxembourg Management Company Group S.A.*, *Madame Evelyne Jastrow*, *Rabobank Trust Company (Luxembourg) S.A.*, *V Trust Group (Luxembourg) S.A.*, *LCF Rothschild Conseil* and *BBL Trust Services Luxembourg*.

The shareholders of half of the domiciliation agents are banks, of which three are of Dutch origin.

A. Luxembourg registered FSPs approved in 2000:

Investment firms:

- 3 companies approved as commission agent and distributor of investment fund units/shares:
 - *Attrax S.A.*
 - *Bisys Fund Services (Luxembourg) S.A.*
 - *Crédit Lyonnais International Fund Services S.A.*
- 7 private portfolio managers:
 - *Eureka Investments S.A.*
 - *Fidessa Asset Management Luxembourg S.A.*
 - *Fuchs & Associés Finance Luxembourg S.A.*
 - *ING Private Capital Management S.A.*
 - *Key Asset Management S.A.*
 - *Premium Select Lux S.A.*
 - *SP Asset Management Luxembourg S.A.*

- *2 companies approved as private portfolio manager and distributor of investment fund units/shares:*
 - *Carlson Asset Management Luxembourg S.A.*
 - *Vontobel Luxembourg S.A.*
- *1 professional acting for its own account which extended its status during the year to underwriter and professional custodian of securities or other financial instruments:*
 - *Europäisches Wertpapieremissions- und Handelshaus S.A.*
- *1 distributor of investment fund units/shares authorised to receive and make payments:*
 - *Fronrunner Management Company S.A.*
- *2 distributors of investment fund units/shares not authorised to receive or make payments:*
 - *BNP Paribas Fund Administration S.A.*
 - *Investlife Asset Distribution S.A.*

FSPs other than investment firms:

- *2 financial advisors:*
 - *Family Office Luxembourg S.A.*
 - *Timing Consult S.A.*
- *1 professional custodian of securities or other financial instruments:*
 - *New Cedel International S.A. has become Clearstream International S.A.*

On 7 October 1999, the Cedel and Deutsche Börse AG group signed an agreement to pool their securities liquidation, settlement and custody activities to form Europe's largest company offering such services, with effect from 1 January 2000. Technically, the merger was achieved through the contribution on the part of Cedel International and Deutsche Börse AG of their subsidiaries and/or their securities liquidation, settlement and custody activities to the newly created legal entity: NEW CEDEL INTERNATIONAL S.A.

Cedel International which until that moment had the status of financial sector professional (financial advisor and professional custodian of securities and other financial instruments) consequently renounced its status: the shareholding of New Cedel International S.A. is evenly divided between Cedel International and Deutsche Börse AG. The purpose of the new entity extends beyond the holding of investments. While the management of the liquidation and settlement of market securities will solely be performed by CedelBank and Deutsche Clearing AG, the development and fine-tuning of new securities products has been entrusted to New Cedel International S.A.

New Cedel International was formed on 28 October 1999. On 24 December 1999 it was authorised to act as a professional custodian of securities or other financial instruments in accordance with Article 28 of the amended Law of 5 April 1993 on the financial sector, with effect from 1 January 2000. On 25 February 2000, New Cedel International S.A. changed its name to CLEARSTREAM INTERNATIONAL S.A.

- 12 company domiciliation agents:
 - ABN AMRO Trust Company (Luxembourg) S.A.
 - Euroskandic S.A.
 - F. van Lanschot Trust Company (Luxembourg) S.A.
 - Fiducenter S.A.
 - Fidupar S.A.
 - Gesfo S.A.
 - International Corporate Activities S.A.
 - Luxembourg International Consulting S.A.
 - Luxembourg Management Company Group S.A.
 - Madame Evelyne Jastrow
 - Rabobank Trust Company (Luxembourg) S.A.
 - V Trust Group (Luxembourg) S.A.

Fulfilment of the legal requirement to provide proof of sufficient credit standing by a non institutional shareholder

In 1999, the CSSF eased its FSP shareholder requirements by allowing individuals to promote a FSP under certain conditions. The difficulty met by non institutional shareholders of a FSP in complying with the legal requirement to provide proof of sufficient credit standing (Article 21 of the amended Law of 5 April 1993), led the CSSF to accept these shareholders, provided the following general principles are upheld:

- The shareholders must on request supply two bank guarantees issued by two distinct credit institutions.
- The two bank guarantees must cover a total amount slightly exceeding the minimum share capital required by law for the FSP category concerned.
- The bank guarantee must be issued in favour of the FSP.
- The irrevocable undertaking given by the two credit institutions must be valid for a period of 3 years and the wording of the bank guarantee must formally state that it is intended to allow the CSSF to verify the FSP's credit standing.

B. The eight entities which dropped their FSP status:

- 2 companies dropped their FSP status to become credit institutions:
 - Kaupthing Luxembourg S.A.
 - Puilaetco (Luxembourg) S.A.
- 1 company went into voluntary liquidation in order to subsequently register as the branch of a foreign investment firm.
 - Assets & Equities S.A.



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- 3 companies dropped their FSP status:
 - *Cedel International*
 - *Groupe Indosuez Funds Investment Services (Luxembourg) S.A.*
 - *Tradition Eurobond S.A.*
- 1 company went into voluntary liquidation:
 - *Van Doorn Trust International (Luxembourg) S.A.*
- 1 company merged with a financial sector company:
 - *Comptoir d'Agents de Change du Benelux S.A.*, shortened to *Codalux S.A.*, was absorbed by the private portfolio manager *Degroof Conseil (Luxembourg) S.A.*

C. Branches established in Luxembourg by investment firms authorised in another EU country:

In 2000, the number of branches established in Luxembourg by investment firms originating from another EU member state increased from two to four.

- 1 Luxembourg registered FSP was converted into a European branch:
 - *Assets & Equities S.A., Bruxelles, Luxembourg branch*
- 1 new European branch was established in Luxembourg:
 - *PFPC International Limited, Dublin, Luxembourg branch*



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D. During the year different FSP companies switched category

- *BBL Trust Services Luxembourg* dropped its private portfolio manager status to become a domiciliation agent.
- *Degroof, Thierry & Associés S.A.* added to its existing status of private portfolio manager that of distributor of investment fund units/shares not authorised to accept or make payments.
- *Eurinvest Partners S.A.* added to its existing status of private portfolio manager that of distributor of investment fund units/shares not authorised to accept or make payments.
- *Foyer Asset Management S.A.* added to its existing status of professional acting for its own account, those of distributor of investment fund units/shares authorised to accept or make payments, underwriter and professional custodian of securities and other financial instruments.
- *Schumann-Lavédrine Finance S.A.* is now classified as a private portfolio manager since it adopted this status in 2000 and which pursuant to Article 24B of the amended Law of 5 April 1993 allows it to also act as financial advisor, broker and commission agent.

3. FSPs not subject to permanent supervision by the CSSF

For FSPs not subject to permanent supervision, the role of the CSSF is confined to ensuring the application of the general provisions relating to the authorisation of other Luxembourg-registered financial sector professionals, as laid down in articles 13 to 22 of the amended law of 5 April 1993 on the financial sector.

This applies to:

- Credit activities, leasing with purchase option activities, factoring and “bond lending” activities;
- FSPs which collect third-party receivables;
- FSPs which perform cash-exchange operations.

FSPs authorised under general provisions

In 2000, three new FSPs authorised to conduct all financial sector activities under section 1 of chapter 2 of part I of the amended Law of 5 April 1993 on the financial sector, excluding the FSP categories also mentioned in the same chapter, were approved.

- *Paragon Mortgages (N° 3) S.A.*, a subsidiary of Britain’s *The Paragon Group of Companies Plc*; this company is authorised to conduct credit business.
- *Paragon Mortgages (N° 4) S.A.*, a subsidiary of Britain’s *The Paragon Group of Companies Plc*; this company is authorised to conduct credit business.
- *Lehman Brothers (Luxembourg) S.A.*, a subsidiary of America’s *Lehman Brothers Holdings Inc.*; this company is authorised to conduct “stock lending”.

4. Freedom of establishment and freedom to provide services for FSPs

• Freedom of establishment

Up to the present, three Luxembourg-registered investment firms have established a branch in another EU country in accordance with the freedom of establishment principle. These firms are Fleming Fund Management (Luxembourg) s. à r. l. which established a branch in Sweden, Creutz & Partners, Global Asset Management S.A. which established a branch in Germany and Le Foyer, Ottaviani & Associés S.A. which established a branch in Belgium.

- **Freedom to provide services**

In 2000, six Luxembourg-registered investment firms requested authorisation permitting them to offer services freely in one or more EU countries.

The Luxembourg CSSF received 107 requests to freely supply services from investment firms located in other EU countries. Notifications mainly came from the British authorities followed by the Austrian and Dutch authorities.

