

# IV

## SUPERVISION OF THE OTHER PROFESSIONALS OF THE FINANCIAL SECTOR

### CHAPTER

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## 1. Developments in 2002 of the other professionals of the financial sector (PFS) subject to the permanent supervision of the CSSF

This section and the published official statistics only examine PSF subject to the prudential supervision of the CSSF, i.e.:

- Luxembourg-registered PFS (activities conducted by these establishments in another EU Member State, either by means of the establishment of a branch or by free provision of services, are also subject to the prudential supervision of the CSSF);
- branches of investment firms originating from countries outside the EU;
- branches of PFS other than investment firms originating from a EU Member State or from a country outside the EU.

Branches established in Luxembourg by investment firms originating from another EU Member State fall under the supervision of their home state.

PFS not subject to the permanent supervision of the CSSF are dealt with further down in a second section.

### 1.1. Movements in the number of other professionals of the financial sector

While the previous years were marked by a significant increase in the number of PFS subject to the permanent supervision of the CSSF, the year 2002 is characterised by stability. Indeed, the number of PFS amounted to 145 entities at the end of 2002 as well as at 31 December 2001, this stagnation being consistent with the overall slowdown of activities in the financial sector. The number of newly approved companies during 2002 decreased compared to the number of entities that were approved in the previous year. Ten companies were approved in 2002 (against 36 in 2001), while 10 PFS renounced their status during the same period.

#### Movements in the number of PSF<sup>1</sup>

Categories	1994	1995	1996	1997	1998	1999	2000	2001	2002
<i>Investment firms</i>									
Commission agents (Brokers and commission agents)	15	14	14	14	/	/	/	/	/
Private portfolio managers	31	33	36	34	37	38	46	51	51
Professionals acting for their own account	17	18	18	20	15	17	14	17	16
Distributors of investment fund units/shares	14	19	20	18	22	25	35	43	45
Underwriters (Underwriters and market makers)	3	3	3	3	/	/	/	/	/
<i>PFS other than investment firms</i>									
Financial advisors	7	6	6	7	9	10	9	10	9
Brokers					10	8	7	6	6
Market makers					1	2	2	2	2
Professional custodians of securities or other financial instruments	3	3	3	3	1	1	3	4	3
Domiciliation agents of companies						1	14	32	36
Institutions authorised to conduct all the PFS activities permitted by article 28 of the Law of 15 December 2000 on postal services and financial postal services								1	1
<b>Total</b>	<b>74</b>	<b>78</b>	<b>82</b>	<b>80</b>	<b>83</b>	<b>90</b>	<b>113</b>	<b>145</b>	<b>145</b>

<sup>1</sup> The total in the table is not equal to the arithmetic sum of all the categories mentioned because an institution may be included in several categories.

Note on PFS registered on the official list:

Like the official table of PFS posted on the CSSF Internet site, this table, under the company domiciliation agent heading, only includes companies that have been approved exclusively as company domiciliation agents under Article 28-1 of the amended Law of 5 April 1993 on the financial sector. Entities authorised to exercise, in addition to the status of domiciliation agents, another PFS activity covered by Chapter 2 of Part 1 of the aforementioned Law are included in this category, since approval obtained as other professional of the financial sector also authorises the provision of company domiciliation services in accordance with the Law of 31 May 1999 on company domiciliation.

Increases, although only slight ones, were recorded in the number of company domiciliation agents and distributors of investment fund units/shares, while the number of private portfolio managers stagnated, at 51 entities, as opposed to the positive development of the previous years. The increase in the number of company domiciliation agents is still related to the Law of 31 May 1999 on company domiciliation, the companies concerned applying for authorisation to act as domiciliation agents in order to comply with the legal provisions in force. The substantial growth in the number of distributors of investment fund units/shares in 2001 did not continue in 2002, this category increasing by only two entities. Even though the positive development could not be kept up, given the negative situation of the financial markets and of the sector in general, the sector of undertakings for collective investment still presents opportunities and development capacity.

Besides the increase in number of the aforementioned categories, the decrease of the number of professionals acting for their own account, financial advisors, underwriters and professional custodians of securities has to be noted. Each category decreases by one entity, a development reflecting the negative economic situation in 2002.

#### Breakdown of PFS by geographic origin

	1995	1996	1997	1998	1999	2000	2001	2002
Belgium	26	29	27	25	24	21	22	22
France	9	11	10	10	10	11	14	13
United Kingdom	8	9	10	9	8	8	9	10
Switzerland	6	5	6	4	4	7	11	10
Luxembourg	8	8	11	12	17	22	31	31
Germany	8	6	6	6	7	11	11	10
United States	5	6	3	4	3	4	8	8
Netherlands	1	2	2	3	3	7	12	15
Other	7	6	5	10	14	22	27	26 <sup>2</sup>
<b>Total</b>	<b>78</b>	<b>82</b>	<b>80</b>	<b>83</b>	<b>90</b>	<b>113</b>	<b>145</b>	<b>145</b>

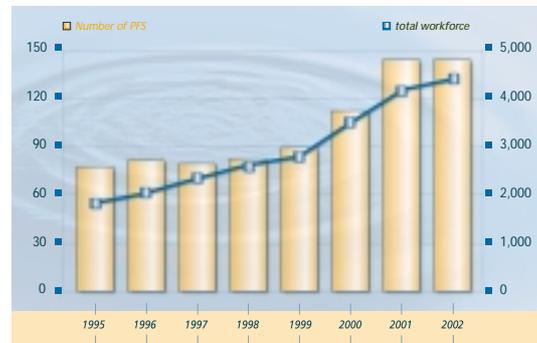
There was a slight growth in the number of PFS originating from the Netherlands, from 12 to 15 entities, followed by those originating from the United Kingdom (one new entity). The table clearly shows that the number of entities originating from Luxembourg (31 entities) stagnated, even though this category remains the most numerous. PFS originating from France, Switzerland and Germany are each decreasing by one entity. It has to be added that the company domiciliation agents newly approved in 2002 are for the most part of foreign origin.

<sup>2</sup> Including Italy (2 entities), Sweden (3 entities), Denmark (4 entities).

1.2. Development of employment of the other professionals of the financial sector

Summary of employment per year and compared to the development of the number of PFS

Year	Number of PFS	Total workforce
1995	78	1,827
1996	82	2,017
1997	80	2,323
1998	83	2,612
1999	90	2,788
2000	113	3,499
2001	145	4,176
2002	145	4,399



The upward trend in employment over the years is closely linked to the growth in the number of other professionals of the financial sector, and bears witness to the growth and dynamism in this area of the financial sector. It should be noted, however, that the less than proportional increase in the workforce compared to the number of PFS over recent years is partly due to the fact that several new small-scale entities were authorised.

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Analysis of the employment in 2002 reveals a relatively weak growth of the total workforce as compared to the previous years. This development is mostly due to an unfavourable stock market situation as well as to overall slowdown of activities in the financial sector, elements that do not have a favourable impact on employment.

However, the increase in employment is more than proportional to that of the number of PFS newly approved in 2002.

The growth in employment from 4,176 to 4,399 persons as at 31 December 2002 is partly due to the newly approved PFS, which employ noticeably more personnel than those entities having renounced their status during 2002. Another factor explaining this growth is the increase in personnel employed by distributors of investment fund units/shares.

As regards the development in number during 2002, a significant increase has to be noted over the first quarter, while the second quarter started to show signs of a reversal of the trend. Indeed, the number of persons employed by other professionals of the financial sector slightly dropped from 4,364 as at 31 March 2002 to 4,339 at the end of June 2002. The reorganisation of the sector, marked by the continuous fall of stock markets and their inevitable consequences on the employment market, partly explains this slight fall. The third quarter once again recorded a substantial increase in the PFS workforce, amounting to 4,377 persons as at 30 September 2002. Finally, the level of employment of PFS increased only slightly over the last quarter of 2002. The number of personnel as at 31 December 2002 amounted to 4,399, representing an increase of 5.34% as compared to the end of 2001.

### 1.3. Changes in 2002 in the official list of PFS

#### 1.3.1 Luxembourg-registered PFS approved in 2002

- ***Investment firms***

According to Chapter 2, Section 2, Part I of the Law of 5 April 1993 on the financial sector as amended, are considered as investment firms, companies acting on a professional basis as commission agents (Article 24A), private portfolio managers (Article 24B), professionals acting for their own account (Article 24C), distributors of investment fund units/shares (Article 24D) and underwriters (Article 24E). An application for approval may relate to one or more of the categories mentioned.

The following institutions were approved as investment firms in 2002:

<i>Name of PFS</i>	<i>Category</i>
Conrad Hinrich Donner Vermögensverwaltung Luxemburg S.A.	Private portfolio manager and distributor of investment fund units/shares
Euro-VL Luxembourg S.A.	Distributor of investment fund units/shares
Experta Corporate and Trust Services S.A, in abbreviated form "Experta S.A."	Private portfolio manager

Three entities were approved as investment firms during 2002. One entity applied for approval for two different investment firm statuses, i.e. private portfolio manager and distributor of investment fund units/shares. The other PFS approved in 2002 opted either for the status as private portfolio manager or for the status as distributor of investment fund units/shares. It has to be added that these two entities also applied for the status as company domiciliation agent and are therefore also recorded on the list "PFS other than investment firms".

Combining several statuses allows a company to offer a broader range of services to its clients and to better adapt to temporary economic difficulties.

- ***PFS other than investment firms***

According to the provisions of Articles 25 to 28-2 of the amended Law of 5 April 1993 on the financial sector, financial advisors (Article 25), brokers (Article 26), market makers (Article 27), professional custodians of securities or other financial instruments (Article 28), company domiciliation agents (Article 28-1) and operators of payment or securities settlement systems (Article 28-2) constitute PFS other than investment firms.

In 2002 the following institutions were approved as PFS other than investment firms:

<i>Name of PFS</i>	<i>Category</i>
AMS Trust (Luxembourg) S.A.	Domiciliation agent
Cogent Investment Operations Luxembourg S.A.	Domiciliation agent
Euro-VL Luxembourg S.A.	Domiciliation agent
Experta Corporate and Trust Services S.A., in abbreviated form "Experta S.A."	Domiciliation agent
Gestador S.A.	Domiciliation agent
Maitland Management Services S.A.	Domiciliation agent
Mourant Luxembourg S.A.	Domiciliation agent
TMF Management Luxembourg S.A.	Domiciliation agent
Trimar Management S.A.	Domiciliation agent

All the newly approved companies in 2002 adopted the status of domiciliation agent in accordance with Article 28-1 of the amended Law of 5 April 1993 on the financial sector. In 2002, two companies applied for the status of domiciliation agent in addition to that of investment firm. The application for approval as domiciliation agent by these new entities reflects either their efforts to comply with the legal provisions of the Law of 31 May 1999 on company domiciliation or their efforts to seek out new niches, or the diversification of their activities. However, it has to be noted that no new entities were approved in the other categories of PFS.

### 1.3.2. PFS that renounced their status in 2002

Ten companies, of which seven were investment firms, renounced their PFS status in 2002, two having been taken over by the same company. Besides the merger of one entity with its parent company, the other renunciations were due to a discontinuation of activities or a change of activities no longer requiring an authorisation as PFS as the activities no longer fall under the scope of the Law of 5 April 1993 on the financial sector as amended.

<i>Name of PFS</i>	<i>Category</i>	<i>Reason for renouncement</i>
Europäisches Wertpapieremissions- und Handelshaus S.A., in abbreviated form "EuWeSa"	Professional acting for his own account, underwriter and professional custodian of securities or other financial instruments	Abandoned its PFS activities
Family Office Luxembourg S.A.	Financial advisor	Abandoned its PFS activities
Fideuram Gestions S.A.	Private portfolio manager	Abandoned its PFS activities
Figestor S.A.	Domiciliation agent	Abandoned its PFS activities
Furka S.A.	Domiciliation agent	Abandoned its PFS activities
Hagströmer & Qviberg (Luxembourg) S.A.	Private portfolio manager and distributor of investment fund units/shares	Discontinued activities
Hypolux Portfolio Management S.A.	Private portfolio manager	Merger with HVB Banque Luxembourg S.A.
Investlife Asset Distribution S.A.	Distributor of investment fund units/shares	Abandoned its PFS activities
Sanpaolo Services Luxembourg S.A.	Distributor of investment fund units/shares	Merger by take-over by Sanpaolo Gestion Internationale S.A.
SP Asset Management Luxembourg S.A.	Private portfolio manager	Merger by take-over by Sanpaolo Gestion Internationale S.A.

## 1.3.3. Changes in category in 2002

<i>Name of PFS</i>	<i>Category (before change)</i>	<i>Category (after change)</i>
Bysis Fund Services (Luxembourg) S.A.	Commission agent and distributor of investment fund units/shares authorised to accept and effect payments	Commission agent and distributor of investment fund units/shares not authorised to accept and effect payments
European Fund Administration S.A.	Distributor of investment fund units/shares	Commission agent and distributor of investment fund units/shares
Eurotrade Securities S.A.	Commission agent	Commission agent and auxiliary service, point 3 of Section C of Annexe II of the amended Law of 5 April 1993 on the financial sector
Fortis Investment Management Luxembourg S.A.	Distributor of investment fund units/shares	Private portfolio manager and distributor of investment fund units/shares
Grossbötzl, Schmitz, Lomparski & Partner International S.À.R.L.	Private portfolio manager	Private portfolio manager and distributor of investment fund units/shares
BNP Paribas Fund Services, in abbreviated form "BPFS"	Private portfolio manager	Private portfolio manager and distributor of investment fund units/shares
Petercam (Luxembourg) S.A.	Professional acting for his own account and distributor of investment fund units/shares	Professional acting for his own account, distributor of investment fund units/shares and professional performing cash-exchange transactions
Premium Select Lux S.A.	Private portfolio manager	Private portfolio manager and distributor of investment fund units/shares
Suxeskey S.A.	Domiciliation agent	Private portfolio manager and domiciliation agent

The analysis of changes in categories of financial market professionals in 2002 confirms the diversification of market activities. Most of the requested changes relate to the adoption of an additional status with a view to expanding the business covered. One investment firm expanded its activities through the authorisation to provide an auxiliary service provided for by Section C of Annexe II of the amended Law of 5 April 1993 on the financial sector, whereas another entity adopted the additional status of professional performing cash-exchange transactions, in conformity with Article 29 of the aforementioned Law. The authorisation to carry out only this activity would not have subjected this entity to the permanent supervision by the CSSF and would have been mentioned under point 2 on PFS not subject to the permanent supervision of the CSSF.

## 1.4. Development of balance sheet totals and results

## Development of balance sheet totals and net results of PFS

CATEGORIES	Balance sheet total (in EUR)		
	2000	2001	2002
<i>Investment firms</i>			
Commission agents	42 240 456	101 666 465	128 877 921
Private portfolio managers	862 469 254	866 060 509	817 738 002
Professionals acting for their own account	179 164 191	261 465 164	200 530 897
Distributors of investment fund units/shares	597 862 391	810 254 091	768 694 228
Underwriters	64 889 343	139 269 208	55 719 349
<i>PFS other than investment firms</i>			
Advisors	5 131 921	8 327 976	9 060 829
Brokers	64 964 167	53 352 363	46 611 326
Domiciliation agents	27 504 392	72 508 986	84 738 229
Market makers	17 569 951	17 406 945	17 986 318
Depositors	643 858 392	818 743 262	850 410 784
Institutions authorised to conduct all the PFS activities permitted by Article 28 of the Law of 15 December 2000 on postal services and financial postal services	/	/	/
<b>Total</b>	<b>1 989 979 453</b>	<b>2 316 353 170</b>	<b>2 269 195 251</b>

CATEGORIES	Net results (in EUR)		
	2000	2001	2002
<i>Investment firms</i>			
Commission agents	7 452 020	5 836 317	- 871 472
Private portfolio managers	216 734 523	149 394 686	130 027 332
Professionals acting for their own account	30 297 844	17 481 305	27 284 112
Distributors of investment fund units/shares	62 993 399	76 656 488	80 583 011
Underwriters	5 807 259	4 320 486	1 935 713
<i>PFS other than investment firms</i>			
Advisors	683 501	743 640	1 267 827
Brokers	17 622 675	18 339 295	18 413 967
Domiciliation agents	3 192 271	7 706 452	11 079 161
Market makers	1 884 174	984 879	424 524
Depositors	135 660 085	51 089 607	82 090 356
Institutions authorised to conduct all the PFS activities permitted by Article 28 of the Law of 15 December 2000 on postal services and financial postal services	/	/	/
<b>Total</b>	<b>424 475 052</b>	<b>283 518 190</b>	<b>295 974 559</b>

**Comment on the tables**

Since the same company may operate in several sectors, the total does not reflect the arithmetical sum of headings under the different PFS categories. For professionals of the financial sector authorised to conduct business as defined in Articles 24A to 24C, 25 and 26 of the amended Law of 5 April 1993, the balance sheet totals are recorded only once in the total in the category for which the capital requirements are the most stringent. If the professional conducts additional business outside of the above-mentioned categories, as covered in Articles 24D, 24E, 27 and 28 of the aforementioned Law, balance sheet totals are aggregated for each category but are not included in the grand total to avoid double counting.

**Comment on the financial data of 2001**

The financial data concerning the development of the balance sheet total published last year had to be restated. Indeed, adjustments were necessary in order to take account of an important accounting error that had occurred in the reporting of one professional of the financial sector.

The balance sheet total posted by PFS established in Luxembourg decreased during 2002 to EUR 2,269 million, compared to EUR 2,316 million at the end of 2001, representing a net decrease of 2.03%. This negative development was due in particular to the stagnation in the number of PFS in 2002 compared to the previous year.

On the other hand, PFS net results at 31 December 2002 were higher than in the previous year, amounting to EUR 296 million as against EUR 284 million at 31 December 2001, representing a growth of 4.05%. Despite the unfavourable development during 2002 of the financial markets and of the financial sector in general, and considering the stability in the total number of authorised PFS, the net results thus recorded a notable growth compared to the previous year. This development is largely attributable to the increase of the results of professional custodians of securities, distributors of investment fund units/shares and domiciliation agents, these categories being partly less dependent on stock market developments. Furthermore, the results posted by some more important players of the financial market have positively influenced financial results of some PFS categories.

The table on the development of the balance sheet total and net results reveals that the different categories of PFS posted different trends in results in 2002. Certain categories recorded a fall compared to the previous year, while others, which were partly less dependent on stock market developments, were more stable or even recorded a significant increase in the balance sheet total and/or net results.

Finally, the analysis of the tables reveals that the balance sheet total and net results of the PFS as a whole and of the different categories have fluctuated considerably over the years. This development is mainly due to the heavy concentration of activities and results amongst a handful of professionals. For example, at 31 December 2002, only 14 PFS recorded a balance sheet total that exceeded EUR 30 million. As a result, the withdrawal of a significant PFS, in terms of balance sheet total and/or net results, from the official list, or the approval of a company of significant size, may lead to strong variations in financial figures of the categories of PFS concerned. It should be noted that the majority of entities with balance sheet totals exceeding EUR 30 million are approved as distributors of investment fund units/shares.

### Private portfolio managers

Despite the stability of the number of private portfolio managers in 2002, still amounting to 51 entities as at 31 December 2002, net results of this category recorded a substantial fall as compared with the previous year, reflecting in particular the negative development of the financial sector during 2002. Whilst reducing the value of the managed assets, the fall in stock markets also led to a decline in commissions receivable and a consequent fall in the principal source of revenue of private portfolio managers. It should also be noted that a few large-scale institutions were responsible for the fall in net results for this category of PFS.

This negative development of net results during 2002 goes hand in hand with the substantial decline of balance sheet total of private portfolio managers as compared with 2001.

### Distributors of investment fund units/shares

Distributors of investment fund units/shares, the number of which increased from 43 to 45 entities over the last year, recorded an increase in terms of net results, while the balance sheet total decreased compared to the previous year. The financial development of this category is attributable to several major players in the market.

### Professionals acting for their own account

The table reveals a significant fall in the balance sheet total of professionals acting for their own account. However and despite a decrease in the number of professionals acting for their own account, amounting to 16 at the end of 2002 as compared to 17 on 31 December 2001, and the negative stock market situation in 2002, the category concerned was nevertheless able to record a significant increase in net results on 31 December 2002.

### Brokers

Despite a fall in the balance sheet total for this category, net results grew slightly compared to 2001. Brokers, and particularly online brokers, suffered less from the unfavourable stock market situation than other categories of PFS. The expansion of the product range offset the losses recorded due to the fall in the number of client orders.

### Domiciliation agents

The table reveals a continuous upward trend as regards the balance sheet total and net results from 2000 onwards. The balance sheet total of domiciliation agents thus records a slight growth during 2002, while net results increased substantially compared to the previous year.

The main reason for this positive development lies in the growth in the number of company domiciliation agents, increasing from 32 entities at 31 December 2001 to 36 entities at the end of 2002. It has to be added that the activities carried out by this PFS category and the services they provide are less dependent on the development of stock markets and that of the financial sector in general.

## 1.5. Expansion of PFS at international level

- **Formation of subsidiaries in 2002**

The investment firm Nordea Investment Funds S.A., authorised as distributor of investment fund units/shares, opened a subsidiary in Germany in 2002.

- **Freedom of establishment**

Two Luxembourg-registered investment firms established a branch in one or several other EU countries in accordance with the principle of freedom of establishment in 2002. These were AIG Financial Advisor Services (Europe) S.A., which set up branches in Italy as well as in Germany, and J.P. Morgan Fleming Asset Management (Europe) S.À.R.L., which set up a branch in the Netherlands.

The following table shows Luxembourg investment firms represented by means of a branch established in one or more EU countries, as at 31 December 2002.

<i>Name of PFS</i>	<i>Category</i>	<i>Branch</i>
AIG Financial Advisor Services (Europe) S.A.	Distributor of investment fund units/shares	Germany Italy
Creutz & Partners, Global Asset Management Carl Kliem	Private portfolio manager Commission agent	Germany Belgium
J.P. Morgan Fleming Asset Management (Europe) S.À R.L.	Private portfolio manager and distributor of investment fund units/shares	Sweden Austria Netherlands
Le Foyer, Patrimonium & Associés S.A.	Private portfolio manager and distributor of investment fund units/shares	Belgium
Moventum S.A.	Private portfolio manager and distributor of investment fund units/shares	Germany

At 31 December 2002, the number of branches established in Luxembourg by investment firms from other EU Member States amounted to five entities, while at the end of the previous year it stood at four. In 2002, two branches, one originating from Belgium and the other from the United Kingdom, started their activities, while one branch (Assets & Equities S.A., originating from Belgium) stopped its activities on Luxembourg territory.

<i>Name of branch</i>	<i>Country of origin</i>
Compagnie de Gestion Privée	Belgium
GNI Fund Management Limited	United Kingdom
Morgan Stanley Investment Management Limited	United Kingdom
PFPC International Limited	Ireland
Prudential-Bache International Limited	United Kingdom

- **Free provision of services**

In 2002, thirteen Luxembourg-registered investment firms applied to pursue business in one or several EU countries under freedom to provide services. The upward trend in preceding years was de facto confirmed. It needs to be added that the majority of investment firms concerned pursue business in several other EU countries by means of a notification.

Notifications to freely provide services in Luxembourg from investment firms situated in other EU countries increased over the last few years, bearing witness to the internationalisation of financial sector activities. However, this trend changed in 2002, the number of notifications received by the CSSF only amounting to 103 as compared to 147 in 2001.

The CSSF received two notifications from the Norwegian authorities on behalf of Norway-registered investment firms, as against three in 2001. According to Article 30 of the amended Law of 5 April 1993 on the financial sector, investment firms having their registered office in Norway are treated as Community investment firms, given the fact that Norway is a member of the European Economic Area.

The geographical breakdown of investment firms that submitted a notification in 2002 shows that British investment firms continue to introduce the most notifications to freely provide services in Luxembourg, followed by Irish investment firms.

<i>Country of origin</i>	<i>Number of entities having submitted a notification to freely provide services in 2001</i>	<i>Number of entities having submitted a notification to freely provide services in 2002</i>
Germany	6	4
Austria	7	4
Belgium	3	4
Spain	1	3
Finland	1	/
France	12	7
Greece	3	2
Ireland	2	11
Italy	1	/
Norway	3	2
Netherlands	3	7
United Kingdom	105	59
Sweden	3	2
<b>Total</b>	<b>150</b>	<b>105</b>

While the geographical breakdown shows only slight changes for the majority of countries as compared to the previous year, the number of entities originating from Ireland increased by nine entities. The United Kingdom recorded a substantial decrease in the number of entities having introduced a notification to freely provide services in Luxembourg, standing at only 59 entities in 2002 as against 105 in 2001. This decrease constitutes the main reason for the drop in the total number of notifications as compared to the previous year.

On 31 December 2002, 953 investment firms of Community origin were authorised to freely provide services in Luxembourg.

## 2. PFS not subject to the permanent supervision of the CSSF

For PFS not subject to permanent supervision, the CSSF's role is confined to ensuring that the general provisions relating to the authorisation of other professionals of the financial sector incorporated under Luxembourg Law are applied, 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 when exercised as main activity, factoring and bond lending activities;
- PFS collecting third-party receivables;
- PFS performing cash-exchange transactions.

### 2.1. PFS authorised under general provisions in 2002

In 2002, approval was granted to two new PFS in accordance with the general provisions. They are authorised to conduct all financial sector activities permitted to PFS to whom Chapter 2, Section 1, Part I of the amended Law of 5 April 1993 on the financial sector applies, excluding the PFS categories also mentioned in Section 2 of the same chapter.

<i>Name of PFS</i>	<i>Activity</i>
Goldman Sachs Luxembourg S.À.R.L.	Securities lending activity
Lux Rent a Car S.A.	Leasing with purchase option activity

### 2.2. PFS which renounced their status in 2002

Three PFS not subject to the permanent supervision of the CSSF renounced their status in 2002. It needs to be noted that the activity of the category "professional performing cash-exchange transactions", as provided for by Article 29 of the amended Law of 5 April 1993 on the financial sector, does not arouse as much interest any more due to the introduction of the Euro on 1 January 2002, following which one entity renounced its status in 2002.

<i>Name of PFS</i>	<i>Activity</i>	<i>Reason for renouncement</i>
Bureau Europa-Krebes Luxembourg S.A.	Collection of receivables	Liquidation
KBC Lease (Luxembourg) S.A.	Leasing with purchase option activity	Renouncement of status
Taki-Tala S.À.R.L.	Professional performing cash-exchange transactions	Renouncement of status

### 3. Prudential supervisory practice

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#### 3.1. Prudential supervision instruments

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Prudential supervision is exercised by the CSSF by means of four types of instruments:

- financial information submitted periodically to the CSSF enabling the continuous monitoring of the activities of PSF and of inherent risks. Added to this is the periodic supervision of the capital adequacy ratio as laid down in Article 56 of the amended Law of 5 April 1993 on the financial sector;
- the report drawn up annually by the external auditors (including a certificate concerning anti-money laundering and a certificate concerning compliance with CSSF Circular 2000/15 as from 31 December 2001);
- internal audit reports relating to inspections carried out during the year, and the management's report on the state of the internal auditing of the PFS;
- on-site inspections carried out by the CSSF.

#### 3.2. On-site inspections

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In 2002, the CSSF carried out on-site inspections at seven professionals of the financial sector. These inspections concerned, *inter alia*, the Internet activities (consultative and transactional websites) as well as the global IT structure of certain PFS. These on-site inspections were carried out in collaboration with the information technology audit of the CSSF.

Other on-site inspections were aimed at controlling more particularly the functioning of the PFS concerned and at ascertaining, among other things, that an adequate administrative and accounting structure was set up.

The increase in the number of on-site inspections is linked to the importance the CSSF gives to this instrument of permanent supervision, which allows a global and direct view of the situation and functioning of the PFS in practice.

Thus, an on-site inspection at one professional of the financial sector during 2002 led the CSSF to require the entity concerned to ask his internal auditor to control a specific aspect of the PFS's activities.

#### 3.3. Meetings

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A total of 72 meetings concerning PFS activities were held in 2002 at the CSSF's premises. Most of these meetings related to applications, submitted by firms newly incorporated or to be created, for approval as PFS, or from existing entities that intend to conduct business in the financial sector that requires prior authorisation.

The remainder of the meetings held with representatives of PFS covered the following areas in particular:

- courtesy visits;
- planned changes in business;
- presentation of the general context and business of the company concerned.

A certain number of meetings in 2002 were also held at the CSSF's initiative when problems were identified in relation to PFS.

#### **Position of the CSSF concerning the specific situation of a PFS renting an office to an independent intermediary who canvasses customers**

The CSSF considers that renting offices to one or several independent intermediaries does not fall under the scope of the normal activity of an entity authorised as PFS.

In this respect, the CSSF also considers that an independent intermediary, legal or natural person, who, at the PFS's premises, introduces potential clients to the PFS concerned, carries out an activity to be qualified as brokerage and which requires an authorisation as laid down in Article 26 of the amended Law of 5 April 1993 on the financial sector.

### **3.4. Specific audits**

Article 54(2) of the amended Law of 5 April 1993 on the financial sector specifies that the CSSF may ask external auditors to carry out a special audit on a financial professional concerning one or several specific aspects of the business or functioning of the institution concerned. The ensuing costs are to be borne by the professional concerned. The CSSF did not formally make use of this right in 2002.

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### **3.5. Supervision on a consolidated basis**

The supervision of investment firms on a consolidated basis is governed by the amended Law of 5 April 1993 on the financial sector, particularly by Chapter 3bis of Part III. The relevant articles define the conditions governing the supervision of investment firms on a consolidated basis and its scope. The form, extent, content and means of supervision on a consolidated basis are also laid down in the Law.

At 31 December 2002, the CSSF carried out supervision on a consolidated basis on 17 investment firms falling under the above-mentioned Law. An in-depth study of the financial groups to which most of the PFS investment firms belong was required in order to determine whether, at what level and in what form consolidation should apply. For the investment firms concerned, CSSF Circular 00/22 on the supervision of investment firms on a consolidated basis specifies the practical aspects of the rules as regards this type of supervision. Many firms that are supervised on a consolidated basis belong to major groups operating in the financial sector and whose ultimate parent company is usually a credit institution.

The following PFS were subject to supervision by the CSSF on a consolidated basis at 31 December 2002:

- ABN Amro Investment Funds S.A.
- Atag Asset Management (Luxembourg) S.A.
- Beta Europa Management S.A.
- Brianfid-Lux S.A.
- Capital @ Work International
- Citco (Luxembourg) S.A.
- Corluy Luxembourg S.A.
- Crédit Lyonnais Management Services S.A., in abbreviated form C.L.M.S. (Luxembourg) S.A.
- Dewaay Luxembourg S.A.
- Dexia Asset Management S.A.
- Fidessa Asset Management Luxembourg S.A.
- Foyer Asset Management S.A.
- Fund-Market Research & Development S.A.
- Kredietrust
- Petercam (Luxembourg) S.A.
- Premium Select Lux S.A.
- Union Investment Euromarketing S.A.

#### 4. Developments in the regulatory framework applicable to company domiciliation agents

##### 4.1. CSSF Circular 02/65, specifying the term “seat” (“siège”, place of business) as used in the Law of 31 May 1999 on company domiciliation

On 8 July 2002, the CSSF published CSSF Circular 02/65 with a view to specifying the scope of the aforementioned Law as regards the term “seat” used therein.

This Circular aims at Luxembourg as well as at foreign companies operating in Luxembourg from a “seat” established with a third party (domiciliation agent). CSSF Circular 02/65 stipulates that a seat, and thus a domiciliation, exists as soon as a third party puts an address in Luxembourg at the disposal of a company in order to be used by the latter vis-à-vis other third parties. The seat as such does not require the existence of any effective material presence, but may be limited to its simplest form (letter box, telecommunications installation etc.).

Opening a bank account or renting a safe-deposit box with a Luxembourg credit institution does not imply that the company concerned is to be considered as having established a seat with this professional, as the professional’s address is not necessarily available to third parties. By analogy, concluding a hold mail agreement with a Luxembourg professional of the financial sector does not automatically imply that this company is to be considered as having established a seat with this professional.

CSSF Circular 02/65 also intends to clarify certain rental practices that may conceal a domiciliation activity. Renting one or several premises to companies is likely to be considered as domiciliation activity if the number of tenant firms is disproportionate to the size of the rented premises. Furthermore, the more recent practice of renting technically and administratively equipped offices does not as such fall within the scope of the Law of 31 May 1999, provided that the rental agreements qualify as traditional rental agreements, particularly as regards the occupation of private premises for the exclusive use of the tenant. Finally, the practice of time-sharing (part-time renting of the same offices to one or several companies) is considered as a company domiciliation activity if it is intended to bypass the Law of 31 May 1999.

### The activity of office rental by an institution to one or several companies

The CSSF considers that the rental of one or several offices by an institution to a single company guaranteeing that this or these office(s) are used exclusively by the aforementioned company, is not to be considered as domiciliation activity provided that the criteria defining a traditional rental agreement are strictly complied with.

However, according to the provisions laid down in CSSF Circular 02/65 concerning the Law of 31 May 1999 on company domiciliation and the clarifications concerning the term “seat”, the CSSF considers that renting a single office to several companies is of such a nature as to rule out any possibility of genuine business activity and exclusive use by these companies and conceals in fact a company domiciliation activity.

### 4.2. Position of the CSSF concerning the address at which companies must be domiciled, particularly in case of change of registered office

The CSSF considers that a company domiciliation agent, authorised under Article 28-1 of the amended Law of 5 April 1993 on the financial sector, is allowed to domicile companies exclusively at the address of its registered office as mentioned in the licence issued by the Minister of the Treasury and Budget.

When the domiciliation agent changes its registered office, the CSSF considers that the professional of the financial sector is authorised to domicile companies exclusively at his registered office, which should correspond with the address listed on the official table of the professionals of the financial sector held by the CSSF pursuant to Article 52 of the aforementioned Law.

