

COMMISSION de SURVEILLANCE
du SECTEUR FINANCIER



ANNUAL REPORT

2003

Commission de Surveillance du Secteur Financier
110, route d'Arlon
L-2991 LUXEMBOURG
Tel.: (+352) 26 251-1
Fax: (+352) 26 251-601
E-mail: direction@cssf.lu
Website: <http://www.cssf.lu>

Cut-off date : 1 March 2004

The reproduction of the annual report is authorised, provided the source is acknowledged.

Design: metaph
Printed by: Victor Buck

Perceptible since the second quarter of 2003, the signs of a revival of activities must be interpreted prudently. Firstly, due to the feeble and progressive nature of this revival, the first results need to be confirmed so that 2004 meets the market participants' expectations. However, even if the positive development of the economic situation continues over the next months, we must be aware that there will be no return to the heydays, with such outstanding profitability as at the end of the last century. This stems from the simple fact that the financial centre has been undergoing an unprecedented transformation for some time now.

You can retort, with good reason, that what makes Luxembourg so original, is precisely, and has always been, its adaptability. The last decades perfectly illustrate this point: from the activities of euro-credits and portfolio management to investment funds, they all prove Luxembourg's ability to innovate and diversify. All of this is incontestable, except that Luxembourg has always met until now real needs by developing above all solutions peculiar to its situation. However, this stage seems to be over, as the States' room for manoeuvre keeps slimming down and the Luxembourg financial centre, like the others, is subject to many regulations and behaviours imposed by the international financial community. The national specificity of the financial centres is decreasing; this marks a fundamental break for Luxembourg which is used to cultivate its originality.

Certain observers describe this development using the terms "off-shore" and "on-shore", Luxembourg changing from "off-shore" centre to "on-shore" centre. The use of these terms is rather unpleasant, as they are very simplistic and do not adequately reflect reality. Thus, Luxembourg has never been a typical "off-shore" financial centre, as it has never been sheltered from tax or regulatory constraints, nor will it ever be a typical "on-shore" financial centre, because it will always depend on foreign capital. However, the centre fits into a new environment, a sort of global market, where the difference will be less made through regulatory aspects and more through diversification and the quality of the services offered by the players.

In this context, as I had predicted since 1999, not without making some waves, the banking secrecy is not considered anymore as element conditioning the development of the financial centre. Although its importance decreases – and will continue to decrease in the future –, it nonetheless constitutes an important asset, but only one among others. Quite opportunely, a note drawn up by the CSSF's CODEJU committee, under the aegis of the *Comité pour le développement de la place financière*, and published as annexe to this Annual Report, presents the implications of the concept of secrecy in the current context. This contribution is all the more interesting as it is balanced and answers various, sometimes even contradictory concerns.

As a conclusion, I would like to stress that the institution, which I am honoured to manage, keeps multiplying its efforts to contribute to the balanced development of the financial centre and to meet the growing commitments as regards international co-operation. The CSSF's annual report is an analysis and synthesis reflecting these multiple efforts, for which I thank all members of staff.



Jean-Nicolas SCHAUS
Director General



TABLE OF CONTENTS

PREFACE	5
CHAPTER I	11
INFORMATION REGARDING THE LAW OF 2 AUGUST 2003	
CHAPTER II	23
SUPERVISION OF THE BANKING SECTOR	
1. Developments in the banking sector in 2003	
2. Developments in the regulatory framework	
3. Prudential supervisory practice	
CHAPTER III	55
SUPERVISION OF UNDERTAKINGS FOR COLLECTIVE INVESTMENT	
1. Developments in the UCIs sector in 2003	
2. Newly created entities approved in 2003	
3. Closed down entities in 2003	
4. Developments regarding UCIs investing principally in other UCIs	
5. Developments in the regulatory framework	
6. Management companies	
7. Prudential supervisory practice	
CHAPTER IV	93
SUPERVISION OF PENSION FUNDS	
1. Developments in the pension funds sector in 2003	
2. Developments in the legal framework	
CHAPTER V	99
SUPERVISION OF THE OTHER PROFESSIONALS OF THE FINANCIAL SECTOR	
1. Developments in 2003 of the other professionals of the financial sector (PFS) subject to the permanent supervision of the CSSF	
2. Prudential supervisory practice	
3. Developments in the regulatory framework	
CHAPTER VI	117
SUPERVISION OF THE SECURITIES MARKETS	
1. Reporting of transactions of financial assets	
2. Investigations conducted by the CSSF in its supervision of the securities markets	
3. Supervisory practice	
CHAPTER VII	125
SUPERVISION OF INFORMATION SYSTEMS	
1. Activities in 2003	
2. International co-operation	

CHAPTER VIII	129
MEANS OF SANCTION AVAILABLE TO THE CSSF	
1. Means of intervention available to the CSSF	
2. Sanctions imposed in 2003	
CHAPTER IX	133
CUSTOMER COMPLAINTS	
1. Complaints in 2003	
2. Analysis of complaints handled in 2003	
3. FIN-NET network: the cross-border out-of-court complaints network for financial services	
CHAPTER X	145
INTERNATIONAL CO-OPERATION: CSSF INVOLVEMENT IN INTERNATIONAL GROUPS	
1. Co-operation within European institutions	
2. Multilateral co-operation	
CHAPTER XI	165
BANKING AND FINANCIAL LEGISLATION AND REGULATIONS	
1. Directives under discussion at Council level	
2. Directives adopted by the Council and the European Parliament, but not yet implemented under national law	
3. Laws passed in 2003	
4. Circulars issued in 2003	
5. Circulars in force	
CHAPTER XII	185
INFRASTRUCTURE OF THE CSSF	
1. Functioning of the CSSF	
2. Human resources	
3. Information technology department	
4. Staff members	
5. Internal committees	
APPENDICES	195
1. The nature and the scope of the banking secrecy	
2. The CSSF in figures	
3. The financial centre in figures	
4. Contact telephone numbers	

Corporate governing bodies of the Commission de Surveillance du Secteur Financier

Board of Directors

Chairman		Jean GUILL <i>Treasury director, Ministry of Finance</i>
Vice-chairman		Gaston REINESCH <i>General administrator, Ministry of Finance</i>
Members		Rafik FISCHER <i>Member of the Board of Directors of Association Luxembourgeoise des Fonds d'Investissement</i>
		Jean FUCHS <i>President of the Association Luxembourgeoise des Professionnels du Patrimoine</i>
		François MOES <i>President of the Association des Banques et Banquiers, Luxembourg</i>
		Etienne REUTER <i>Premier Conseiller de Gouvernement, Ministry of Finance</i>
		Claude WIRION <i>Member of the Executive Committee of the Commissariat aux Assurances</i>
Secretary		Danielle MANDER

Executive Board

Director General		Jean-Nicolas SCHAUS
Directors		Arthur PHILIPPE Charles KIEFFER